

## EXHIBIT 38

### **Request for Approval of Early Commencement of Post-Transition DTV Operation**

NCE Station WMEM-DT, Presque Isle, Maine  
Facility ID: 39662 / FRN: 0003293008

Maine Public Broadcasting Corporation (“MPBC”) requests approval for early operation of its post-transition digital television service for noncommercial educational Station WMEM-DT, DTV Channel 10, Presque Isle, Maine. A special operating condition in the WMEM-DT post-transition facility construction permit in FCC File No. BPEDT-20080317ACB specifies that MPBC can not commence operation pursuant to the permit prior to February 17, 2009 without prior Commission approval. Accordingly, MPBC seeks authority to commence its post-transition DTV Channel 10 operation under its construction permit as of **January 11, 2009**, and requests that the WMEM-DT post-transition permit is re-issued without the relevant condition.

The commencement of operation of the WMEM-DT post-transition Channel 10 facility in January will allow MPBC to complete its digital transition for the station in a timely manner and to coordinate the technical transition of WMEM with those of its four sister stations, MPBC’s co-licensed WMEA, Portland, Maine, WMED, Calais, Maine, WMEB, Orono, Maine, and WCBB, Augusta, Maine. (Please note that MPBC also plans to terminate WMEM’s pre-transition DTV channel 20 and analog Channel 10 service on or about January 11, 2009, in connection with the commencement of post-transition DTV operations. MPBC plans to separately file the necessary notices for those terminations of service with the FCC, and to conduct the required on-air viewer notifications, both in accordance with *In the Matter of Third Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television.*<sup>1</sup>)

Based on its consulting engineer’s studies, MPBC believes that operation of WMEM’s post-transition DTV facility in FCC File No. BPEDT-20080317ACB prior to February 17, 2009 will not cause impermissible interference to any other station.<sup>2</sup> Please see the attached engineering exhibit.

MPBN seeks to commence operation of the WMEM post-transition DTV Channel 10 facility several weeks early for a number of reasons. For instance, the pre-transition WMEM DTV Channel 20 facility has been operating at approximately 20% of its authorized ERP, in accordance with the request submitted in FCC File No. BDSTA-20080403ADC. This reduction

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<sup>1</sup> Report and Order, MM Docket No. 07-91, FCC 07-228 (Rel. Dec. 31, 2007) (“*Third Periodic Review*”).

<sup>2</sup> With regard to any interference caused to other MPBC stations by early operation of WMEM-DT’s post-transition facility, MPBC hereby consents on behalf of its other stations. See attached Engineering Statement; see also Interference Consent Agreement in File No. BMPEDT-20080620ALG.

in power was necessitated by a technical problem with the station's digital antenna. The repairs that would be required to improve service would create unjustifiable expenses at this point in the transition process. In addition, WMEM's sister station, WCBB, is experiencing pre-transition digital equipment issues, and is operating its analog facility under STA. Both WCBB and WMEM are now completely constructed and stand ready to begin post-transition digital operation once authorized.

Moreover, an early transition would allow MPBC to coordinate the analog terminations and post-transition DTV commencement for all 5 of its licensed full service noncommercial TV stations at once, and benefit another MPBC station which is experiencing service problems with its pre-transition analog facility. Finally, MPBC plans to work with other local stations and the Maine Association of Broadcasters to use the early transition of its statewide network to educate viewers about the transition, digital televisions, and set-top converter boxes.

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