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January 30, 2018

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th St. S.W.
Washington DC 20554

Re: Cross and Crown Broadcasting Corporation
Application for a New Cross-Service FM Translator to
Rebroadcast the Signal of AM Station KTNK, Lompoc, CA
Request for Waiver of Auction 100 Eligibility Rules

Dear Ms. Dortch:

Cross and Crown Broadcasting Corporation ("CCBC"), licensee of AM Station KTNK, Lompoc, California (fac id 51263) (the "Station"), by its counsel, respectfully requests a waiver of the prohibition against prior FM Translator window participants from applying for a new cross-service FM Translator in the Auction 100 filing window. The circumstances of this matter do not support a strict application of the prohibition and the public interest will be better served if the rule is waived to allow the CCBC to participate in Auction 100.

By way of background, the Station is a stand-alone AM facility and is the only radio station owned by CCBC. CCBC initially filed for a new cross-service FM translator in the Auction 99 filing window (See FCC file no. BNPFT-20170727AAM). That Auction 99 short-form "tech box" proposal was processed by the FCC and identified as a "singleton." All singleton applicants in Auction 99 were required to file a completed FCC Form 349 and to tender the appropriate FCC application processing fee no later than December 21, 2017.¹ Failure to timely file the long-form application would result in dismissal of the initial short-form "tech box" proposal.

CCBC prepared and loaded the required long-form application into the FCC's CDBS, however, through an oversight on its part, CCBC did not file the Form 349 by close of business on December 21, 2017. As a result, its Auction 99 application was dismissed the next day, December 22, 2017.

Under a strict reading of the eligibility requirements for Auction 100, CCBC is not eligible to participate because the Station was listed as a primary station in its Auction 99 filing.² CCBC seeks a waiver of the FCC's eligibility rules for participation in Auction 100 because (a) CCBC's accidental failure to timely file its long-form FCC Form 349 application in Auction 99 did not cause harm to other parties in that auction; (b) the importance of a cross-service FM Translator for the continued survival of a stand-alone AM station is well established and (c) the Station under CCBC's ownership has a strong record of public service and compliance with FCC rules and regulations. In addition, this is the last AM station-only cross service FM translator window that will be authorized by the Commission as a result of the AM Revitalization Proceeding.³ It's unclear when or even if CCBC will have another opportunity to apply for a cross-service FM Translator for the Station.

¹ See *Public Notice Announcing Translator Window for Long-Form Applications*, DA 17-1069, released November 1, 2017.

² See *Public Notice Announcing Second Cross-Service FM Translator Filing Window for AM Broadcasters*, DA 17-1168, released December 4, 2017, at para. 5.

³ See *Revitalization of the AM Radio Service, First Report and Order, Further Notice of Proposed Rule Making and Notice of Inquiry*, 30 FCC Rcd 12145 (2015) ("First AMR Order").

CCBC's short-form application was not mutually exclusive to any other cross-service FM Translator application filed in the Auction 99 window. It was not assigned to an MX group, so no other applicants had to propose engineering changes to accommodate the approval of CCBC's short-form "tech box" application. And no applicants were required to take steps towards participating in an auction which would have greatly inconvenienced other parties in the proceeding. Thus, CCBC's inadvertent failure to file its completed long-form application did not cause harm to any other applicants.

The First AMR Order outlined the problems AM broadcasters are facing in today's marketplace, most especially stand-alone AM stations. It also proposed several steps designed to help AM broadcasters survive in the new marketplace. Chief among the proposals was to afford AM broadcasters with the opportunity to apply for cross-service FM translators that would become a part of the AM station's license. Without a cross-service FM Translator, CCBC is very concerned about the Station's survival. A review of CDBS reveals that KTNK is the last surviving AM station in its community of license. Other AM stations that have added cross-service FM Translators have experienced increases in ratings and sales. That kind of boost is essential for the Station's survival.

CCBC has not been issued any violation notices from the FCC concerning its operation of the Station and provides local news and information to its community of license throughout its broadcast day.⁴ The Station also broadcasts local high school sports and was recently named "Radio Station of the Year" by the Academy of Western Artists.⁵

To qualify for a waiver of the Commission's rules, a party must demonstrate that waiver of the rule in question serves the public interest better than a strict application of the rule.⁶ Based on the circumstances presented here, CCBC believes that waiving the Auction 100 eligibility requirements in this case to allow CCBC to apply for a cross-service FM Translator for KTNK serves the public interest better than a strict application of the rule that would prevent CCBC from applying in this special AM-broadcaster only window.

This request is being filed simultaneously with CCBC's Auction 100 short-form "tech box" application for a new cross-service FM Translator. Should there be any questions concerning this matter or should the Commission require any further information, please contact the undersigned counsel for CCBC.

Sincerely yours,

Scott C. Cinnamon

cc via email: James Bradshaw, Audio Division, Media Bureau, FCC

⁴ Here are some photos showing the Station out in the community. <http://www.pictame.com/user/radioktnk/1422453570>.

⁵ http://lompocrecord.com/news/local/lompoc-station-ktnk-wins-award/article_9a8cd984-004e-5c34-9245-3edd4c206a89.html.

⁶ *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969); *aff'd* 459 F.2d 1203 (D.C. Cir. 1972)