



Federal Communications Commission Washington, D.C. 20554	Approved by OMB 3060-0386 (July 2002)	FOR FCC USE ONLY
<b>Extension of Existing Engineering STA</b>		FOR COMMISSION USE ONLY FILE NO. - 20100122AAO
Read Instructions/FAQ before filling out form		

**Section I - General Information**

1.	Legal Name of the Applicant WEST VIRGINIA EDUCATIONAL BROADCASTING AUTHORITY	
	Mailing Address 600 CAPITOL STREET	
	City CHARLESTON	State or Country (if foreign address) WV
	Zip Code 25301 - 1223	
	Telephone Number (include area code) 3045564900	E-Mail Address (if available)
	FCC Registration No 0002017572	Call Sign WNPB-TV
	Facility ID Number 71676	
2.	Contact Representative (if other than licensee/permittee) TOM W. DAVIDSON, ESQ.	Firm or Company Name AKIN GUMP STRAUSS HAUER & FELD LLP
	Mailing Address 1333 NEW HAMPSHIRE AVENUE, NW	
	City WASHINGTON	State or Country (if foreign address) DC
	ZIP Code 20036 -	
	Telephone Number (include area code) 2028874011	E-Mail Address (if available) TDAVIDSON@AKINGUMP.COM
3.	Purpose: <input type="radio"/> Engineering STA <input checked="" type="radio"/> Extension of Existing Engineering STA      File Number: BDSTA - 20081117ADN <input type="radio"/> Legal STA <input type="radio"/> Extension of Existing Legal STA	
4.	Service: DS	
5.	Community of License: City: MORGANTOWN    State: WV	
6.	If this application has been submitted without a fee, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114): <input type="radio"/> Governmental Entity <input checked="" type="radio"/> Noncommercial Educational Licensee/Permittee <input type="radio"/> Other <input type="radio"/> N/A (Fee Required)	
7.	Please explain in detail the "extraordinary circumstances" which warrant temporary operations at variance from the Commission's Rules. In addition, please specify 1) the specific rules and/or policies from which the applicant seeks temporary relief; 2) how the public interest will be furthered by grant; and 3) the expected duration of the STA and the licensee's plan for restoration of licensed operation. If requesting variance with other than authorized technical facilities, please specify the exact facilities sought	[Exhibit 36]
8.	Anti-Drug Abuse Act Certification. Applicant certifies that neither applicant nor	<input checked="" type="radio"/> Yes <input type="radio"/> No

any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.	
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I hereby certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations.

Typed or Printed Name of Person Signing DENNIS E. ADKINS	Typed or Printed Title of Person Signing EXECUTIVE DIRECTOR
Signature	Date (mm/dd/yyyy) 1/22/2010

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

**Exhibits**

**Exhibit 36**  
**Description:** EXHIBIT 36

SEE ATTACHED.

**Attachment 36**

Description
<a href="#">Exhibit 36</a>

### EXHIBIT 36

West Virginia Educational Broadcasting Authority (“WVEBA”), permittee of educational digital television station WNPB-TV, Morgantown, West Virginia (“WNPB”), respectfully requests a six-month extension of its special temporary authority (“STA”) for phased transition relief for WNPB from February 17, 2010 until August 17, 2010. As demonstrated herein, an extension of the STA for phased transition relief for WNPB is warranted because, despite WVEBA’s diligent efforts to complete construction of WNPB’s post-transition digital television facilities (“Appendix B CP Facilities”) by February 17, 2010, WVEBA has been unable to complete such construction for reasons outside of its control.

**Background.** WNPB has been broadcasting digitally for nearly six years pursuant to a digital license obtained in February 2004 (“Licensed DTV Facilities”).<sup>1</sup> The Licensed Facilities do not match the facilities specified in Appendix B to the digital television (“DTV”) table of allotments (“Appendix B Facilities”) because the Licensed DTV Facilities utilize a side-mounted antenna whereas the Appendix B Facilities utilize a top-mounted antenna. Accordingly, in mid-2008, WVEBA sought and obtained authority from the Federal Communications Commission (“FCC”) to modify the Licensed DTV Facilities to match the Appendix B Facilities (“Appendix B CP Facilities”).<sup>2</sup> The Appendix B Construction Permit was initially scheduled to expire on February 17, 2009.<sup>3</sup>

In November 2008, pursuant to the *Third Periodic DTV Review Order*, WVEBA requested an STA for phased transition relief to (a) extend the deadline for construction of the Appendix B CP Facilities from February 17, 2009 until August 18, 2009 and (b) permit it to continue to operate the Licensed DTV Facilities temporarily until WNPB commenced operation of the Appendix B CP Facilities.<sup>4</sup> Such phased transition relief for WNPB was necessary because WVEBA could not complete construction of the Appendix B CP Facilities until after the DTV transition due to the need to replace its top-mounted analog antenna with its side-mounted digital antenna.<sup>5</sup> WVEBA demonstrated that, in addition to the unique technical challenge of replacing its top-mounted analog antenna with its side-mounted digital antenna, its Licensed DTV Facilities would satisfy the technical criteria for phased transition relief, *i.e.*, these facilities (a) would serve at least 85% of the same population that received WNPB’s pre-transition analog service and pre-transition DTV service and (b) would not cause more than 0.5 percent new interference to other stations or prevent other

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<sup>1</sup> See FCC File No. BLEDT-20040108AKW.

<sup>2</sup> See FCC File No. BPEDT-20080321AKK. The FCC based the effective radiated power (“ERP”) for the Appendix B Facilities on the antenna pattern of WNPB’s analog antenna. Due to subtle variations in the pattern of this antenna as compared to the pattern of the antenna to be utilized by WNPB, the ERP specified in the Appendix B Construction Permit differs from that specified in Appendix B.

<sup>3</sup> In addition to obtaining a construction permit for the Appendix B CP Facilities, in May 2009, WVEBA obtained a construction permit for “maximized” facilities for WNPB (“Maximized Facilities”). See FCC File No. BMPEDT-20080619ACQ. WVEBA intends to construct the Appendix B CP Facilities as its post-transition facilities and construct the Maximized Facilities thereafter.

<sup>4</sup> See FCC File No. BDSTA-20081117ADN.

<sup>5</sup> WNPB committed to broadcast in analog until the end of the DTV transition and, thus, would not be able to remove its top-mounted analog antenna until it ceased analog transmissions on June 12, 2009. See FCC File No. BDTUET-20090415AFF; *see also* Analog Service Termination Notification filed by WNPB on March 17, 2009.

stations from transitioning to all-digital broadcasts. On December 23, 2008, the FCC's Media Bureau concluded that WNPB had satisfied the requirements for phased transition relief and extended the construction deadline of WNPB's Appendix B CP Facilities to August 18, 2009. In March 2009, the FCC extended by order the expiration date of all phased transition STAs from August 18, 2009 to October 18, 2009.<sup>6</sup>

On October 5, 2009, WVEBA requested a further extension of the STA for phased transition relief for WNPB from October 18, 2009 to December 31, 2009 because (a) state purchasing procedures outside of WVEBA's control delayed WVEBA's ability to complete construction of WNPB's Appendix B CP Facilities by October 18 and (b) tower crews were so inundated with construction requests that a crew was not available to complete construction of WNPB's Appendix B CP Facilities during the initial time table.<sup>7</sup> WNPB also continued to satisfy the FCC's enumerated technical criteria for phased transition relief. The Media Bureau granted WVEBA's request and extended the deadline for construction of WNPB's Appendix B CP Facilities from October 18, 2009 until February 17, 2010. Thus, absent favorable action on the instant extension request, WNPB must complete construction of its Appendix B CP Facilities by February 17, 2010.

***Request for Extension.*** As demonstrated below, WNPB is unable to construct the Appendix B CP Facilities by February 17, 2010 for circumstances outside of WVEBA's control. Accordingly, grant of the instant request is warranted.

At the time WVEBA filed its initial request for phased transition relief for WNPB, it had anticipated that, by August 2009, it would be able to remove the WNPB analog antenna from the top-mounted position on its tower and install the digital antenna in its place. WVEBA, however, experienced unexpected delays in obtaining authority from the state of West Virginia to purchase the equipment necessary to complete installation of the digital antenna, as well as to schedule a tower crew to remove the top-mounted analog antenna and install the digital antenna. Specifically, due to the fiscal year change, the state of West Virginia ("State") was unable to process the requisite paperwork relating to the construction of the Appendix B CP Facilities in adequate time to enable WVEBA to finalize its purchase of certain equipment and to schedule a tower crew to install its DTV antenna to meet its construction deadline. As soon as practicable after WVEBA received authorization from the State, WVEBA ordered the equipment required to complete the digital antenna system, including an adapter necessary for installation of the antenna. Accordingly, WVEBA also promptly scheduled a tower crew to complete construction of the Appendix B CP Facilities once the equipment (including the adapter) had been delivered to WNPB for installation.

Notwithstanding the delay in the State procurement process, WVEBA anticipated that the adapter and other equipment would be on-site at WNPB for installation in adequate time to enable it to complete construction of the Appendix B CP Facilities by February 17, 2010 (the date on which its phased transition STA currently is set to expire). However, the manufacturer of the adapter recently has informed WVEBA that the adapter is not scheduled to be shipped to WNPB until approximately February 10, 2010. Consequently, even assuming the adapter arrives to WNPB as scheduled, WNPB

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<sup>6</sup> *Third DTV Delay Order* at para. 65.

<sup>7</sup> See FCC File No. BEDSTA-20091005AAR.

will be unable to complete construction of the Appendix B CP Facilities by February 17, especially given the likelihood of harsh weather conditions in West Virginia, *e.g.*, snow and ice, at this time of year. WVEBA now anticipates that it will commence operation of the Appendix B DTV Facilities by the end of April 2010 (barring any unexpected weather delays or additional unforeseen circumstances).

Due to the delays outside of its control described above, WVEBA is hereby respectfully requesting an extension of the STA for phased transition relief for WNPB from February 17, 2010 to August 17, 2010. Grant of the instant request is in the public interest because, absent favorable action on the instant application, WNPB will be forced to “go dark” as of February 17, 2010 and its viewers would not have access to its non-commercial programming until such time as WNPB receives the equipment necessary to complete construction of the Appendix B CP Facilities.

## **Federal Communications Commission**

**FCC MB - CDBS Electronic Filing**  
**Account number: 275053**

**Description: WNPB FURTHER EXTENSION OF PHASED TRANSITION STA**  
**Application Reference Number: 20100122AAO**  
**Successfully filed at Jan 22 2010 11:01AM**

**Based on the information supplied, no fee is required.**

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