

## AMENDMENT

The instant amendment is filed at the request of the Commission staff to provide additional information pertinent to the pending application:

The licensee recognizes that it has been operating at variance with the Class A requirements. It was always the intention that this variance would be for a short term. In this regard, the following circumstances explain that there are compelling circumstances justifying the variance. Specifically, the cessation of broadcast operations on the analog was in order to focus on the build-out of the digital. It was never the intention to be off the air for any extended period of time.

(A) Analog Class A television station WMKE-CA, licensed on Channel 7 in Milwaukee (FCC Facility ID No. 35091) filed its STA request on July 3, 2014 (CDBS File No. BLSTA-20140703) only *after* it had a concrete plan in place to build out in the near term the digital transmission facilities authorized in FCC File No. BDISDTA-20120319ADQ). Thus, the plan from the outset was for the station to be out of service for only a relatively brief time. As is set forth in further detail below, that plan is being fulfilled.

(B) The licensee's decision to give priority attention to the digital build is consistent with the Commission's policy in favor of facilitating and expediting the digital transition. As the Commission noted recently, "[s]ince the initiation of the digital television conversion process, the Commission has consistently sought to ensure an expedited and successful transition for all television services, so that the public will be able to enjoy the benefits of digital broadcast television technology."<sup>1</sup> Moreover, the focus of attention on the digital build is justified because the licensee is facing the FCC-mandated September 2015 deadline to effectuate the switch to digital operation.

(C) Substantial progress has been made in the implementation of the plan and completion of construction of the authorized digital facility. As evidenced by the attached manufacturer's letter, the necessary digital equipment was ordered from the manufacturer in July. The

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<sup>1</sup> Amendment of Parts 73 and 74 of the Commission's Rules, Third Notice of Proposed Rulemaking, MB Docket No. 03-185, FCC 14-151 released October 10, 15 at para. 8.

equipment has been delivered to the market and has been installed. The installation, which is authorized at a different site than the analog operation, was completed on November 12, 2014 and equipment tests commenced on November 18, 2014.

- (D) In the meantime, arrangements are being made for a new studio. The studio is scheduled to be in service the week of December 1, 2014 and the licensee anticipates commencing program tests promptly upon completion of the studio. The license application will follow shortly thereafter. Based upon this timetable, the station will indeed have been silent for a "temporary period of time:"
- (E) Taking the analog station silent has enabled the limited available resources to be focused on digital construction. This is justified because the digital conversion involves relocating to a new tower site and establishing a new studio location. In effect, the licensee's decision to go silent for a brief period clearly is supported by the fact that both the transmitter site and the studio are being relocated in connection with the digital construction.
- (F) The licensee is seeking Commission consent to assign the station to an affiliate of LocusPoint Networks, LLC ("LPN"), the FCC-approved owner of multiple broadcast television stations with an exemplary record of compliance with the Commission's rules. The Purchase and Sale Agreement, a copy of which has been filed with the Commission, specifically provides as a condition to the buyer's obligation to close that the digital buildout shall have been completed and the digital license shall have been granted.<sup>2</sup> Thus, it never was within the contemplation of the parties that a silent station would be assigned and the parties hereby stipulate that the consummation of the pending transaction will not occur until the station has been returned to service.

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<sup>2</sup> The definition of "Closing Date" is provided on page 2 of the WMKE-CA Agreement and it calls for the closing to take place after the conditions in Article VII and Article VIII have been satisfied. Article VII, Section 7.10(b) (Government Consents) provides that "The Buildout shall have been completed and the Digital License shall have been granted by Final Order, provided that the Buyer can waive the Final Order requirement." This confirms the intention of the parties all along to close after the digital construction was completed and the station was back in service.

To: Ian Milne

Re: 2kW UHF Transmitter for WMKE

From Paul Dadian; Anywave Communications Technologies Sales Manager

Tuesday, September 23, 2014

Ian,

This letter certifies that the WMKE has purchased the 2kW transmitter with Filter to satisfy the project of WMKE digital transition.

The transmitter was purchased 64 days ago and is currently in transit to be installed, albeit, there is a slight delay from our facility overseas.

The transmitter should arrive no later than the week of the 29<sup>th</sup> of Sept (Most likely will arrive by Friday Sept 25<sup>th</sup> 2014.)

I hope this note helps resolve issues regarding the on air timing of WMKE and the delivery of the 2kW transmitter from Anywave.

Best Regards,

Paul Dadian; Anywave Communications Technologies Sales Manager

[paul.dadian@anywavecom.com](mailto:paul.dadian@anywavecom.com)