

Station KUON-DT, Lincoln, NE
Post-Transition DTV Facility Form 340 Application

DTV Contour Extension - Freeze Waiver Request

In connection with this application, the University of Nebraska (“University”), licensee of noncommercial educational television station KUON-DT, NTSC Channel 12 and Pre-Transition DTV Channel 40, Lincoln, Nebraska, requests a waiver of the maximization freeze as announced by the *Public Notice* entitled “Freeze on the Filing of Certain TV and DTV Requests for Allotment or Service Area Changes,”¹ and as most recently addressed by *In the Matter of Third Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*.²

The foregoing Engineering Statement provides a full explanation and justification for this waiver request. The University further supplements that waiver request as follows. In the *Third Periodic Review*, the Commission announced that it would consider requests to waive the freeze before August 17, 2008 to provide for minimally expanded facilities where necessary to ensure that stations can serve their existing television viewers with their post-transition facilities, thereby meeting viewers’ reception expectations.³ Specifically, the Commission adopted a waiver policy to permit rapid approval of minor expansion applications by stations that are not using their pre-transition DTV channel for post-transition operation, provided that such expansion:

“(1) Would allow the station to use its analog antenna or a new antenna to avoid a significant reduction in post-transition service from its analog service area;⁴

(2) Would be no more than five miles larger in any direction than their authorized service area, as defined by the post-transition DTV Table Appendix B; and

(3) Would not cause impermissible interference, i.e., more than 0.5 percent new interference, to other stations.”⁵

Station KUON-DT meets these standards for the freeze waiver requested in the instant application. First, KUON-DT will operate its post-transition facility on DTV Channel 12, its current analog channel. Second, the University will use its existing analog antenna for its post-transition DTV facility. Third, the proposed facility provides only a minimal expansion beyond the station’s Appendix facility, as needed to serve existing viewers and avoid a significant reduction in post-transition service. As explained in Exhibit 35, and due to the use of the existing antenna, adherence to the contour expansion freeze would require a lowered ERP and result in a significant population loss. The applied-for facility, including ERP of 13 kW, does not result in such a loss.

¹ *Public Notice*, DA 04-2446 (Rel. Aug. 3, 2004).

² *Report and Order*, MM Docket No. 07-91, FCC 07-228 (Rel. Dec. 31, 2007) (“*Third Periodic Review*”).

³ *Third Periodic Review* at ¶ 148.

⁴ The University’s engineering counsel has confirmed with FCC staff that this also applies to avoiding a significant reduction in Appendix B facility population coverage.

⁵ *Third Periodic Review* at ¶ 151.

Fourth, the facility proposed by this application would be no more than five miles larger in any direction than the authorized service area, as defined by the post-transition DTV Table Appendix B. As the Map attachment to Exhibit 35 shows, the proposed facility exceeds the Appendix B facility, due the channel 12 antenna use, less than 5 miles on any azimuth. Lastly, the proposed facility would not cause impermissible interference. As the Interference Analysis and Interference Summary attached at Exhibit 35 show, interference would not exceed permissible levels.

Accordingly, the University requests a waiver to allow for the minor expansion in the instant application for its post-transition DTV Channel 12 facility, in order to utilize its existing antenna and avoid significant population loss.