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July 7, 2006

HAND DELIVERED

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Attn: Shaun Maher, Video Division, Media Bureau
Room 2-A820 – Shaun.Maher@fcc.gov

Re: MB Docket No. 03-15
Request for waiver of Replication/Maximization Interference Protection Deadline
Station KLEI-DT, Kailua-Kona, Hawaii – Facility ID No. 664
BPCDT-19991101AKS, app. for mod. pending, BMPCDT-20060525AJ0

Dear Ms. Dortch:

Pursuant to the Commission's Public Notice, "DTV Channel Election Issues", DA-06-1255, released June 14, 2006, as modified by the Public Notice, "DTV Channel Election Issues", DA 06-1372, released June 29, 2006, I am writing on behalf of Aina'e Co., Ltd. ("Aina'e Co."), licensee of Station KLEI(TV), Kailua-Kona, Hawaii, to request a waiver of the replication/maximization interference protection deadline of July 7, 2006. As set forth below, while Aina'e Co. has constructed (pursuant to special temporary authority, File No. BEDSTA-20060510ACP) the DTV facilities which it contemplates using on a permanent basis, its application for a construction permit to specify those facilities has not yet been granted and, as a result, Aina'e Co. is not yet in a position to submit an application (FCC Form 302-DT) for a covering license.

Aina'e Co. originally sought and was granted a construction permit for DTV facilities which would provide replication/maximization of its analog signal as contemplated by the Commission's rules. Prior to construction of those facilities, however, Aina'e Co. sought and was granted special temporary authority ("STA") (File No. BDSTA-20021025ABT, modified, File No. BMDSTA-20030218BNO, as extended, BEDSTA-20060510ACP) to operate with reduced facilities. I have been advised by Aina'e Co. that it constructed those STA facilities and has been operating them consistently since April, 2003.

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Aina'e Co. advises that its experience during the period of STA operation afforded it the opportunity to assess the needs of its audience and, in particular, the adequacy of the service it is capable of delivering with the station's reduced STA facilities. Aina'e Co. has concluded, based on that experience, that those reduced facilities should be sufficient to permit it to serve the station's audience. Accordingly, in anticipation of the impending DTV conversion deadline, Aina'e Co. submitted an application (File No. BMPCDT-20060525AJO) seeking modification of its DTV construction permit to reflect its STA facilities. Since those facilities have previously been granted (albeit in the context of Aina'e Co.'s STA request), and since the station has operated with those facilities for some time with no apparent problems, Aina'e Co. anticipated that that application could and would be granted promptly, thereby allowing Aina'e Co. to submit an application (FCC Form 302-DT) for a covering license by the July 3 (later extended to July 7) deadline. Under such circumstances, no waiver of the replication/maximization deadline would be necessary.

Informal contact with a member of the Commission's engineering staff on June 29, 2006, indicated that the modification application had been reviewed by the staff and determined to be in compliance with the Commission's technical rules. However, to date the application has not been granted. Until the application is granted, Aina'e Co. cannot file an application for a covering license.

Since the facilities sought in the modification application have already been authorized by the Commission and constructed by the licensee, the licensee has done all that it can to meet the Commission-imposed deadline. Unless and until the Commission grants the modification application – thus enabling Aina'e Co. to take the next (and last) regulatory step of filing for a license – Aina'e Co. is powerless to do anything further. Accordingly, its inability to comply with the DTV deadline is beyond its control, and waiver of that deadline is warranted.

While Aina'e Co. has no reason to believe that action on its pending modification application will be unduly delayed, Aina'e Co. has no control over that. Accordingly, out of an abundance of caution, Aina'e Co. requests that a waiver for a period of six months.

Please call me if you have any questions about any of the foregoing matters.

Sincerely,



Harry F. Cole

Counsel for Aina'e Co., Ltd.

cc: Shaun Maher, Video Division, Media Bureau (Shaun.Maher@fcc.gov)