

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
DTV Build-Out
Requests for Waiver of July 1, 2005 and
July 1, 2006 "Use or Lose" Deadlines
Requests for Waiver of the August 4, 2005
"Checklist" Deadline

ORDER

Adopted: May 17, 2007

Released: May 18, 2007

By the Commission:

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I. INTRODUCTION

1. This Order considers requests for waiver of the July 1, 2005 and July 1, 2006 deadlines established for television stations to construct and operate digital television (DTV) facilities so that they may retain interference protection within their replication or maximization service areas (“use or lose” deadlines).¹ Before us now are 192 “use or lose” waiver requests. For 102 stations, we waive their “use or lose” deadlines and provide them with an additional waiver of six months from the release date of this Order to construct DTV facilities that will enable them to retain their interference protection.² For 38 stations that have elected to construct their post-transition DTV facility on a channel that is different than their pre-transition DTV channel, we waive their “use or lose” deadlines and provide them with an additional waiver until 30 days after the effective date of amendments of Section 73.624(d) adopted in the Report and Order in the Third DTV Periodic Review proceeding.³ For 45 stations that face unique technical challenges preventing them from meeting the applicable replication or maximization requirements exactly, we grant their waiver requests and extend their deadlines until February 17, 2009 – *i.e.* the end of the DTV transition.⁴ For the remaining 7 stations, we deny their “use or lose” waiver requests and remove the interference protection to the unused portion of their associated coverage area. These stations will lose the ability to “carry over” their interference protection to their unserved DTV service area on their post-transition channel.⁵

2. Also before us are 10 requests submitted by the licensees of television stations seeking a waiver of the August 4, 2005 deadline established for all television stations to construct and operate a “checklist” DTV facility. For 4 of these stations, we waive the August 4, 2005 “checklist” deadline and permit the stations an additional waiver of six months from the release date of this order to complete

¹ Submission of waivers of the July 1, 2006 “use or lose” deadline was extended to July 7, 2006. *See* “DTV Channel Election Issues - Media Bureau Extends Deadline for Compliance with the July 1, 2006 Replication/Maximization Interference Protection Deadline to July 7, 2006,” *Public Notice*, DA 06-1372, released June 29, 2006.

² These stations are listed in Appendix A. In addition, the stations listed in Appendix F sought a “use or lose” waiver or a waiver of the August 4, 2005 deadline established for all television stations to construct and operate a “checklist” DTV facility (*i.e.*, facilities that conform to the parameters of the 1997 DTV Table of Allotments and other key processing requirements) but also have a pending application to extend their underlying DTV construction deadline. We hereby dismiss these waiver requests. We will consider the DTV extension applications in a separate proceeding. If any of these stations receives an extension of its DTV construction deadline, it will be required to build facilities that meet the “use or lose” or “checklist” requirement by that extended date, or, if permitted, seek a further extension of the DTV construction deadline, which if, and to the extent, granted would also operate as a waiver to extend the “use or lose” or “checklist” requirement. *See Second Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*, Report and Order, 19 FCC Red 18279, 18318 (2004) (“*Second DTV Periodic Review Report and Order*”).

³ These stations are listed in Appendix B. *See Third Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*, *Notice of Proposed Rulemaking*, FCC 07-70, released May 18, 2007 (*Third DTV Periodic Review NPRM*).

⁴ These stations are listed in Appendix C.

⁵ The stations denied “use or lose” waivers are listed in Appendix D.

construction and begin operation of their “checklist” DTV facilities.⁶ For the remaining 6 stations, we waive the August 4, 2005 “checklist” deadline and permit the stations an additional waiver until 30 days after the effective date of the amendments of Section 73.624(d) adopted in the Report and Order in the Third DTV Periodic Review proceeding.⁷

3. In light of the impending Congressionally mandated deadline of February 17, 2009 for the nation’s transition to DTV,⁸ we believe that it is time for all stations to turn their utmost time, attention, and resources to assuring that they have fully built and are operating their DTV facilities. Although we grant waivers to stations requesting additional time to complete their DTV facilities, we caution that the final deadline for completion of DTV construction is drawing near. Congress has established February 17, 2009 as the hard deadline for the termination of analog service.⁹ The law does not permit a station to continue to provide full power analog television service beyond that date.

4. Stations have had several years to plan, finance, construct, and begin operating their DTV facilities. At this late stage in the DTV transition, there remains little time for further waivers of the “use or lose” deadlines. We caution stations that they should utilize the waivers granted herein to take all steps possible to complete construction, as any future waivers will be constrained by the hard deadline and may be evaluated under a more stringent standard. In the *Third DTV Periodic Review NPRM*, the Commission proposed a stricter standard for stations seeking further “use or lose” waivers.¹⁰ The Commission tentatively concluded that the new standard should apply to the consideration of pending extension applications once the new rule becomes effective. Therefore, stations should be aware that further DTV extensions may be examined under the stricter standard proposed in the *Third DTV Periodic Review NPRM*.

II. BACKGROUND

5. *Use or Lose Waivers.* In the *Second DTV Periodic Review Report and Order*,¹¹ the Commission established the following deadlines for stations to construct and operate digital facilities in order to retain interference protection within their replication or maximization service areas:

July 1, 2005 – “Use or lose” deadline for DTV licensees affiliated with the top-four networks (*i.e.*, ABC, CBS, Fox, and NBC) in markets 1-100. Each licensee that receives a tentative channel designation in the channel election process on its current digital channel must construct full, authorized facilities. A licensee that receives a tentative DTV channel designation on a channel that

⁶ These stations are listed in Appendix E.

⁷ These stations are also listed in Appendix E.

⁸ See Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4 (2006). Title III of the Deficit Reduction Act of 2005 is the DTV Act (*DTV Act*). The *DTV Act* is codified at 47 U.S.C. §§ 309(j)(14)(A) and 337(e).

⁹ *Id.*

¹⁰ *Third DTV Periodic Review NPRM*, *supra* at ¶¶81-84.

¹¹ *Second DTV Periodic Review Report and Order* at 18318-9.

is not its current DTV channel must serve at least 100 percent of the number of viewers served by the 1997 facility on which its replication coverage was based.¹²

July 1, 2006 – “Use or lose” deadline for all other commercial DTV licensees, as well as all non-commercial educational DTV licensees. Each licensee that receives a tentative DTV channel designation in the channel election process on its current digital channel must construct full, authorized DTV facilities. Each licensee that receives a tentative DTV channel designation on a channel that is not its current DTV channel must serve at least 80 percent of the number of viewers served by the 1997 facility on which its replication coverage was based.

6. The Commission further stated that a station that fails to meet the applicable replication/maximization requirements will lose interference protection to the unused portion of the associated area as of the applicable interference protection deadline. In addition, a station failing to meet the deadline will lose the ability to “carry over” its interference protection to its unserved DTV service area on its post-transition channel (*e.g.*, its in-core NTSC channel or other in-core channel awarded pursuant to the channel election process).¹³

7. For stations that are unable to provide the required service by the applicable deadline because of severe financial constraints or circumstances beyond the station’s control, the Commission stated that it may grant a waiver in the form of a temporary extension of the applicable interference protection deadline on a six-month basis if good cause is shown. We stated that broadcasters seeking a waiver on the basis of financial hardship must make a showing similar to that required to obtain an extension of the DTV construction deadlines on financial hardship grounds.¹⁴

8. *Checklist Waivers.* In the *Second DTV Periodic Review Report and Order*, the Commission also noted that certain stations had not yet been granted an initial DTV construction permit.¹⁵ The Commission required that all such stations, by August 4, 2005 (*i.e.*, one year from the adoption date of the Order), construct and operate “checklist” facilities that conform to the parameters of the DTV Table of Allotments and other key processing requirements.¹⁶ The Commission stated that it would consider requests for waiver of the August 4, 2005 deadline, on a case-by-case basis, using the criteria for extension of DTV construction deadlines.

9. For 102 stations seeking “use or lose” waiver and 4 stations seeking “checklist” waivers, we grant the standard six month extension permitted by the rules. However, we conclude below that it is in the public interest to provide a longer waiver to those 38 stations seeking “use or lose” waivers and 6

¹² The July 1, 2005 “use or lose” deadline occurred after the first round of the channel election process in which most stations received tentative channel designations (TCDs). Stations that did not have TCDs were not subject to the July 1, 2005 “use or lose” deadline.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* at 18327-18328.

¹⁶ *Id.*

stations seeking “checklist” waiver that have elected to construct their post-transition DTV facility on a channel that is different than their pre-transition DTV channel. Accordingly, the waivers granted herein to those stations will run until 30 days after the effective date of the amendments to Section 73.624(d) adopted in the Report and Order in the Third DTV Periodic Review proceeding. We further conclude below that it is in the public interest to provide a longer waiver under the special circumstances presented by the 45 stations facing unique technical challenges preventing them from completing construction of their DTV facilities. Accordingly, the waivers granted herein to those 45 stations will run until February 17, 2009.

III. DISCUSSION

A. Stations Granted Additional Six-Month “Use or Lose” Waivers

10. The following stations have elected to construct DTV facilities on their post-transition DTV channel and have constructed and are operating DTV facilities on that post-transition channel. However, those post-transition DTV facilities do not satisfy either their replication or maximization requirements. We conclude that these stations, which are listed in Appendix A, have satisfied the standard for obtaining a waiver of the relevant “use or lose” deadlines and will be given six additional months from the release date of this Order to fully build and operate their DTV facilities.

11. *Hurricane-Related Delays.* Damage from hurricanes constitutes the type of circumstance beyond the control of the broadcaster that warrants waiver of their “use or lose” deadline.¹⁷

12. WLAE-DT, New Orleans, Louisiana, completed construction of its certified DTV facilities but those facilities were destroyed by hurricane Katrina in 2005. The station states that it is working to rebuild its DTV facilities.

13. WXXV-DT, Gulfport, Mississippi, also states that it is struggling to complete construction of its full power facilities because of damage from hurricane Katrina. The station states that it is moving forward with construction “as quickly as possible under the circumstances.”

14. WFGX-DT, Fort Walton Beach, Florida, claimed that it has been unable to complete construction of its full, authorized DTV facilities because hurricanes damaged the station’s analog facility. The station states that it then reconsidered the construction of its permanent DTV facility at its proposed tower location in light of the previous hurricane damage and decided to relocate to a new multi-user tower location instead.

15. *September 11, 2001.* The impact of the September 11th terrorist attacks warrants extension of these broadcasters DTV construction deadlines.¹⁸

¹⁷ See “DTV Build-out - Requests for Extension of the Digital Television Construction Deadline,” *Order*, 18 FCC Rcd 22705, 22709 (2003) (damage from typhoon sufficient to warrant DTV extension).

¹⁸ See “DTV Build-out - Requests for Extension of the Digital Television Construction Deadline,” *Order*, 19 FCC Rcd 10064, 10066 (2004) (delay due to September 11th terrorist attack sufficient to warrant DTV extension).

16. WNYW-DT, New York, New York, completed construction of its DTV facilities several years ago, however, those facilities were destroyed during the September 11, 2001, terrorist attacks on the World Trade Center. The station requests a waiver of the “use or lose” deadline so that it may complete construction of its fully authorized facilities that it intends to locate at a new site on the to-be-constructed Freedom Tower. Construction of the new Freedom Tower has been delayed.

17. *Construction and Equipment Delays.* We recognize that the siting of DTV facilities remains a challenge for many broadcasters. Construction, tower siting, and equipment ordering and delivery delays of the type outlined below qualify as the type of “circumstances beyond a station’s control” that the Commission stated we would recognize as justification for waiver of the “use or lose” deadlines under the current rules.¹⁹

18. KHNL-DT, Honolulu, Hawaii states that it has experienced difficulties in obtaining local approval for their tower sites. KHNL-DT has located a site and states that it is awaiting issuance of the necessary local permits to begin construction of its final facility. The station is currently operating pursuant to an STA and is also awaiting action on a modification application.²⁰

19. To implement its maximized facilities, KITV-DT, Honolulu, Hawaii, maintains that it must install a second transmitter at its transmitter site. At the time that the station filed its waiver request, the station states that the landlord for the site would not permit the station to install the transmitter. The site is located on top of a hotel and is co-located with an FM station. The station maintains that the landlord has expressed concerns about RF exposure levels resulting from changes to the FM station. The FM station has commissioned an RF exposure measurement study. Until that study has been completed and the landlord’s concerns are allayed, the station states that it cannot access its transmitter site to install the new transmitter it needs to construct and operate its certified facilities.

20. WPTZ-DT, North Pole, New York, has proposed collocating its DTV facilities atop Vermont’s Mt. Mansfield, on land owned by the University of Vermont. WPTZ-DT states that it has experienced delays in completion of this common tower. The station also represents that it has had difficulties obtaining all of the necessary approvals from the State of Vermont. The station reports that it was able to finally obtain the necessary approvals in April 2005 and has been working to complete construction. The station also states that it has completed its lease negotiations and is at the pre-construction stage, working on site clearing and excavation.

21. KBFH-DT, Honolulu, Hawaii, maintains that it is experiencing difficulty with its antenna and transmitter that has prevented full-power operation. The station reports that it is working on modifying its antenna and upgrading the power to its transmitter and is awaiting delivery of new equipment. Once the new equipment is delivered, the station states that it will complete construction.

¹⁹ See “DTV Build-out - Requests for Extension of the Digital Television Construction Deadline,” *Order*, 19 FCC Rcd 10790, 10792 (2004) (uncontrollable construction delays sufficient to warrant DTV extension); see also *Third DTV Periodic Review NPRM*, *supra* (where the Commission is proposing to amend 73.624(d) to eliminate this circumstance or justification for extension).

²⁰ See File No. BMPCDT-20050629ABP.

22. KWGN-DT and KCEC-DT, both Denver, Colorado television stations, were for many years embroiled in long-standing local tower siting disputes. That dispute was resolved when Congress enacted legislation on December 22, 2006, that clarified certain land use issues on Lookout Mountain.²¹ Specifically, the legislation states that any person that holds an approved FCC DTV construction permit for a tower located on Lookout Mountain may construct its tower if such tower is “of the same height or lower than the tallest existing analog broadcast antenna or tower at such location.”²² In light of this development, these stations may now proceed to complete construction of their DTV facilities expeditiously.

23. KCSG-DT, Cedar City, Utah, was recently sold. The new owner states that its consulting engineer examined the station’s tower and discovered that it would not support both an analog and digital antenna. The station reports that it is now in the process of identifying a site for a new tower that will house both of its facilities.

24. KCSM-DT, San Mateo, California, is licensed with its full digital facilities. However, the station states that the owner of its tower facility has asked that all stations reduce their power in order for another antenna on the tower to be reconfigured. As soon as that work is completed, the station states that it will be able to return to full power. The station is currently operating with a reduced-power STA.

25. While working on construction of its DTV facilities, KFXB-DT, Dubuque, Iowa, states that it discovered that its tower would not be strong enough to support its DTV antenna. The station states that it is working to secure a crew to perform the necessary tower strengthening work in order for its DTV construction to be completed.

26. KGCW-DT, Burlington, Iowa, is constructing a new tower for its DTV facilities. The station states that it has made substantial progress on construction of the new tower but was unable to meet the “use or lose” deadline because of the amount of work involved in clearing its tower site and erecting its new tower. The station states that it is continuing to work towards completing construction and has ordered all of its DTV equipment.

27. KHIZ-DT, Barstow, California, is also constructing a new tower for its DTV facilities. The station states that it has encountered difficulty siting its new tower on its proposed mountain location because of its remote location, the local topography and weather limitations. The station maintains that it has also experienced delays in the local approval process. The station reports that it continues to make progress towards completion of its new tower and expects to be completed shortly.

28. According to the station, the tower crew installing the DTV antenna for KREX-DT, Grand Junction, Colorado, was not able to complete its work before the deadline. The station maintains that it made attempts to expedite the work but was unsuccessful. During installation, the station states that its tower was damaged and it undertook a structural inspection. Once installation is complete, the station states that it will begin operating its full, authorized DTV facilities.

²¹ See Pub. L. No. 109-466 (2006).

²² *Id.*

29. KRWG-DT, Las Cruces, New Mexico, has completed construction of its DTV facility but claims that it cannot begin operating because its tower site lacks power. The station states that it is caught in the middle of a local dispute over the installation of power lines. Until the local dispute is resolved, the station maintains that it cannot begin operating its constructed DTV facilities.

30. In order to complete construction of its DTV facilities, KSBY-DT, San Luis Obispo, California states that it must bury its power line on property managed by the U.S. Forest Service. The station maintains that it has been unable to obtain the necessary approval for this action. The station states that its DTV facilities are complete and it has arranged for the power line installation with the local power company. Once Forest Service approval is received, the station states that it can complete construction and begin operating.

31. KSMS-DT, Monterey, California, states that it has experienced delays in completing construction of its full, authorized DTV facility. Because of delays involving the construction and tower crews, the station states that the project fell behind schedule. The station reports that it expects to complete construction soon.

32. According to the station, a defective transformer is preventing KTGF-DT, Great Falls, Montana, from operating with its full authorized facility. The station maintains that it is attempting to replace the transformer but it is no longer being manufactured.

33. While installing its DTV antenna, KVYE-DT, El Centro, California, states that it discovered an incorrect mounting bracket and had to order a replacement. As soon as the new part is delivered, the station states that it will be able to complete installation of its DTV antenna and begin operating.

34. When KWBF-DT, Little Rock, Arkansas, began to install its DTV equipment at its final location, the station states that the owner of the tower determined that there may be a problem with loading and asked that a study be performed before any equipment was installed. Once that study is completed, if there is no loading problem, the station states that it can once again work towards completing installation of its DTV facilities.

35. The licensee of KWYB-DT, Butte, Montana, and KYTX-DT, Nacogdoches, Texas, states that it is swapping transmitters among these stations. The licensee explains that the transmitters had to be traded between the stations in stages and the process was not completed before the "use or lose" deadline. The licensee states that it expects to have the swap completed shortly at which time it will be able to begin operating its DTV facilities at full power.

36. WAWD-DT, Fort Walton Beach, Florida, reports that it is facing the possible loss of the lease for its tower site. Until this matter is resolved, the station maintains that it has had to defer construction of its DTV facility.

37. Despite ordering their equipment months before the deadline, KBEH-DT, Oxnard, California; KEPR-DT, Pasco, Washington; KJTV-DT, Lubbock, Texas; KLEW-DT, Lewiston, Idaho; WGBC-DT, Meridian, Mississippi; WIDP-DT, Guayama, Puerto Rico; WISE-DT, Fort Wayne, Indiana; WKTC-DT, Columbia, South Carolina; and WLOV-DT, West Point, Mississippi, all state that they were notified by their manufacturers that, due to high demand, the equipment would not be delivered in time

for the stations to complete installation before the “use or lose” deadline. The stations state that they will complete construction as soon as their equipment is delivered.

38. WGGN-DT, Sandusky, Ohio, states that it was going to relocate to a new tower location for its DTV facilities because its existing tower could not support the additional equipment. The station reports that its attempt to obtain local zoning approval for its new site was unsuccessful and it returned to the task of reinforcing its existing tower. The station states that the tower reinforcement process was not completed by the “use or lose” deadline. The station reports that it is continuing to work towards completing its tower reinforcement and DTV installation.

39. WGSB-DT, Baxley, Georgia, states that it intended to locate its DTV facilities on a new tower to be constructed by a third party. After several years of local zoning delays, the station maintains that it decided instead to approach the owner of an existing tower about locating its antenna on their structure. The station reports that it is working to reinforce the existing tower in order to accommodate its DTV antenna and has already signed contracts for its DTV equipment.

40. After certifying that it would construct maximized facilities, WNKY-DT, Bowling Green, Kentucky, states that it discovered that its existing tower structure could not support both its NTSC and DTV antennae. The station states that it is seeking a new tower configuration and is operating an STA facility that provides 78 percent coverage.

41. *Stations Awaiting Action on Commission Matters.* At the time that they filed their waiver requests, certain stations were unable to complete construction of their DTV facilities because they were awaiting action on pending modification applications.²³ A few of these modification applications remain pending but most have been granted. In all cases, the stations could not complete construction of their DTV facilities until their modified DTV construction permit was issued. In each of these cases, we find that the station took the necessary steps to complete the processing of its proposal, but that because of a pending Commission matter, the station was unable to timely complete construction.

42. *Financial Hardship.* In the *Second DTV Periodic Review Report and Order*, the Commission stated “[f]or those stations that are unable to provide the required service by our replication/maximization protection deadlines because of severe financial constraints . . . we will establish a limited waiver process and grant extensions of the applicable replication and maximization interference protection deadline on a six-month basis if good cause is shown.”²⁴ We further stated that “[b]roadcasters seeking a waiver on the basis of financial hardship must make a showing similar to that required to obtain a waiver of the DTV construction deadlines on financial hardship grounds.”²⁵ To qualify under this standard, the applicant must provide (1) an itemized estimate of the cost of meeting the minimum build-out requirements (2) a detailed statement explaining why its financial condition precludes such an expenditure; (3) a detailed accounting of the applicant’s good faith efforts to meet the deadline, including its good faith efforts to obtain the requisite financing, and explanation why those

²³ Appendix G lists those stations and their associated file numbers.

²⁴ *Second DTV Periodic Review Report and Order* at 18318-9.

²⁵ *Id.* at 18319.

efforts were unsuccessful; and (4) an indication when the applicant reasonably expects to complete construction.²⁶

43. Upon review of their supporting documentation, we find that the following stations have met the standards for waiver of their “use or lose” deadline based upon financial hardship. We note that a number of these stations have submitted their showings with requests that they be treated confidentially pursuant to Section 0.459 of the Commission’s rules,²⁷ as they contain sensitive financial information that would “customarily be guarded from competitors” and not routinely available for public inspection.²⁸ We find that these stations have met the requirements under Section 0.459. As a result, we grant their requests for confidential treatment and limit our discussions below accordingly.²⁹

44. KIDY-DT, San Angelo, Texas, is also claiming financial hardship as the basis for its use or lose waiver. The station is taking steps to construct its full DTV facility and is considering various proposals.

45. KMTV-DT, Flagstaff, Arizona, has elected its analog TV channel and is currently operating on its DTV channel with an STA facility. The station claims financial hardship as the basis for not completing construction of its replication facility. The station is evaluating various methods for obtaining the necessary equipment to provide replication coverage on its DTV channel.

46. KREN-DT, Reno, Nevada, is unable to construct its full, authorized facility due to financial hardship. The station is continuing to pursue construction of this facility and has provided a timetable for construction.

47. The licensee of KSBI-DT, Oklahoma City, Oklahoma, is also claiming financial hardship as the basis for its waiver. The station elected its DTV channel (51) and is operating a low power facility on that channel. The station states that it will continue to explore building its full, authorized facility as its financial situation warrants.

48. Nexstar Broadcasting, Inc., the licensee of KTAL-DT, Texarkana, Texas; and WCIA-DT, Springfield, Illinois; and WTVW-DT, Evansville, Illinois; claims that financial hardship has prevented the construction of the stations’ DTV facilities. Nexstar is the licensee of twenty-nine television stations. It has demonstrated that it qualifies for a waiver based upon financial hardship and has submitted a timetable for the completion of construction of these stations’ DTV facilities.

²⁶ *Id.*

²⁷ 47 C.F.R. § 0.459.

²⁸ *See* 47 C.F.R. § 0.457(d)(2).

²⁹ We note that, in the *Third DTV Periodic Review NPRM*, the Commission is seeking comment on a stricter standard for reviewing DTV extensions that would apply to “use or lose” waivers. *See Third DTV Periodic Review NPRM* at ¶¶81-87. That stricter standard includes a modified standard for stations seeking extensions and waivers based upon financial hardship. Stations would only qualify under financial hardship if the station is (1) the subject of a bankruptcy or receivership proceeding, or (2) experiencing severe financial hardship, as defined by negative cash flow for the past three years. *Id.*

49. KSNB-DT, Superior, Nebraska, is unable to complete construction due to what it describes as severe “financial and litigation constraints.” The station states that it is considering various options to finance construction of its DTV facility.

50. KSYS-DT, Medford, Oregon, a noncommercial educational station, elected to return to its analog channel (8) and is operating an STA facility on its current DTV channel (42) that serves only 50 percent of its service area. This is due to what it describes as severe terrain limitations. In order to serve the remaining 30 percent it is required to serve, the station states that it would have to greatly increase power and it would still not be able to reach the required 80 percent. In addition, the station reports that it was recently notified by its landlord that it would have to vacate its leased premises within a year. The station states that it is now faced with the substantial cost of relocating its studio in addition to constructing its DTV facility. The station maintains that it is moving forward in an attempt to secure the necessary funds for both these projects.

51. Piedmont Television Holdings, LLC, is the licensee of the following television stations for which it seeks “use or lose” waivers: KSPR-DT, Springfield, Missouri; KTVE-DT, El Dorado, Arkansas; WGXA-DT, Macon, Georgia; and WKBN-DT, Youngstown, Ohio. Piedmont claimed financial hardship and has submitted a timetable for completion of the DTV facilities for these stations.

52. KYES-DT, Anchorage, Alaska, also provided a showing that it was unable to complete construction of its DTV facilities due to financial hardship and submitted a timetable for construction.

53. The full-power DTV facilities of WDBD-DT, Jackson, Mississippi have not been completed due to financial hardship. The station states that it has changed its network affiliation and that this may help to enable it to fund its DTV construction. The station states that it will continue to pursue construction of its full-power facility when its finances have improved.

54. The licensee of WEUX-DT, Chippewa Falls, Wisconsin, and WLAX-DT, LaCrosse, Wisconsin, has been unable to complete the full, authorized DTV facilities for these stations due to what it describes as “severe financial constraints.” Both stations operate temporary low power facilities while the licensee pursues the upgrade to full power.

55. The licensee of WMPN-DT, Jackson, Mississippi, is a state-wide educational broadcasting authority that relies on state budget appropriations to construct its facilities. The station explains that its DTV construction has been delayed by state budget shortfalls due to damage from hurricane Katrina. The station reports that it is continuing to work with the state legislature to obtain the funds necessary to complete construction of its full power DTV facility. In the interim, the station is operating a temporary facility on its DTV channel (20).

56. The licensee of WSST-DT, Cordele, Georgia, is in bankruptcy proceedings. The station states that it attempted to upgrade its temporary DTV facilities to full power but its newly-acquired equipment was faulty. The station reports that it has been working with the bankruptcy court to obtain additional funding to complete its upgrade. The station states that it will complete the upgrade “as soon as practicable.”

57. WVFX-DT, Clarksburg, West Virginia, claimed financial hardship as the reason it has not constructed its full power DTV facilities. The station states that it is committed to construction of its full power facility “as soon as it has the financial ability to do so.”

58. KETC-DT, St. Louis, Missouri, was given a Tentative Channel Designation (TCD) on its DTV channel 39. The station must provide 100 percent coverage. Its existing facility provides 97.2 percent. The station claims that the cost to provide 100 percent coverage would be “prohibitive.”

59. KTLM-DT, Rio Grande City, Texas, is also operating with a low-power STA facility on its current DTV channel. The station cannot complete construction of its certified facility due to financial hardship. The station asks to be allowed to remain at its lower power until the end of the digital transition. The station submitted a financial hardship showing.

60. KEVN-DT, Rapid City, South Dakota, is currently the subject of a bankruptcy proceeding. The station states that to expend the funds necessary to complete construction of its full power DTV facility “could be fatal.” The station asks that it be allowed to defer further DTV construction until the end of the DTV transition.

61. KECI-DT, Missoula, Montana, is providing coverage to 78 percent of the number of viewers served by the 1997 facility on which its replication coverage was based. The station states that it cannot reach the 80 percent requirement without “taking unduly expensive and uneconomic measures.” The station asks to be allowed to remain at the 78 percent level until the end of the digital transition.

62. KTVA-DT, Alaska Broadcasting Company, Inc. has not built out to its certified facilities but instead is operating with a licensed facility that provides coverage to 98.4 percent of its certified coverage area. The station states that it would cost an additional \$250,000 to \$300,000 to upgrade to its certified power level.

63. We find that each of these stations has met the requirements for waiver of the “use or lose” deadline as stations experiencing financial hardships. Each station has made the necessary four-part showing to establish financial hardship and each station has taken steps to further its DTV construction. Therefore, we waive the “use or lose” deadline and grant these stations an additional six months from the release date of this Order to construct DTV facilities that will enable them to retain their interference protection.

B. Stations Granted “Use or Lose” Waivers Until 30 Days After the Effective Date of the Amendments of Section 73.624(d) Adopted in Report and Order in the Third DTV Periodic Review Proceeding

64. The *Third DTV Periodic Review NPRM* proposes to permit a station that has not constructed an operational pre-transition DTV facility to return its CP for that facility to the Commission and focus its efforts on construction of its post-transition facility.³⁰ The *Third DTV Periodic Review NPRM* also proposes options for stations with operational DTV facilities on a pre-transition channel,

³⁰ See *Third DTV Periodic Review NPRM*, *supra* at ¶65.

which could include discontinuation of further construction.³¹ In light of these proposals for stations whose pre-transition DTV channel is different from their post-transition channel, and for the reasons set forth below, we find it appropriate to grant stations in that category (listed in Appendix B) a “use or lose” waiver until 30 days after the effective date of the amendments to Section 73.624(d) adopted in the Report and Order in the Third DTV Periodic Review proceeding.

65. *September 11, 2001.* WNET-DT, Newark, New Jersey; WPIX-DT, New York, New York; and WPXN-DT, New York, New York, completed construction of their DTV facilities several years ago, however, those facilities were destroyed during the September 11, 2001, terrorist attacks on the World Trade Center. These stations request a waiver of the “use or lose” deadline so that they may complete construction of their fully authorized facilities that they intend to locate at a new site on the to-be-constructed Freedom Tower. Construction of the new Freedom Tower has been delayed.

66. *Hurricane Delays.* WNOL-DT, New Orleans, Louisiana, completed construction of its certified DTV facilities but those facilities were destroyed by hurricane Katrina in 2005. The station states that it is working to rebuild its DTV facilities.

67. *Construction Delays.* Despite ordering their equipment months before the deadline, KZTV-DT, Corpus Christi, Texas, and WMDN-DT, Meridian, Mississippi, state that they were notified by their manufacturers that, due to high demand, their equipment would not be delivered in time for the stations to complete installation before the “use or lose” deadline. The stations state that they will complete construction as soon as their equipment is delivered.

68. The licensee of WGTU-DT, Traverse City, Michigan, states that it is swapping transmitters among three of its stations. The licensee explains that the transmitters had to be traded between the stations in stages and the process was not completed before the “use or lose” deadline. The licensee states that it expects to have the swap completed shortly at which time it will be able to begin operating its DTV facilities at full power.

69. WHDT-DT, Stuart, Florida, has been operating a lower power STA facility and has been unable to complete its full power facility because of a delay in installing its antenna. The station states that it cannot install its antenna at its full power height until the end of hurricane season because installation will involve the use of a crane. The station explains that crane permits are not issued during hurricane season due to the inability of crane operators to obtain insurance. The station states that it will complete the antenna relocation following the end of hurricane season.

70. *Financial Hardship.* KAQY-DT, Columbia, Louisiana, claims it cannot afford to build its replication facility. The station is currently operating on its NTSC channel 11 and is operating a temporary facility on DTV channel 57. The station was allotted DTV 11 in the channel election process. The station is operating a low power STA but claims to not have the financial wherewithal to complete a replication facility. The station submitted a financial hardship showing.

71. Noncommercial educational station KIXE-DT, Redding, California, also plans to return to its analog channel (NTSC channel 9) and is operating a low power DTV facility on its paired DTV

³¹ *Id.* at ¶66.

channel (DTV channel 18). The station is licensed to a state educational entity that claims that it would be financially impossible to raise the additional money to purchase a new transmitter to operate on DTV channel 18 with full replication power. The station's existing analog transmitter can be upgraded to operate digitally and the station intends to operate at full replication power on channel 9 at the end of the DTV transition. The station submitted a financial hardship showing.

72. WBIQ-DT, Birmingham, Alabama, a noncommercial educational station, originally calculated that its DTV facility would provide 88 percent coverage, in excess of its 80 percent coverage requirement. The station later discovered that this calculation was incorrect and that its DTV facility would only cover 73 percent. The station argues that the cost to upgrade the station for the additional coverage would be "unaffordable and impractical." The station submitted a financial hardship showing.

73. Nexstar is the licensee of WHAG-DT, Hagerstown, Maryland and claims that financial hardship has prevented the construction of the station's DTV facilities. Nexstar is the licensee of twenty-nine television stations. It has demonstrated that it qualifies for a waiver based upon financial hardship and has submitted a timetable for the completion of construction of this station's DTV facilities.

74. Piedmont is the licensee of WJCL-DT, Savannah, Georgia. Piedmont claims financial hardship and has submitted a timetable for completion of the DTV facilities for this station.

75. The licensee of KUNO-DT, Fort Bragg, California, also claims financial hardship and submitted a timetable for completion of its DTV facilities.

76. The licensee of WTGS-DT, Hardeeville, South Carolina, also claims financial hardship. In conjunction with that claim, it submitted a timetable for completion of its DTV facility.

77. *Stations Awaiting Action on Commission Matters.* At the time they filed their waiver requests, the following stations had pending modification applications that required processing before the stations could begin constructing and operating their DTV facilities:

KGNS-DT, Laredo, Texas³²
KMLM-DT, Odessa, Texas³³
KNAZ-DT, Flagstaff, Arizona³⁴
KNWS-DT, Katy, Texas³⁵
KRPV-DT, Roswell, New Mexico³⁶
KTVH-DT, Helena, Montana³⁷

³² See File No. BMPCDT-20060707ACX (granted October 18, 2006).

³³ See File No. BMPCDT-20060616AAW.

³⁴ See File No. BMPCDT-20060605AAV (granted October 10, 2006).

³⁵ See File No. BMPCDT-20060215AAN.

³⁶ See File No. BMPCDT-20060622AAL.

³⁷ See File No. BMPCDT-20060628ACX.

KVAL-DT, Eugene, Oregon³⁸
KWES-DT, Odessa, Texas³⁹
KYOU-DT, Ottumwa, Iowa⁴⁰
WCTE-DT, Cookeville, Tennessee⁴¹
WGGB-DT, Springfield, Massachusetts⁴²
WHOI-DT, Peoria, Illinois⁴³
WLFL-DT, Raleigh, North Carolina⁴⁴
WNCF-DT, Montgomery, Alabama⁴⁵
WOAY-DT, Oak Hill, West Virginia⁴⁶
WTOV-DT, Steubenville, Ohio⁴⁷
WTTA-DT, St. Petersburg, FL⁴⁸
WTVZ-DT, Norfolk, Virginia⁴⁹
WWTW-DT, Cadillac, Michigan⁵⁰

78. At the time they filed their waiver requests, WHNS-DT, Greenville, South Carolina; WHO-DT, Des Moines, Iowa; WSWP-DT, Grandview, West Virginia, and WTVG-DT, Toledo, Ohio; were awaiting action on their Tentative Channel Designations (TCDs). They had not received their TCDs because of interference conflicts. Therefore, they did not know which of the two coverage requirements (80% or 100%) they would be required to meet. These stations subsequently received their TCDs and their coverage requirements (80%) have been set.

³⁸ See File No. BMPCDT-20060706AFS.

³⁹ See File No. BMPCDT-20060621AAG.

⁴⁰ See File No. BMPCDT-20060629AEW (granted September 14, 2006).

⁴¹ See File No. BPEDT-20060707ADC (granted September 29, 2006).

⁴² See File No. BMPCDT-20060629AAU (granted August 24, 2006).

⁴³ See File No. BMPCDT-20060612AAV.

⁴⁴ See File No. BMPCDT-20060629AAQ (granted July 25, 2006).

⁴⁵ See File No. BMPCDT-20060707ACU.

⁴⁶ See File No. BMPCDT-20061012ACE (granted November 3, 2006).

⁴⁷ See File No. BMPCDT-20060626ACN.

⁴⁸ See File No. BMPCDT-20060629ABD (granted August 24, 2006).

⁴⁹ See File No. BMPCDT-20060629AAS (granted August 24, 2006).

⁵⁰ See File No. BMPCDT-20060621AAR (granted September 29, 2006).

C. Stations Granted “Use or Lose” Waivers Until February 17, 2009

79. The stations listed in Appendix C, and discussed below, state that they have been able to come close to meeting the applicable replication or maximization requirements but cannot fully satisfy those requirements.⁵¹ We recognize the unique technical challenges faced by these stations and, for the reasons set forth below, we grant each of these stations a waiver of the “use or lose” deadline until February 17, 2009 – *i.e.*, the end of the DTV transition.⁵² These stations will retain their interference protection within their replication or maximization service areas.

80. *Problems with Top-Mounted Antennas.* Several of the stations listed in Appendix C have proposed to collocate their DTV antenna on the top of the tower that houses their existing analog antenna. That each station’s existing analog antenna is currently located on the top of the tower has complicated the station’s ability to timely construct its DTV facility. In order to top-mount its DTV antenna, each would have to relocate its analog antenna to another position on its existing tower or to another location altogether. In addition, some of these stations have elected their respective existing analog channels as their post-transition DTV channels and have proposed using their existing analog structures as the structures for their DTV facilities. These stations maintain that, to require them to temporarily relocate their existing analog antenna from the top-mounted position until the end of the DTV transition would cause a loss of analog service or other technical problems. In order to resolve this problem, each such station has side-mounted its DTV antenna temporarily until the end of the DTV transition.⁵³ At the end of the DTV transition, when analog operations have ceased, each station proposes moving its DTV antenna to its permanent top-mounted position. The side-mounted operations of stations with the 100 percent coverage requirement provide coverage to at least 90 percent of their required coverage area. The side-mounted operations of stations with the 80 percent coverage requirement provide coverage to at least 45 percent of their required coverage area.

81. KABC-DT, Los Angeles, California, states that, in order to complete its replication facilities, it would have to mount its DTV antenna near the top of its tower. However, all positions near the top of its tower are occupied with antennas. As a result, the station states that it has side-mounted its DTV antenna at a lower location. To switch antenna positions and enable its DTV antenna to be placed

⁵¹ See “DTV Channel Election Issues – Compliance with the July 1, 2006 Replication/Maximization Interference Protection Deadline; Stations Seeking Extension of the Deadline,” *Public Notice*, 21 FCC Rcd 6540 (2006) (*June 14, 2006 Public Notice*). The staff recognized this problem in the *June 14, 2006 Public Notice*, when it stated that “several licensees have indicated that they may be able to come close to meeting the applicable replication or maximization requirements but cannot meet the precise requirements set forth in paragraph 78 of the Order.” The staff requested that stations in this situation address the following in submitting a request for waiver of the interference protection deadline: (1) how close to full replication/maximization the licensee will be as of the deadline; (2) the reason the licensee is unable to comply fully; (3) the cost to the licensee and the impact on viewers if the licensee were required to comply fully; (4) whether the licensee will be able to modify its operation to comply fully after analog operation terminates (e.g., relocate its DTV antenna to the top of the tower); and (5) any other relevant factors.

⁵² The stations in this category include those whose pre-transition DTV channel is the same as their post-transition channel and stations whose post-transition DTV channel is different than their pre-transition channel.

⁵³ See *Third DTV Periodic Review NPRM*, *supra* at ¶73.

at a higher location would result in a loss of service to analog viewers which the stations states far outnumber its DTV viewers.

82. Because its top-mounted analog antennas must continue to operate, the licensee of KCRA-DT, Sacramento, California, and WDSU-DT, New Orleans, Louisiana, states that it cannot place its DTV antennas in their final top-mounted position and it must operate them from side-mount positions. The licensee states that moving its analog antennas to the side-mount positions would result in a loss of analog service. The licensee predicts the loss would be 211,398 persons for KCRA-DT and 100,000 persons for WDSU-DT. The WDSU-DT side-mounted DTV facility is providing 93.5 percent coverage and WDSU-DT is providing 93.3 percent coverage.

83. The licensee of KHAS-DT, Hastings, Nebraska, and KNOP-DT, North Platte, Nebraska, states that it is unable to comply with the 80 percent replication requirement because of the current position of these stations' analog antennas. Both station's analog antennas are located in the top-mount position, preventing their DTV antennas from being located there. Both stations are operating side-mounted DTV facilities that provide less than the required 80 percent replication. The licensee states that the width of the towers blocks the stations' signals from correctly propagating. KHAS-DT is providing 46.9 percent coverage and KNOP-DT is providing 51.2 percent coverage.

84. The licensee of KJRH-DT, Tulsa, Oklahoma, WCPO-DT, Cincinnati, Ohio, WEWS-DT, Cleveland, Ohio, WMAR-DT, Baltimore, Maryland, and WXYZ-DT, Detroit, Michigan, states that it is currently providing 96.4 percent, 98.4 percent, 97.5 percent, 97.2 percent and 98.5 percent coverage, respectively, from the stations' side-mounted DTV facilities. The licensee states that it cannot move its DTV antennas to their final positions because the analog antennas are currently located there. The licensee predicts that relocating the analog antenna to a lower location would result in a loss of service to 191,158 persons for KJRH-DT, 106,290 persons for WCPO-DT, 451,426 persons for WEWS-DT and 580,131 for WXYZ-DT.

85. The analog antennas for KMTV-DT, Omaha, Nebraska, and WSAZ-DT, Huntington, West Virginia, are also top-mounted. The stations currently operate their DTV facilities from side-mounted positions. The licensee of these stations states that a "swap" of these antennas would disrupt and impair the stations' current level of analog service.

86. KNDO-DT, Yakima, Washington, is currently providing 95.1 percent coverage from its side-mounted DTV facility. The station states that its side-mounted position limits the station's coverage. The station states that it cannot move the antenna any higher due to the location of its analog antenna. If the station were to relocate its analog antenna to the lower position, it predicts that there would be a loss of service to 2.8 percent of its viewers, including, the station states, some of those most economically-challenged.

87. KOCO-DT, Oklahoma City, Oklahoma, states that its existing tower is unable to support both its top-mount analog antenna and its maximized DTV antenna height. The station is operating with its DTV antenna at a lower height that provides 99.2 percent coverage. The station states that, to move its analog antenna lower to accommodate its DTV antenna, would result in a loss of analog service to 51,402 viewers.

88. KOTV-DT, Tulsa, Oklahoma, is authorized to operate its maximized DTV facilities from an HAAT of 570 meters – the top of its tower. However, the station’s analog antenna is currently top-mounted at that height. Therefore, the station is operating a temporary DTV facility at a lower position that provides 95.1 percent coverage. The station states that relocating its analog antenna to the lower position would result in a loss of service to some of the station’s viewers.

89. KRTV-DT, Great Falls, Montana, states that it intends to top-mount its DTV antenna but cannot do so due to space limitations on its tower. Accordingly, the station is operating a side-mounted DTV facility. The station states that at the end of the DTV transition it will remove its top-mounted analog antenna and replace it with its DTV antenna. The station’s side-mounted operation provides 97.84 percent coverage.

90. KTRK-DT, Houston, Texas, also claims that it is unable to meet its use or lose coverage requirement because of the top-mounted location of its analog antenna. The station is operating a temporary DTV facility from a lower position that provides 98.92 percent coverage. The station states that relocating its analog antenna to a lower position would result in a loss of service.

91. WAPT-DT, Jackson, Mississippi, states that it cannot mount its DTV antenna at its maximized location due to an FM radio antenna that is currently at that location. Once the FM station’s lease expires, WAPT-DT will be able to locate its antenna at that location. Until then, the station is operating from another location on the tower that provides 92.8 percent coverage.

92. WBKI-DT, Campbellsville, Kentucky, states that it is not possible for it to top-mount its DTV antenna without a disruption of service to its analog viewers. The station’s analog antenna is currently located in the top-mount position on its tower. In order to complete its maximized facility, the station states that it would have to place its DTV antenna in the top-mount position and relocate its analog antenna to another position on its tower. The station’s current side-mounted DTV facility provides 95 percent coverage.

93. The licensee of WBOY-DT, Clarksburg, West Virginia, and WTRF-DT, Wheeling, West Virginia, states that it cannot operate its certified DTV facilities because both stations propose to operate their DTV facilities from the top-mounted positions on their respective towers. The top-mounted positions on both towers currently house the stations’ analog antennas. The licensee argues that relocating the stations’ analog antennas would result in a “substantial” loss of analog service for both stations.

94. According to the licensee, tower loading problems are preventing WDRB-DT, Louisville, Kentucky, and WFTE-DT, Salem, Indiana, from top-mounting their DTV antennas. The licensee states that it will be able to top-mount these antennas at the end of the DTV transition when it will no longer be operating its analog facilities. The WDRB-DT side-mounted DTV facility provides 93 percent coverage and the WFTE-DT facility provides 94.5 percent coverage.

95. WHBQ-DT, Memphis, Tennessee, states that it is also a station that cannot top-mount its DTV antenna due to its analog antenna currently located in the top-mount position.

96. WITF-DT, Harrisburg, Pennsylvania, is currently operating a side-mounted DTV facility that provides 95.7 percent coverage. The station states that it cannot top-mount its DTV antenna due to its top-mounted analog antenna.

97. In order to complete its certified facilities, the licensee of WJAR-DT, Providence, Rhode Island and WVTM-DT, Birmingham, Alabama, states that it must move its DTV antennas to the top of its towers. At the present time, that position is currently housing these stations' analog antennas. The stations cannot exchange their DTV and analog antennas without adversely affecting their analog coverage. WJAR-DT's current side-mounted DTV facility provides 92.2 percent coverage and the WVTM-DT facility is providing 100% percent coverage.

98. The top position on the tower for WJRT-DT, Flint, Michigan, is the home for the station's analog antenna. The station states, therefore, it cannot mount its DTV antenna in the top position as specified in its certified facilities. The station is currently operating a side-mounted DTV facility that provides 96.9 percent coverage.

99. WPBF-DT, Tequesta, Florida, states that it is physically impossible for it to top-mount its DTV antenna until the end of the DTV transition when its existing top-mounted analog antenna will be removed. To require the station to move its analog antenna now would result in a loss of service of 82,246 persons, the station predicts. The station's current DTV facility provides 93.3 percent coverage.

100. The DTV antenna for WSBT-DT, Sound Bend, Indiana, is currently located 86 meters below the top-mounted analog antenna. The station has proposed top-mounting its DTV antenna but cannot do so until the end of the DTV transition. The station's current DTV operation provides 84.2 percent coverage.

101. In order to comply with its use or lose obligation, WSIL-DT, Harrisburg, Illinois, states that it would have to relocate its top-mounted analog antenna at a loss of service of nearly 57,000 persons. The station's current side-mounted DTV facility provides 95.5 percent coverage.

102. The analog and digital facilities of WSJV-DT, Elkhart, Indiana, share a common tower. The station states that it cannot raise the height of its DTV antenna without relocating its analog antenna. The station predicts that such action would cause a loss of service. The station's current side-mounted DTV facility provides 96.3 percent coverage.

103. WTJR-DT Quincy, Illinois, has a top-mounted analog antenna and side-mounted DTV antenna. The station states that it cannot complete its certified facilities unless it removes the top-mounted antenna, resulting in a loss of coverage of greater than 50 percent of its analog viewers. The station's existing side-mounted DTV facility provides 75-80 percent coverage.

104. WTTV-DT, Bloomington, Indiana, claims that it cannot mount its DTV antenna any higher than its current location until the station's existing top-mounted analog antenna is removed. The station's existing side-mounted DTV facility provides 98.8 percent coverage.

105. *Other Unique Technical Challenges.* KEYT-DT, Santa Barbara, California, is currently operating with an STA facility that provides 84.3 percent coverage to its certified service area. The station claims that it cannot increase power to its certified level because the utility company that provides

power to its shared tower site has indicated that the transformer supplying power to the site is at full capacity. Once analog operations at the site are discontinued near the end of the transition, the station states that it expects that additional power will be available to operate its full DTV facility.

106. KIMO-DT, Anchorage, Alaska, also claims that it cannot increase the power at its tower site due to electrical limitations. The station's existing DTV facility provides 99.96 percent coverage. Once the DTV transition is complete, and analog service at the site is discontinued, the station states that it expects to have additional power available to operate at 100 percent.

107. KPXO-DT, Kaneohe, Hawaii, claims that it cannot increase its power to its certified level because the owner of the station's tower site will not provide additional space to house additional equipment at the site. Without the additional space, the station maintains that it cannot upgrade to its certified power. The station is operating at lower power which covers 99.53 percent of its certified service area. The station states that it is not clear at this time that the site owner will allow the station to increase power to its certified level until after the transition is completed.

108. KFVE-DT, Honolulu, Hawaii, is unable to locate its DTV facility at its analog site, as it certified it would do. The station explains that the owner of the site will not permit the station to site another antenna. The station is operating its DTV facility from another location with an STA and states that it will move its DTV facility to its analog site at the end of the transition. The station states that its temporary DTV facility serves "the major population centers on the island of Oahu" and that the less-populated areas that are not being served today will be served after the station fully transfers to DTV.

109. KPBT-DT, Odessa, Texas, a noncommercial educational station, currently operates on its assigned DTV channel from an STA facility. This facility provides 99.6 percent coverage. The station explains that it was going to prepare a modification application to modify its DTV construction permit to specify the STA facility. The station states that its construction permit and STA sites are located on property held by a third party. The station anticipates that at some time before the end of the transition it may be required to move to a new location. The station states that it has not identified a new location and is concerned whether the "footprint" of the new location will comply with the current DTV freeze if it licenses its STA facility. The station states that it desires to stay at its current STA facility without having to file a modification application. It asks that the Commission waive the use or lose deadline with respect to the small amount of area (0.4 percent) that is not covered by its STA facility.

110. KTVM-DT, Butte, Montana, is returning to its analog channel but is unable to provide 80 percent coverage on its current DTV channel because of what it describes as local terrain problems. The station sits in the Rocky Mountains and on the continental divide. The station states that it can only serve 50 percent of its requisite coverage area on its existing DTV channel. At the completion of the transition, and when the station returns to its analog channel, the station believes that this problem will be resolved.

111. KWSU-DT, Pullman, Washington, a noncommercial educational station, also is unable to reach the required 80 percent coverage for its DTV facility because of what it describes as terrain features in the area surrounding the station's community of license. Although certain population areas were included in the station's analog baseline, the station argues that these areas actually do not receive the station's analog signal. The station's existing licensed DTV facility covers 48 percent of the analog baseline population area. In order to reach the remaining areas with DTV service on its current channel

and satisfy the 80 percent coverage requirement, the station calculates that it would be required to expend nearly \$1,000,000. The station argues this would be impractical especially given that it has elected to return to its analog channel.

112. KXLF-DT, Butte, Montana, has a licensed facility that provides 98.5 percent coverage on its final DTV channel. The station states that it cannot upgrade its power due to interference to a nearby analog station. Once the DTV transition is complete and the other station terminates operation on its analog channel, the station states that it can commence operating at full power.

113. In order to resolve alleged interference to another station, WHRO-DT, Hampton-Norfolk, Virginia, agreed to operate at reduced power and accepted a special condition on its DTV license. Therefore, the station will be operating at reduced power until the end of the DTV transition.

114. WOLE-DT, Aguadilla, Puerto Rico, elected to return to its analog channel (12) and has been operating a temporary DTV facility on its current out-of-core channel (69). The station states that its existing tower cannot accommodate both its analog and DTV operations. The station maintains that it cannot meet the 80 percent DTV coverage requirement from its temporary site. The station states that the site does not have the electrical capacity for the station to meet the required coverage. The station maintains that it has been unable to secure another temporary location for its current DTV operations. Once the DTV transition is completed, the station intends to operate on its analog channel from its existing tower.

115. WFTS-DT, Tampa Bay, Florida, is located on a multi-user tower. The station is limited in the size of its transmission line and therefore cannot increase its power to its certified level. The station's lower power facility provides 99 percent coverage.

D. Stations Denied "Use or Lose" Waivers

116. The stations set forth in Appendix D submitted "use or lose" waivers but were unable to demonstrate that good cause exists to allow additional time to meet their applicable requirement.⁵⁴

117. The licensee of WDHS-DT, Iron Mountain, Michigan, and WDTV-DT, Weston, West Virginia, vaguely claims that it cannot install its DTV equipment on its existing towers and is exploring other options for the siting of its permanent DTV facilities. WDHS-DT is returning to its analog channel (channel 8) as is WDTV-DT (channel 5).

118. WCOV-DT, Montgomery, Alabama, elected to remain on its DTV channel 16 and is operating a DTV facility on that channel pursuant to STA. The station attempted to claim financial hardship as its reason for not completing its DTV construction, but its showing was not sufficient. Specifically, the station did not provide a detailed statement explaining why its financial condition precludes it from making the expenditures necessary to complete its DTV construction, as required under

⁵⁴ In addition, KMBY-DT, Bismarck, North Dakota, filed an application to modify its DTV construction permit to specify its lower power STA facility. In a letter filed in Docket MB 03-15, the station acknowledged that its interference protection would be limited to the area specified in its modification application and it relinquished the interference protection to its unused area.

the financial hardship standard established in the *Second DTV Periodic Review Report and Order*.⁵⁵ To the contrary, the station's licensee acknowledges that it is a "healthy corporation" and merely states that it would be "particularly problematic" to build its maximized DTV facility.

119. KAME-DT, Reno, Nevada, also elected to remain on its DTV channel 20. The station claims that it cannot complete its maximized DTV facilities because it cannot file an application for modified DTV construction permit due to the freeze. The station waited to file its modification application but when it did so the freeze had been imposed and its application was returned. The station does not explain why it was unable to file its modification application earlier or revise its modification application to comply with the freeze (*i.e.*, reduction in power or height).

120. KUAM-DT, Agana, Guam, elected to return to its analog channel 8. The station was originally assigned DTV channel 2 and was previously denied a DTV extension for that channel in 2004 and was placed in the Commission's remedial program. In response, the station filed a petition for rulemaking to change its DTV channel from 2 to 10. During the channel election process, the station apparently abandoned its plans and elected to return to its analog channel 8. That proposal was accepted by the Commission. In the interim, the station has failed to make any progress on completion of its DTV facilities on channel 2. The station's only justification is that it will seek Commission approval to flash cut to channel 8 at the end of the transition, a proposal that was never filed.⁵⁶

121. KBDI-DT, Broomfield, Colorado, claimed that it could not complete construction of its certified DTV facilities because it is continuing to pursue a Negotiated Channel Election Arrangement with another station to change its post-transition DTV channel to 13. However, the station received a TCD on DTV channel 38 and does not adequately explain why it was unable to complete construction of its certified DTV facilities (the station is operating a low-power STA facility). The station claims that it would be a "large financial burden" to have to complete construction of these facilities only to later be permitted to change its DTV channel to 13. However, the station did not submit a showing claiming financial hardship. Absent such a showing, we cannot grant the station a "use or lose" waiver based only the fact that it was not satisfied with its TCD.

122. WTXX-DT, Waterbury, Connecticut, elected to return to its analog channel (channel 20) and has an STA facility for its interim DTV channel (12) that meets the use or lose requirement. It claims that it cannot file its application to modify its DTV construction permits to specify its STA facilities because of the Commission's freeze on the filing of DTV applications. In reality, the station cannot file an application to modify to its STA facility because this move would result in the station causing impermissible interference to another station. It is within the station's control to either identify a new transmitter site location or submit an application to modify its STA facility to comply with the Commission's policies and rules.

⁵⁵ See *Second DTV Periodic Review Report and Order* at 18318-9.

⁵⁶ In the *Second DTV Periodic Review Report and Order*, we permitted certain stations to flash cut. See *Second DTV Periodic Review Report and Order* at 18326. Those stations included satellite stations and certain stations with out-of-core channels. See also "DTV Transition - Approval of 'Flash Cut' Requests," *Public Notice*, DA 07-1847, released April 25, 2007.

123. We find that these stations have not provided sufficient justification for a waiver of their applicable “use or lose” deadline.⁵⁷ These stations have not shown that they were unable to complete construction due to unforeseen circumstances, circumstances beyond their control, or financial hardship.⁵⁸

124. Because these stations failed to meet the applicable replication/maximization requirements, they will lose interference protection to the unused portion of the associated area as of the applicable interference protection deadline. In addition, these stations will lose the ability to “carry over” their interference protection to their unserved DTV service area on their post-transition channel.

125. KAME-DT, KBDI-DT, and WCOV-DT, which have elected to construct their DTV facilities on their post-transition DTV channel, are instructed to submit an application to modify their DTV construction permit to specify their reduced facilities within 30 days of the release date of this Order.

126. In the *Third DTV Periodic Review NPRM*, the Commission recognized that its proposals deemphasize the requirement that stations construct DTV facilities that will not be used for post-transition operations.⁵⁹ Therefore, the Commission sought comment on whether it should reevaluate the loss of interference protection for these stations with respect to their post transition channel.⁶⁰ Given the Commission’s ongoing consideration of this matter in the *Third DTV Periodic Review NPRM*, KUAM-DT, WDHS-DT, WDTV-DT, and WTXD-DT, that elected to construct their post-transition DTV facility on a channel that is different than their pre-transition DTV channel, are provided until 30 days after the effective date of the amendments to Section 73.624(d) adopted in the Report and Order in the Third DTV Periodic Review proceeding to submit an application to modify their DTV construction permit to specify their reduced facilities.

E. Stations Granted “Checklist” Waivers

127. The stations listed in Appendix E were unable by August 4, 2005 to construct and operate “checklist” facilities that conform to the parameters of the DTV Table of Allotments and other key processing requirements. Each sought a waiver of the August 4, 2005 deadline. Six of these stations have pre-transition DTV channels that are different from their final, post-transition DTV channels. As noted previously, the *Third DTV Periodic Review NPRM* proposes to permit a station that has not constructed an operational pre-transition DTV facility to return its CP for that facility to the Commission and focus its efforts on construction of its post-transition facility.⁶¹ The *Third DTV Periodic Review*

⁵⁷ Commission staff informally contacted those stations that made incomplete showings in an effort to provide them with a chance to supplement their submissions. Some stations provided us with additional information and, thus, were able to secure an additional waiver of their “use or lose” deadline.

⁵⁸ See 47 C.F.R. § 73.624(d)(3).

⁵⁹ See *Third DTV Periodic Review NPRM*, *supra* at ¶¶61, 77 and 78.

⁶⁰ *Id.*

⁶¹ See *Third DTV Periodic Review NPRM*, *supra* at ¶65.

NPRM also proposes options for stations with operational DTV facilities on a pre-transition channel, which could include discontinuation of further construction.⁶² In light of these proposals for stations whose pre-transition DTV channel is different from their post-transition channel, and for the reasons set forth below, we find it appropriate to grant the 6 stations in that category listed in Appendix E a “checklist” waiver until 30 days after the effective date of the amendments to Section 73.624(d) adopted in the Report and Order in the Third DTV Periodic Review proceeding.

128. For the remaining 4 stations listed in Appendix E, that are constructing on their post-transition DTV channel, we find that they have met the requirements for waiver of the August 4, 2005 “checklist” deadline and we grant these stations an additional six months from the release date of this Order to construct “checklist” DTV facilities.

129. *Construction and Equipment Delays.* KGTF-DT, Agana, Guam, elected to return to its analog channel (channel 12) and states that it has been unable to complete construction of its “checklist” facility because of several factors. The station’s analog facilities were damaged in a typhoon. In addition, the station was required to submit a modification application for its DTV facilities and more recently discovered that it would have to make improvements to its existing tower. The station recently obtained funding from the Corporation for Public Broadcasting, selected its equipment supplier, and began the process of reviewing its tower.

130. *Stations Awaiting Action on Commission Matters.* At the time that they filed their waiver requests, certain stations were unable to complete construction of their “checklist” DTV facilities because they were awaiting action on matters then pending before the Commission.

131. At the time it filed its waiver request KVTM-DT, Laredo, Texas, was awaiting action on a rulemaking to change its stations’ temporary DTV channel to 31 (its final DTV channel is its NTSC channel 13). That rulemaking was concluded and the Commission recently granted the station’s application to modify its DTV construction permit to specify channel 31.

132. WPCW-DT, Jeanette, Pennsylvania; elected to remain on its DTV channel (49) and WEDH-DT, Hartford, Connecticut, was assigned a different DTV channel (channel 45) in the channel election process. Both are awaiting a grant of their DTV construction permit.⁶³

133. KAJB-DT, Calipatria, California, was also assigned a different channel in the DTV channel election process (channel 36) and the station is awaiting action on its DTV construction permit application. The Commission is awaiting Mexican clearance.⁶⁴

134. WBNX-DT, Akron, Ohio elected to remain on its DTV channel (channel 30) and had pending an application for DTV construction permit that was awaiting Canadian clearance. That application was subsequently granted.⁶⁵

⁶² *Id.* at ¶66.

⁶³ *See* File No. BPCDT-20060510AAI; and BPEDT-19990113KG.

⁶⁴ *See* File No. BPCDT-19991101AEM.

⁶⁵ *See* File No. BPCDT-19991029AFM (granted April 20, 2006).

135. At the time it filed its waiver request, WRUA-DT, Fajardo, Puerto Rico was awaiting action on its DTV TCD on a different DTV channel (channel 33). The station subsequently received its TCD and its coverage requirement has been set.

136. *Financial Hardship.* WPME-DT, Lewiston, Maine, elected to return to its analog channel (channel 35) and sought a waiver based upon financial hardship. The station continues to pursue construction and states that it expects its facilities to be completed shortly.

IV. CONCLUSION

137. We take this opportunity to remind all television licensees that timely construction and operation of full DTV facilities is the key to the success of a nationwide transition to digital television. We also have determined that rapid build-out ensures that the recovery of broadcast spectrum for future uses occurs as quickly as possible. This is even more important now that Congress has set a hard deadline for the completion of the DTV transition that is quickly approaching. Those stations granted waivers in this proceeding, therefore, must continue to make every possible effort to construct their facilities as soon as possible.

138. ACCORDINGLY, IT IS ORDERED That the requests of the television stations set forth in Appendix A of this Order for waiver of the July 1, 2005 and July 1, 2006 “use or lose” deadlines ARE GRANTED and the deadline for these stations to construct DTV facilities to enable them to retain their interference protection IS EXTENDED to six months from the release date of this Order.

139. ACCORDINGLY, IT IS ORDERED That the requests of the television stations set forth in Appendix B of this Order for waiver of the July 1, 2005 and July 1, 2006 “use or lose” deadlines ARE GRANTED and the deadline for these stations to construct DTV facilities to enable them to retain their interference protection IS EXTENDED until 30 days after the effective date of the amendments to Section 73.624(d) adopted in Report and Order in the Third DTV Periodic Review proceeding.

140. IT IS FURTHER ORDERED That the requests of the television stations set forth in Appendix C of this Order for waiver of the July 1, 2005 and July 1, 2006 “use or lose” deadlines ARE GRANTED and the deadline for these stations to construct DTV facilities to enable them to retain their interference protection IS EXTENDED until February 17, 2009.

141. IT IS FURTHER ORDERED That the requests of the television stations set forth in Appendix D of this Order for waiver of the July 1, 2005 and July 1, 2006 “use or lose” deadlines ARE DENIED. KAME-DT, Reno Nevada; KBDI-DT, Broomfield, Colorado; and WCOV-DT, Montgomery, Alabama, are instructed, within 30 days of the release date of this Order, to submit an application for modification of DTV construction permit, to specify their reduced facilities. KUAM-DT, Agana, Guam; WDHS-DT, Iron Mountain, Michigan; WDTV-DT, Weston, West Virginia; and WTXD-DT, Waterbury, Connecticut, are provided until 30 days after the effective date of the amendments to Section 73.624(d) adopted in the Report and Order in the Third DTV Periodic Review proceeding to submit an application to modify their DTV construction permit to specify their reduced facilities.

142. IT IS FURTHER ORDERED That the requests of the television stations set forth in Appendix E of this Order for waiver of the August 4, 2005 deadline for construction and operation of their

“checklist” facilities ARE GRANTED and the deadline for these stations to construct “checklist” DTV facilities IS EXTENDED to the date set forth in Appendix E.

143. IT IS FURTHER ORDERED That the requests of the television stations set forth in Appendix F of this Order for waiver of the July 1, 2005 and July 1, 2006 “use or lose” deadline ARE DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A

Stations Granted Additional Six-Month “Use or Lose” Waivers

Call Sign	Licensee	City	ST
KATV-DT	KATV, LLC	Little Rock	AR
KBEH-DT	Bela TV, LLC	Oxnard	CA
KBFD-DT	The Allen Broadcasting Corp.	Honolulu	HI
KBJR-DT	KBJR License, Inc.	Superior	WI
KBSV-DT	Bet-Nahrain, Inc.	Ceres	CA
KCEC-DT	Entravision Holdings, LLC	Denver	CO
KCSG-DT	Southwest Media, LLC	Cedar City	UT
KCSM-DT	San Mateo Community College District	San Mateo	CA
KCWC-DT	Central Wyoming College	Lander	WY
KDLH-DT	Malara Broadcast Group of Duluth Licensee, LLC	Duluth	MN
KECI-DT	BlueStone License Holdings, Inc.	Missoula	MT
KEPR-DT	Fisher Broadcasting – Washington TV, LLC	Pasco	WA
KETC-DT	St. Louis Regional Educational and Public Television Commission	St. Louis	MO
KEVN-DT	KEVN, Inc. Debtor in Possession	Rapid City	SD
KFBB-DT	MMM License II, LLC	Great Falls	MT
KFTR-DT	Telefuturo Los Angeles, LLC	Ontario	CA
KFXB-DT	Christian Television Network of Iowa, LLC	Dubuque	IA
KFYR-DT	North Dakota Television License Sub, LLC	Bismarck	ND
KGCW-DT	Burlington Television Acquisition Corp.	Burlington	IA
KHNL-DT	Raycom National, Inc.	Honolulu	HI
KHIZ-DT	Sunbelt Television, Inc.	Barstow	CA
KIDY-DT	Sage Broadcasting Corporation	San Angelo	TX
KIMA-DT	Fisher Broadcasting, Inc.	Yakima	WA
KIMT-DT	MG Broadcasting, LLC	Mason City	IA
KITV-DT	Hearst-Argyle Stations, Inc.	Honolulu	HI
KJTV-DT	Ramar Communications II, Ltd.	Lubbock	TX
KLEI-DT	Aina’e Co., Ltd.	Kailua-Kona	HI
KLEW-DT	Fisher Broadcasting – Washington TV, LLC	Lewiston	ID
KLUZ-DT	Entravision Holdings, LLC	Albuquerque	NM
KMCT-DT	Louisiana Christian Broadcasting, Inc.	West Monroe	LA
KMVT-DT	Neuhoff Family Limited Partnership	Twin Falls	ID
KMYQ-DT	Tribute Television Holdings, Inc.	Seattle	WA
KNBC-DT	NBC Telemundo License Co.	Los Angeles	CA
KREN-DT	Reno License, LLC	Reno	NV
KREX-DT	Hoak Media of Colorado, LLC	Grand Junction	CO

KRWG-DT	Regents of New Mexico State University	Las Cruces	NM
KSBI-DT	Family Broadcasting Group, Inc.	Oklahoma City	OK
KSBY-DT	KSBY Communications, Inc.	San Luis Obispo	CA
KSCE-DT	Christian Television	El Paso	TX
KSMS-DT	Entravision Holdings, LLC	Monterey	CA
KSNB-DT	Colins Broadcasting Company	Superior	NE
KSPR-DT	Piedmont Television Holdings, LLC	Springfield	MO
KSYS-DT	Southern Oregon Public TV	Medford	OR
KTAL-DT	Nexstar Broadcasting, Inc.	Texarkana	TX
KTGF-DT	Destiny Licenses, LLC	Great Falls	MT
KTLM-DT	Sunbelt Multimedia Co.	Rio Grande City	TX
KTUZ-DT	Oklahoma Land Company	Shawnee	OK
KTVE-DT	Piedmont Television of Monroe/Ed Dorado License, LLC	El Dorado	AR
KTVA-DT	Alaska Broadcasting Company, Inc.	Anchorage	AK
KULR-DT	MMM License II, LLC	Billings	MT
KVCR-DT	San Bernardino Community College District	San Bernardino	CA
KVCW-DT	Channel 33, Inc.	Las Vegas	NV
KVMY-DT	KUPN Licensee, LLC	Las Vegas	NV
KVOA-DT	KVOA Communications, Inc.	Tucson	AZ
KVYE-DT	Entravision Holdings, LLC	El Centro	CA
KWBF-DT	River City Broadcasting, Inc.	Little Rock	AR
KWES-DT	Midessa Television, LP	Odessa	TX
KWGN-DT	KWGN, Inc.	Denver	CO
KWYB-DT	MMM License, LLC	Butte	MT
KYTX-DT	MMT License, LLC	Nacogdoches	TX
WAWD-DT	Beach TV Properties, LLC	Fort Walton Beach	FL
WAZE-DT	South Central Communications Corporation	Madisonville	KY
WDBD-DT	Jackson Television, LLC	Jackson	MS
WCIA-DT	Nexstar Broadcasting, Inc.	Champaign	IL
WDCA-DT	Fox Television Stations, Inc.	Washington	DC
WEUX-DT	Grant Media, LLC	Chippewa Falls	WI
WFGX-DT	WFGX Licensee, LLC	Fort Walton Beach	FL
WGBC-DT	Robert M. Ledbetter Enterprises, LLC	Meridian	MS
WGGN-DT	Christian Faith Broadcast, Inc.	Sandusky	OH
WGSA-DT	Southern TV Corporation	Baxley	GA

WGXA-DT	Piedmont Television of Macon License, LLC	Macon	GA
WIDP-DT	Ebenezer Broadcasting Group, Inc.	Guayama	PR
WISE-DT	WISE-TV License, LLC	Fort Wayne	IN
WKBN-DT	Piedmont Television of Youngstown License, LLC	Youngstown	OH
WKTC-DT	WBHQ Columbia, LLC	Columbia	SC
WLAE-DT	Educational Broadcasting Foundation, Inc.	New Orleans	LA
WLAX-DT	Grant Media, LLC	LaCrosse	WI
WLOV-DT	Lingard Broadcasting Corporation	West Point	MS
WMPN-DT	Mississippi Authority for Educational Television	Jackson	MS
WMGT-DT	Morris Network, Inc.	Macon	GA
WMYA-DT	Anderson (WFBC-TV) Licensee, Inc.	Anderson	SC
WNKY-DT	MMK License, LLC	Bowling Green	KY
WNYW-DT	Fox Television Stations, Inc.	New York	NY
WPTZ-DT	Hearst-Argyle Stations, Inc.	North Pole	NY
WQLN-DT	Public Broadcasting of Northwest Pennsylvania, Inc.	Erie	PA
WSFX-DT	Southeastern Media Holdings, LLC	Wilmington	NC
WSST-DT	Sunbelt South Tele-Communications. Ltd.	Cordele	GA
WSTR-DT	WSTR Licensee, Inc.	Cincinnati	OH
WTVH-DT	WTVH License, Inc.	Syracuse	NY
WTVW-DT	Nexstar Broadcasting, Inc.	Evansville	IN
WUTB-DT	Fox Television Stations, Inc.	Baltimore	MD
WUTV-DT	WUTV Licensee, LLC	Buffalo	NY
WVEN-DT	Entravision Holdings, LLC	Daytona Beach	FL
WVFX-DT	Davis Television Clarksburg, LLC	Clarksburg	W V
WVOZ-DT	International Broadcasting Corporation	Ponce	PR
WVSN-DT	La Cadena Del Milagro, Inc.	Humacao	PR
WVTA-DT	Vermont ETV, Inc.	Windsor	VT
WXXV-DT	Morris Network of Mississippi, Inc.	Gulfport	MS

APPENDIX B

Stations Granted “Use or Lose” Waivers Until 30 Days After the Effective Date of the Amendments to Section 73.624(d) Adopted in Report and Order in the Third DTV Periodic Review Proceeding

Call Sign	Licensee	City	ST
KAQY-DT	Monroe Broadcasting, Inc.	Columbia	LA
KGNS-DT	Sagamore Hill Broadcasting of Texas, LLC	Laredo	TX
KIXE-DT	Northern California Educational Television Association	Redding	CA
KMLM-DT	Prime Time Christian Broadcasting, Inc.	Odessa	TX
KNAZ-DT	Multimedia Holdings Corporation	Flagstaff	AZ
KNWS-DT	Johnson Broadcasting, Inc.	Katy	TX
KRPV-DT	Prime Time Christian Broadcasting, Inc.	Roswell	NM
KTVH-DT	Beartooth Communications Company	Helena	MT
KUNO-DT	Concord License, LLC	Ft. Bragg	CA
KVAL-DT	Fisher Broadcasting – Oregon TV, LLC	Eugene	OR
KYES-DT	Fireweed Communications Corp.	Anchorage	AK
KYOU-DT	Ottumwa Media Holdings, LLC	Ottumwa	IA
KZTV-DT	Eagle Creek Broadcasting of Corpus Christi, LLC	Corpus Christi	TX
WBIQ-DT	Alabama Educational Television Commission	Birmingham	AL
WCTE-DT	Upper Cumberland Broadcast Council	Cookeville	TN
WGGB-DT	WGGB Licensee, LLC	Springfield	MA
WGTU-DT	MTC License, LLC	Traverse City	MI
WHAG-DT	Nexstar Broadcasting, Inc.	Hagerstown	MD
WHDT-DT	Guenter Marksteiner	Stuart	FL
WHNS-DT	Meredith Corporation	Greenville	SC
WHO-DT	New York Times Management Services	Des Moines	IA
WHOI-DT	Barrington Broadcasting Peoria Corporation	Peoria	IL
WJCL-DT	Piedmont Television Holdings, LLC	Savannah	GA
WLFL-DT	WLFL Licensee, LLC	Raleigh	NC
WMDN-DT	WMDN, Inc.	Meridian	MS
WNCF-DT	Channel 32 Montgomery, LLC	Montgomery	AL
WNET-DT	Educational Broadcasting Corporation	Newark	NJ
WNOL-DT	Tribune Television New Orleans, Inc.	New Orleans	LA
WOAY-DT	Thomas Broadcasting Co.	Oak Hill	W V
WPIX-DT	WPIX, Inc.	New York	NY
WPXN-DT	Paxson Communications License Company, LLC	New York	NY
WSWP-DT	West Virginia Educational Broadcasting Authority	Grandview	W V

WTGS-DT	Bluenose Broadcasting of Savannah, LLC	Hardeeville	SC
WTOV-DT	WTOV, Inc.	Steubenville	OH
WTTA-DT	Tribute Broadcast Holdings, LLC	St. Petersburg	FL
WTVG-DT	WTVG, Inc.	Toledo	OH
WTVZ-DT	WTVZ Licensee, LLC	Norfolk	VA
WWTW-DT	Heritage Broadcasting Company of Michigan	Cadillac	MI

APPENDIX C

Stations Granted "Use or Lose" Waivers Until February 17, 2009

Call Sign	Licensee	City	ST
KABC-DT	ABC Holding Company, Inc.	Los Angeles	LA
KCRA-DT	Hearst-Argyle Stations, Inc.	Sacramento	CA
KEYT-DT	Smith Media License Holdings, LLC	Santa Barbara	CA
KFVE-DT	KHNL/KFVE License Subsidiary, LLC	Honolulu	HI
KHAS-DT	Hoak Media of Nebraska License, LLC	Hastings	NE
KIMO-DT	Smith Media License Holdings, LLC	Anchorage	AK
KJRH-DT	Scripps Howard Broadcasting Company	Tulsa	OK
KMTV-DT	Emmis Television License, LLC	Omaha	NE
KNDO-DT	KHQ, Incorporated	Yakima	WA
KNOP-DT	Hoak Media of Nebraska License, LLC	North Platte	NE
KOCO-DT	Ohio/Oklahoma Hearst-Argyle Television, Inc.	Oklahoma	OK
KOTV-DT	Griffin Licensing, LLC	Tulsa	OK
KPBT-DT	Permian Basin Public Telecommunications, Inc.	Odessa	TX
KPXO-DT	Paxson Hawaii License, Inc.	Kaneohe	HI
KRTV-DT	KRTV Communications, Inc.	Great Falls	MT
KTRK-DT	KTRK Television, Inc.	Houston	TX
KTVM-DT	BlueStone License Holdings, Inc.	Butte	MT
KWSU-DT	Washington State University	Pullman	WA
KXLF-DT	KXLF Communications, Inc.	Butte	MT
WAPT-DT	WAPT Hearst-Argyle Television, Inc.	Jackson	MS
WBKI-DT	Louisville Communications, LLC	Campbellsville	KY
WBOY-DT	West Virginia Media Holdings, LLC	Clarksburg	WV
WCPO-DT	Scripps Howard Broadcasting Company	Cincinnati	OH
WDRB-DT	Independence Television Company	Louisville	KY
WDSU-DT	New Orleans Hearst-Argyle Television, Inc.	New Orleans	LA
WEWS-DT	Scripps Howard Broadcasting Company	Cleveland	OH
WFTE-DT	Independence Television Company	Salem	IN
WFTS-DT	Tampa Bay Television, Inc.	Tampa Bay	FL
WHBQ-DT	Fox Television Stations, Inc.	Memphis	TN
WHRO-DT	Hampton Roads Educational Telecommunications Association, Inc.	Hampton-Norfolk	VA
WITF-DT	WITF, Inc.	Harrisburg	PA
WJAR-DT	NBC Telemundo License Co.	Providence	RI
WJRT-DT	Flint License Subsidiary Corp.	Flint	MI
WMAR-DT	Scripps Howard Broadcasting Company	Baltimore	MD
WOLE-DT	Western Broadcasting Corp. of Puerto Rico, Inc.	Aguadilla	PR
WPBF-DT	WPBF-TV Company	Tequesta	FL

WSAZ-DT	Emmis Television License, LLC	Huntington	W V
WSBT-DT	WSBT, Inc.	South Bend	IN
WSIL-DT	WSIL-TV, Inc.	Harrisburg	IL
WSJV-DT	WSJV Television, Inc.	Elkhart	IN
WTRF-DT	West Virginia Media Holdings, LLC	Wheeling	W V
WTJR-DT	Christian Television Network, Inc.	Quincy	IL
WTTV-DT	Tribune Broadcast Holdings, Inc.	Bloomington	IN
WVTM-DT	NBC Telemundo License Co.	Birmingham	AL
WXYZ-DT	Channel 7 of Detroit, Inc.	Detroit	MI

APPENDIX D

Stations Denied "Use or Lose" Waivers

Call Sign	Licensee	City	St
KAME-DT	Ellis Communications, Inc.	Reno	NV
KBDI-DT	Colorado Public Television	Denver- Broomfield	CO
KUAM-DT	Pacific Telestations, Inc.	Agana	GU
WCOV-DT	Woods Communications Corporation	Montgomery	AL
WDHS-DT	W. Russell Withers, Jr.	Iron Mountain	MI
WDTV-DT	Withers Broadcasting Company of West Virginia	Weston	W V
WTXX-DT	WTXX, Inc.	Waterbury	CT

APPENDIX E

Stations Granted Six-Month "Checklist" Waivers

Call Sign	Licensee	City	ST
WBNX-TV	Winston Broadcasting Network, Inc.	Akron	OH
WEIU-DT	Eastern Illinois University	Charleston	IL
WPCW-DT	Viacom Stations Group of Pittsburgh, Inc.	Jeannette	PA
WSMH-DT	WSMH Licensee, LLC	Flint	MI

Stations Granted "Checklist" Waivers Until 30 Days After the Effective Date of the Amendments to Section 73.624(d) Adopted in Report and Order in the Third DTV Periodic Review Proceeding

Call Sign	Licensee	City	ST
KAJB-DT	Calipatria Broadcasting Company, LLC	Calipatria	CA
KGTF-DT	Guam Educational Telecommunications Corp.	Agana	GU
KVTV-DT	Eagle Creek Broadcasting of Laredo, LLC	Laredo	TX
WEDH-DT	Connecticut Public Broadcasting, Inc.	Hartford	CT
WPME-DT	HMW, Inc.	Lewiston	ME
WRUA-DT	Eastern Television Corporation	Fajardo	PR

APPENDIX F
“Use or Lose” Waivers Dismissed

Call Sign	Licensee	City	ST
KAEF-DT	BlueStone License Holdings, Inc.	Arcata	CA
KAMC-DT	Mission Broadcasting, Inc.	Lubbock	TX
KAMR-DT	Nexstar Broadcasting, Inc.	Amarillo	TX
KARD-DT	Nexstar Broadcasting, Inc.	Monroe	LA
KATC-DT	KATC Communications, Inc.	Lafayette	LA
KBTV-DT	Nexstar Broadcasting, Inc.	Beaumont	TX
KCAU-DT	Citadel Communications Co., Ltd.	Sioux City	IA
KCIT-DT	Mission Broadcasting, Inc.	Amarillo	TX
KCNC-DT	CBS Television Stations, Inc.	Denver	CO
KEET-DT	Redwood Empire Public Television, Inc.	Eureka	CA
KFDX-DT	Nexstar Broadcasting, Inc.	Wichita Falls	KS
KFNB-DT	Wyomedia Corporation	Casper	WY
KGWC-DT	Mark III Media, Inc.	Casper	WY
KHMT-DT	Mission Broadcasting, Inc.	Billings	MT
KJTL-DT	Mission Broadcasting, Inc.	Wichita Falls	KS
KLBK-DT	Nexstar Broadcasting, Inc.	Lubbock	TX
KLDO-DT	Entravision Holdings, LLC	Laredo	TX
KLST-DT	Nexstar Broadcasting, Inc.	San Angelo	TX
KLTV-DT	Community Television Educators of Texas, Inc.	Galveston	TX
KLWY-DT	Wyomedia Corporation	Casper	WY
KMCC-DT	Cranston II, LLC	Laughlin	NV
KMID-DT	Nexstar Broadcasting, Inc.	Midland	TX
KMGH-DT	McGraw-Hill Broadcasting Company, Inc.	Denver	CO
KNLC-DT	New Life Evangelistic Center, Inc.	St. Louis	MO
KODE-DT	Mission Broadcasting, Inc.	Joplin	MO
KQTV-DT	Nexstar Broadcasting, Inc.	St. Joseph	MO
KRBC-DT	Mission Broadcasting, Inc.	Abilene	TX
KRMA-DT	Rocky Mountain Public Broadcasting Network, Inc.	Denver	CO
KRCB-DT	Rural California Broadcasting Corporation	Cotati	CA
KSAN-DT	Mission Broadcasting, Inc.	San Angelo	TX
KSBN-DT	Total Life Community Education Foundation	Springdale	AR
KSMQ-DT	Southern Minnesota Quality Broadcasting	Austin	MN
KSNF-DT	Nexstar Broadcasting, Inc.	Joplin	MO
KSVI-DT	Nexstar Broadcasting, Inc.	Billings	MT
KTAB-DT	Nexstar Broadcasting, Inc.	Abilene	TX
KTDO-DT	ZGS El Paso Television, LP	Las Cruces	NM
KTRG-DT	Ortiz Broadcasting Corporation	Del Rio	TX
KTTW-DT	Independent Communications, Inc.	Sioux Falls	SD
KTVD-DT	Multimedia Holdings Corporation	Denver	CO
KTWO-DT	Silverton Broadcasting, LLC	Casper	WY

KUSA-DT	Multimedia Holdings Corporation	Denver	CO
KVHP-DT	National Communications, LLC	Lake Charles	LA
KVLY-DT	North Dakota Television License Sub, LLC	Fargo	ND
KVOS-DT	Ackerley Broadcasting Operations, LLC	Bellingham	WA
KVRR-DT	Red River Broadcast Co., LLC	Fargo	ND
KVTN-DT	Agape Church, Inc.	Pine Bluff	AR
KXGN-DT	Glendive Broadcasting Corporation	Glendive	MT
WABC-DT	American Broadcasting Companies, Inc.	New York	NY
WAOE-DT	Four Seasons Peoria, LLC	Peoria	IL
WBKB-DT	Thunder Bay Broadcasting Corporation	Alpena	MI
WCFN-DT	Nexstar Broadcasting, Inc.	Springfield	IL
WDHN-DT	Nexstar Broadcasting, Inc.	Dothan	AL
WDTI-DT	Indianapolis Community Television, Inc.	Indianapolis	IN
WECN-DT	Encuentro Christina Network Corp.	Naranjito	PR
WFFF-DT	Smith Media Holdings, LLC	Burlington	VT
WFFT-DT	Nexstar Broadcasting, Inc.	Fort Wayne	IN
WFXB-DT	GE Media, Inc.	Myrtle Beach	SC
WFXI-DT	Piedmont Television of Eastern Carolina License, LLC	Morehead City	NC
WFXP-DT	Mission Broadcasting, Inc.	Erie	PA
WFXV-DT	Nexstar Broadcasting, Inc.	Utica	NY
WFXW-DT	Mission Broadcasting, Inc.	Terre Haute	IN
WGGG-DT	Carolina Christian Broadcasting, Inc.	Greenville	SC
WHTV-DT	Spartan-TV, LLC	Jackson	MI
WHUT-DT	Howard University	Washington	DC
WICU-DT	SJL of Pennsylvania License Subsidiary, LLC	Erie	PA
WIPR-DT	Puerto Rico Public Broadcasting Corporation	San Juan	PR
WJET-DT	Nexstar Broadcasting, Inc.	Erie	PA
WJZY-DT	WJZY-TV, Inc.	Belmont	NC
WLFG-DT	Living Faith Ministries, Inc.	Grundy	WV
WMYT-DT	WMYT-TV, Inc.	Rock Hill	SC
WNBC-DT	NBC Telemundo License Co.	New York	NY
WNJU-DT	NBC Telemundo License Co.	Linden	NY
WNMU-DT	Board of Trustees of Northern Michigan University	Marquette	MI
WNYE-DT	Department of Information Technology and Telecommunications of the City of New York	New York	NY
WORA-DT	Telecinco, Inc.	Mayaguez	PR
WPAN-DT	Franklin Media, Inc.	Fort Walton Beach	FL
WQRF-DT	Nexstar Broadcasting, Inc.	Rockford	IL
WRFB-DT	RyF Broadcasting, Inc.	Carolina	PR
WRUA-DT	Eastern Television Corporation	Fajardo	PR

WSJU-DT	Aerco Broadcasting Corporation	San Juan	PR
WSTE-DT	Siete Grande Television, Inc.	Ponce	PR
WTSF-DT	Tri State Family Broadcasting, Inc.	Ashland	KY
WTIC-DT	Tribune Television Company	Hartford	CT
WTVA-DT	WTVA, Inc.	Tupelo	MS
WTVE-DT	Reading Broadcasting, Inc., Debtor-in-Possession	Reading	PA
WTWO-DT	Nexstar Broadcasting, Inc.	Terre Haute	IN
WVEO-DT	International Broadcasting Corporation	Aguadilla	PR
WVIZ-DT	Ideastream	Cleveland	OH
WVPX-DT	Paxson Akron License, Inc.	Akron	OH
WYDC-DT	WYDC, Inc.	Corning	NY

APPENDIX G

Stations with Modification Applications

KAKW-DT, Killeen, Texas⁶⁶
KATV-DT, Little Rock, Arkansas⁶⁷
KBJR-DT, Superior, Wisconsin⁶⁸
KBSV-DT, Ceres, California⁶⁹
KCWC-DT, Lander, Wyoming⁷⁰
KDLH-DT, Duluth, Minnesota⁷¹
KENS-DT, San Antonio, Texas⁷²
KFBB-DT, Great Falls, Montana⁷³
KFTR-DT, Ontario, California⁷⁴
KFYR-DT, Bismarck, North Dakota⁷⁵
KIMA-DT, Yakima, Washington⁷⁶
KIMT-DT, Mason City, Iowa⁷⁷
KLEI-DT, Kailua-Kona, Hawaii⁷⁸
KLUZ-DT, Albuquerque, New Mexico⁷⁹
KMCT-DT, West Monroe, Louisiana⁸⁰
KLMN-DT, Odessa, Texas⁸¹

⁶⁶ See File No. BMPCDT-20060628AJC (granted August 4, 2006).

⁶⁷ See File No. BPCDT-20050308ABM (granted September 7, 2005).

⁶⁸ See File No. BMPCDT-20060519AAF.

⁶⁹ See File No. BMPCDT-20060626ABI.

⁷⁰ See File No. BMPEDT-20060314AEN (granted June 21, 2006).

⁷¹ See File No. BMPCDT-20060519AAE.

⁷² See File No. BMPCDT-20050627ABY.

⁷³ See File No. BPCDT-20060707AEY.

⁷⁴ See File No. BMPCDT-20021028ABV.

⁷⁵ See File No. BMPCDT-20060629AES.

⁷⁶ See File No. BMPCDT-20060706AFQ (granted September 27, 2006).

⁷⁷ See File No. BMPCDT-20060509AAH.

⁷⁸ See File No. BMPCDT-20060525AJO (granted August 4, 2006).

⁷⁹ See File No. BPCDT-200620060705ACC (granted July 28, 2006).

⁸⁰ See File No. BMPCDT-20060629ACT (granted September 7, 2006).

KMYQ-DT, Seattle, Washington⁸²
KNBC-DT, Los Angeles, California⁸³
KSCE-DT, El Paso, Texas⁸⁴
KTUZ-DT, Shawnee, Oklahoma⁸⁵
KULR-DT, Billings, Montana⁸⁶
KVCR-DT, San Bernardino, California⁸⁷
KVCW-DT, Las Vegas, Nevada⁸⁸
KVMY-DT, Las Vegas, Nevada⁸⁹
KVOA-DT, Tuscon, Arizona⁹⁰
WAZE-DT, Madisonville, Kentucky⁹¹
WDCA-DT, Washington, District of Columbia⁹²
WMGT-DT, Macon, Georgia⁹³
WMYA-DT, Anderson, South Carolina⁹⁴
WTVH-DT, Syracuse, New York⁹⁵
WUTV-DT, Buffalo, New York⁹⁶
WPCW-DT, Jeannette, Pennsylvania⁹⁷
WQLN-DT, Eric, Pennsylvania⁹⁸

⁸¹ See File No. BMPCDT-20060616AAW.

⁸² See File No. BPCDT-19991022ABF.

⁸³ See File No. BPCDT-20050406ACJ.

⁸⁴ See File No. BMPEDT-20060629AAR.

⁸⁵ See File No. BMPCDT-20060707AFM.

⁸⁶ See File No. BPCDT-20060707AEX (granted November 13, 2006).

⁸⁷ See File No. BMPCDT-20040624ABZ.

⁸⁸ See File No. BMPCDT-20060630AAI.

⁸⁹ See File No. BMPCDT-200630AAJ.

⁹⁰ See File No. BMPCDT-20031010ADG (granted November 30, 2005).

⁹¹ See File No. BMPCDT-20040329AKL.

⁹² See File No. BMPCDT-20060519ACK (granted June 20, 2006).

⁹³ See File No. BMPCDT-20060718AEA (granted October 17, 2006).

⁹⁴ See File No. BMPCDT-20060629ACU.

⁹⁵ See File No. BMPCDT-20040810ABB (granted March 13, 2006).

⁹⁶ See File No. BPCDT-19991101ACJ (granted September 7, 2005).

⁹⁷ See File No. BPCDT-20060510AAI.

WSFX-DT, Wilmington, North Carolina⁹⁹
WSTR-DT, Cincinnati, Ohio¹⁰⁰
WUTB-DT, Baltimore, Maryland¹⁰¹
WVEN-DT, Daytona Beach, Florida¹⁰²
WVOZ-DT, Ponce, Puerto Rico¹⁰³
WVSN-DT, Humacao, Puerto Rico¹⁰⁴
WVTA-DT, Windsor, Vermont¹⁰⁵

⁹⁸ See File No. BMPEDT-20000412AAR.

⁹⁹ See File No. BMPCDT-20060630ADE (granted August 1, 2006).

¹⁰⁰ See File No. BMPCDT-20060630AAG.

¹⁰¹ See File No. BMPCDT-20051118ADM.

¹⁰² See File No. BMPCDT-20060630AFS (granted July 26, 2006).

¹⁰³ See File No. BMPCDT-20060707ADD (granted October 25, 2006).

¹⁰⁴ See File No. BMPCDT-20060719ACQ.

¹⁰⁵ See File No. BMPCDT-20060306BRA (granted September 19, 2006).