

Request for DTV Special Temporary Authority
Station KMEB-DT, Wailuku, HI (Facility ID No. 26428)

The Hawaii Public Television Foundation (“HPTF”), pursuant to Section 73.1635 of the Commission’s Rules, requests Special Temporary Authority (“STA”) for a period of six months to operate noncommercial educational television station KMEB-DT, Wailuku, Hawaii (the “Station”) at a variance from its authorized parameters. Specifically, HPTF intends to operate the Station at power level that is higher than that authorized by its original post-transition DTV permit, but lower than that specified in its granted post-transition “maximization” facility permit.

The Station is using its prior analog Channel 10 for post-transition DTV operation. HPTF was originally granted a construction permit for the Station’s post-transition DTV Channel 10 facility in FCC File No. BMPEDT-20080421AAR, with an ERP of 4.4 kW. Subsequently, HPTF applied for and was granted a maximized DTV construction permit for the Station in FCC File No. BMPEDT-20080620AMY, with an ERP of 21.2 kW. On December 3, 2008, HPTF requested STA to commence early post-transition DTV operation of the Station on January 15, 2009, pursuant to the Station’s maximized DTV construction permit. This request was granted in FCC File No. BLDSTA-20081203AET.

HPTF converted the Station to its post-transition DTV Channel 10 in January 2009 in connection with Hawaii’s state-wide early transition. However, due to the unavailability of funding to complete the Station’s maximized post-transition DTV facility, HPTF has applied to license the Station’s original post-transition DTV construction permit in FCC File No. BMPEDT-20080421AAR.

HPTF now requests STA to operate the Station at an ERP of 11.4 kW, which is greater than the ERP authorized in the Station’s original post-transition DTV construction permit (4.4kW) in FCC File No. BMPEDT-20080421AAR, but less than the ERP authorized in the Station’s maximized DTV construction permit (21.2 kW) in FCC File No. BMPEDT-20080620AMY. The Station will otherwise operate pursuant to the parameters authorized in the Station’s original and maximized DTV construction permits, which specify identical facilities except for the difference in ERP.

HPTF respectfully submits that a grant of STA will serve the public interest by allowing the Station to provide its noncommercial educational FM service to the greatest number of viewers until HPTF is able to complete construction of the Station’s maximized DTV facility. HPTF anticipates that construction of the Station’s maximized DTV facility will be complete by June 30, 2009. Because the “interim” facility proposed in this application for STA falls within the parameters authorized in the Station’s maximized DTV construction permit, the proposed facility will not cause impermissible interference to any other stations.

The Commission has acknowledged that the “stations that face the most significant amount of construction to finalize their post-transition facilities are those that are moving to a different channel for post-transition operation” – such as KMEB.¹ In addition, as the

¹ *Third Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*, Report and Order, MB Docket No. 07-91, FCC 07-228 (Rel. Dec. 31, 2007) at ¶ 64.

Commission has recognized throughout the transition process, special regulatory relief is appropriate for noncommercial educational and non-top-four network stations (such as noncommercial PBS affiliate KMEB).²

HPTF is a noncommercial educational licensee and operates the Station on a noncommercial educational basis. HPTF is therefore exempt from FCC filing fee requirements pursuant to Section 1.1114 of the Commission's Rules, and the Station is exempt from regulatory fees, pursuant to Section 1.1162 of the Rules.

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² See *id.* at ¶ 97.