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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of:

Advanced Television Systems and
Their Impact Upon the Existing
Television Broadcast Service

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Reply Comments of
Association of America's Public Television Stations
and the Public Broadcasting Service

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Summary of Argument

In their Reply Comments filed today, the Broadcasters urge the Commission to incorporate in the final table of digital allotments minimum service areas with a radius of 65 km for all television stations. The Broadcaster's computer analysis establishes that the Commission could guarantee all DTV stations a minimum protected service area of 65 km without appreciably increasing interference to other DTV or NTSC stations. Given the results of the Broadcasters' computer analysis, Public Television strongly supports their proposal, and believes that it is an acceptable alternative to incorporating minimum power values in the table. Adoption of this proposal will narrow (though by no means eliminate) the coverage gap between stronger and weaker stations, including, in particular, the coverage disadvantage that UHF stations have always endured vis-a-vis their VHF competitors.

Since the date on which Comments on the *Sixth Notice* were filed, a number of owners of independent television stations operating on UHF channels have expressed concerns echoing those expressed earlier by Public Television that the large power disparities in the proposed table of digital allotments will result in serious reception problems for the lower-powered stations. Those power disparities could result in degradation of those stations' DTV signals even within their Grade A contours, and could make it impossible for them to provide data transmission and other services that the Commission views as a major benefit of the DTV technology developed by the Grand Alliance. Representatives of all major sectors of the broadcast television industry have reached agreement on a plan that would reduce the power disparities between DTV stations for an interim period. During that period, the industry would conduct field tests and collect data concerning the effect of wide power disparities on reception of the lower-powered stations.

Based on that data, the Commission could make a sound judgment concerning the maximum feasible power differentials and adjust DTV stations' power levels accordingly.

Public Television strongly supports the consensus plan and urges the Commission to implement it. The resolution urged by the broadcasters will allow the Commission to move forward promptly to adopt a DTV allotment plan and begin granting DTV licenses, while affording the industry an opportunity to conduct field tests that will resolve the considerable uncertainties that exist with respect to the effect of disparate power levels.

Finally, the Commission should reject the suggestion by UTC that the Commission reallocate for land mobile use all broadcast spectrum, including interstitial DTV channels, that is not needed for the transition to DTV. Such reallocation would deprive broadcasters of the flexibility they need to make the transition to DTV and eliminate the only chance many translator and low power television stations will have to continue providing service to their communities if they are forced to cease operation on their present channels. Such fragmented spectrum allocations and interservice spectrum sharing are also likely to give rise to precisely the kinds of interference and coordination problems raised as a concern by land mobile interests in this proceeding.

**Before the
Federal Communications Commission
Washington, D.C. 20054**

In the Matter of:)
)
Advanced Television Systems and) **MM Docket No. 87-268**
Their Impact Upon the Existing)
Television Broadcast Service)

**Reply Comments of
Association of America's Public Television Stations
and the Public Broadcasting Service**

The Association of America's Public Television Stations and the Public Broadcasting Service (collectively, "Public Television") submit these Reply comments in response to the Comments filed by the Broadcasters and UTC, The Telecommunications Association ("UTC").^{1/}

- I. The Commission Should Incorporate Minimum Service Areas in the Table of Digital Allotments and Take Steps to Minimize Power Disparities Between VHF and UHF Stations Migrating to Digital Service.**
 - A. The Commission Should Authorize Every DTV Station To Serve a Minimum Service Area Of At Least 65 km.**

In its opening Comments, Public Television strongly supported the Commission's proposal to incorporate minimum power values in its table of digital allotments.^{2/} As the

^{1/} Public Television filed Comments on November 22, 1996 on the Commission's *Sixth Further Notice of Proposed Rule Making*, released August 14, 1996 ("*Sixth Notice*").

^{2/} In the table of digital allotments proposed in the *Sixth Notice*, the Commission generally calculated power levels to allow DTV licensees to replicate their current NTSC coverage. For those stations that currently have very small coverage areas, however, the Commission incorporated the following minimum ERP values: 1 kW for lower VHF channels, 3.2 kW for upper VHF channels, and 50 kW for UHF channels.

Commission explained in the *Sixth Notice*, incorporating minimum power values will permit stations with small coverage areas not only to replicate their current coverage, but also to improve it in some cases.^{3/} This would narrow (though by no means eliminate) the coverage gap between stronger and weaker stations, including, in particular, the coverage disadvantage that UHF stations have always endured vis-a-vis their VHF competitors.

Public Television emphasized in its opening Comments that incorporation of minimum power values in the table of digital allotments is necessary not only to narrow the coverage gap, but also to reduce the disparity in power levels of stations in the same market. Public Television expressed serious concerns that large disparities in the power densities of DTV stations in the same market, such as those proposed in both the Commission's and Broadcasters' tables, will result in reception problems for weaker stations, whose signals may simply be overwhelmed by those of higher power stations.^{4/}

In advocating incorporation of minimum power values in its opening Comments, Public Television parted company with the Broadcasters, who opposed minimum power requirements but urged the Commission to adopt "minimum service areas that use a combination of power and tower height parameters to achieve the minimum service contours."^{5/} The Broadcasters suggested that such minimum service areas should be "determined after further study and should assure all stations of a reasonable coverage area without impinging on the ability of all stations to

^{3/} See *Sixth Notice* at ¶ 94.

^{4/} See Public Television Comments at 7.

^{5/} See Broadcasters' Comments at 44-45.

at least replicate their NTSC service.”^{6/} They also indicated that they hoped to be in a position to propose minimum service areas in late-filed Comments.^{7/} Public Television said it would work with the Broadcasters toward that goal.^{8/}

In their Reply Comments filed today, the Broadcasters urge the Commission to incorporate minimum service areas with a radius of 65 km for all television stations.^{9/} The Broadcasters’ computer analysis establishes that the Commission could guarantee all DTV stations a minimum protected service area of 65 km without appreciably increasing interference to other DTV or NTSC stations.^{10/} Indeed, the incorporation of minimum services areas of 65 km would necessitate only minor changes in the Broadcasters’ proposed table of digital allotments.^{11/}

Public Television joins the Broadcasters in urging the Commission to incorporate 65 km minimum service areas for all DTV stations in its final table of digital allotments. All DTV

^{6/} *Id.*

^{7/} *Id.* at 45 n.98.

^{8/} Public Television Comments at 6 n.10.

^{9/} *See* Broadcasters’ Reply Comments, Section I.C.

^{10/} *See id.*

^{11/} The Broadcasters have submitted a revised table of digital allotments today with their Reply Comments. That table does not, however, incorporate the minimum service areas for all stations endorsed by the Broadcasters in their Reply Comments. For that reason, as well as others specified in Public Television’s opening Comments, Public Television cannot endorse adoption of the digital table submitted by the Broadcasters. Rather, the Commission should use that table as a starting point and revise it to (1) incorporate minimum service areas, (2) restore vacant noncommercial NTSC allotments for which applications have been filed, (3) restore, as digital channels, as many of the deleted vacant noncommercial allotments as possible, (4) incorporate the maximization principle, and (5) make the other modifications and corrections that the Broadcasters and Public Television have shown are necessary or desirable. *See* Public Television Comments at 19-26; Broadcasters Comments at 42-47.

stations should be permitted, at a minimum, to serve a 65 km minimum service area with any reasonable combination of antenna height and power that the station deems appropriate. If the combination of antenna height and power specified in the Broadcasters' proposed table would not permit a station to serve an area with a radius of at least 65 km, the Commission should adjust the power level in the table so as to assure service to that minimum area.^{12/}

Protecting this minimum service area is an acceptable alternative to incorporating minimum power values in the table of digital allotments because it will achieve the same goal: reducing, to some extent, the coverage gap between stronger and weaker stations.^{13/} In addition, guaranteeing minimum service areas is one of several steps that the Commission can and should take to help control differences in the power densities of stations' signals in the field since one way that weaker stations could serve their minimum 65 km service area is by operating at power levels higher than those now specified in the proposed table.

Public Television wishes to emphasize that the 65 km minimum service area should be just that — a minimum. To the extent that any station, including one currently operating with a small service area, can increase its DTV coverage to serve an area greater than 65 km through any of the maximization techniques suggested by the Commission, the Broadcasters, or Public Television, they should be permitted to do so.

^{12/} While the table will specify antenna height and power values, stations should be permitted to serve their protected service areas with any reasonable combination of height and power. Thus, they should be able to operate at a higher antenna height and lower power (or vice versa) than that specified in the table, provided they do not cause additional interference outside their protected service area.

^{13/} Guaranteeing a minimum service area is a somewhat more precise means of reducing the coverage gap than inserting a minimum power value in the table because the latter means does not account for differences in stations' antenna heights.

B. The Commission Should Take Additional Steps to Decrease the Power Disparities Between Stations in the Same Market Until Adequate Field Data Can Be Collected on the Effect of Such Disparities.

Since the date on which Comments on the *Sixth Notice* were filed, a number of owners of independent television stations operating on UHF channels have expressed concerns about the large power disparities in the Broadcasters' proposed table of digital allotments similar to those expressed by Public Television in its Comments. These owners assert that those power differentials would result in serious reception problems for today's UHF stations, even within their Grade A contours, as they migrate to digital operation.^{14/} Indeed, due to the "cliff effect" of television reception in a digital environment, they are concerned that their stations' signals may not be received at all in markets where the power disparities between the stations are particularly great.^{15/} Moreover, those reception problems may make it impossible for those stations to provide data transmission and other services that the Commission views as a major benefit of the DTV technology developed by the Grand Alliance.

The Commission extended the time for filing Reply Comments to afford interested parties an opportunity to reach agreement on a way to address these concerns of the UHF broadcasters.^{16/} At the eleventh hour, the various segments of the industry reached an agreement in principle (the "Broadcasters' Agreement") on a course of action to recommend to the Commission that addresses the UHF broadcasters' concerns, with the exception of one element on which their

^{14/} See Request for Extension of Time filed by Sinclair Broadcast Group and Sullivan Broadcasting Group, Inc., January 2, 1997.

^{15/} See *id.*

^{16/} See Second Order Extending Time for Filing Reply Comments, DA 97-23, released January 8, 1997.

views diverge. That agreement is being submitted to the Commission today with the Broadcasters' Reply Comments. Public Television believes that implementation of that agreement by the Commission will go a long way towards assuring that viewers will be able to receive reliable signals from all DTV stations. Public Television therefore urges the Commission to implement the Broadcasters' Agreement.

The DTV power differentials specified in the proposed table between VHF stations moving to digital UHF channels ("V/U Stations") and UHF stations moving to digital UHF channels (U/U Stations") range from 10 db (10 times), where the V/U Station currently operates on a high band VHF channel, to 20 db (100 times), where the V/U Station currently operates on a low band VHF channel. These enormous power differentials result from the power levels required to replicate on UHF frequencies the coverage achieved by the superior signal propagation of today's VHF stations.^{17/}

If the Commission authorizes construction of DTV stations at those power levels, it will be difficult, if not impossible, for it later to require substantial power reductions, even if the fears of the U/U Station licensees prove to be well-founded. To put it bluntly, once the genie is out of the bottle, it is impossible to put it back. Thus, the broadcasters (including members of the Broadcasters' Caucus, Sinclair Broadcasting, and Viacom/Paramount) recommend that the Commission take the steps suggested in the Broadcasters' Agreement to reduce those power differentials until it is in a position to conclude, on the basis of actual field tests, that greater

^{17/} This is true of the tables proposed by both the Commission and the Broadcasters.

power differentials will not unduly degrade reception of the weaker stations in a market. The highlights of that agreement are discussed below.^{18/}

(1) Interim Reduction in Power Disparity of U/U Stations and V/U Stations.

For a period of two years from the date on which the FCC adopts a final table of digital allotments, it should (i) allow U/U Stations to double their power levels from those specified in the final table of digital allotments (up to 500 Kw), provided that the increase in power does not cause material new interference to NTSC stations,^{19/} and (ii) require V/U Stations to operate at power levels not exceeding 500 Kw, even if the maximum permissible power specified in the final table is higher.^{20/} At the end of this two-year transition period, the Commission would determine whether and how to adjust the power levels of the U/U and V/U Stations based on field data developed by the broadcast industry.^{21/} Should the field tests indicate that the power disparities in the digital table would be detrimental to the reliable reception of U/U Stations, within either their Grade A or Grade B contours, the Commission would then adjust those power

^{18/} The only point on which the various sectors of the broadcast industry were unable to reach agreement is the maximum power level specified in paragraph (1) below. For the reasons discussed below, Public Television endorses a maximum interim power level of 500 Kw.

^{19/} Under the Broadcasters' Agreement, only those U/U stations that have power levels specified in the table that are one-third or less than the power level specified for a V/U station in the same market would be able to double their power.

^{20/} During this two-year transition period, V/U Stations would be protected from interference within the entire area that they could serve with the maximum facilities specified in the table. Thus, during that period, the Commission would not authorize any new facilities or facilities modifications that would cause interference within those protected areas.

^{21/} The industry has committed itself in the Broadcasters' Agreement to conduct such field tests.

levels as appropriate. Such adjustments could include power increases for U/U Stations, power reductions for V/U Stations, or individual DTV station facility changes. Ultimately, all stations' protected service areas would be adjusted to reflect the maximum power levels that the Commission concludes will best assure that the public can receive a reliable signal from all DTV stations in the market throughout their replicated service areas.

Public Television endorses a maximum interim power level of 500 Kw. That ceiling on power will reduce, on an interim basis, the power disparities that could have such a detrimental effect on reception of U/U Stations' DTV service. Moreover, restricting DTV power to 500 Kw on an interim basis will not seriously disadvantage V/U Stations. Public Television believes that 500 Kw will be sufficient power to allow full replication of VHF stations' Grade B contours in many cases, and will provide significantly better coverage than the FCC's or Broadcasters' planning factors suggest.^{22/} And it may be impractical, in many cases, for stations to achieve power levels significantly higher than 500 Kw in the short term. In any case, it would be inadvisable for the Commission to permit stations to build facilities that would operate at power levels higher than 500 Kw (other than on an experimental basis) because that would restrict the Commission's flexibility to adjust power levels as necessary to assure adequate reception of all DTV stations' signals based on the results of the field tests.

^{22/} The proposed tables of digital allotments use the FCC F(50,90) model to predict service area. This model appears to be significantly more pessimistic at far distances than modern terrain-sensitive models such as Longley Rice (50,90). Industry field tests over a period of time will be necessary to test which model is more valid. If Longley Rice is more valid, significantly lower power levels than those specified in the proposed table will be adequate to replicate the coverage of current VHF stations, mitigating the effect of a power cap at 500 Kw ERP.

Public Television believes that it would be useful for the Commission to authorize V/U Stations in selected markets to operate on an experimental basis at the full power levels specified in the table of digital allotments during the interim two-year period. Field tests could then be conducted to study the impact of wide disparities in power levels on reception of the lower powered stations (*i.e.*, U/U Stations). Only after such field tests are conducted and the data submitted will the Commission be able to make a sound judgement concerning the maximum feasible power differentials.

(2) Implementation of the Coverage Maximization Principle.

The Commission should implement the principle of coverage maximization, as urged by the Broadcasters and Public Television in their Comments in this proceeding.^{23/} To the extent possible, the stations' coverage should be maximized in the initial table so that the maximized coverage areas are protected from interference and stations do not need to file for facilities modifications to serve those areas.

(3) Use of Engineering Techniques to Improve Reception Within Grade A Contours.

The Commission should permit all stations to utilize all antenna technologies that may be available to increase their power above the levels specified in the table, provided such increased power can be confined within their current Grade A service areas so as not to cause additional interference to other NTSC or DTV stations. These technologies may include the use of beam tilt, notched, and down-sloping antennas to concentrate power in close-in areas, thereby improving indoor antenna reception within the station's Grade A contour.

^{23/} See Broadcasters' Comments at 5; Public Television Comments at 8-10.

(4) Minimum Receiver Standards.

Finally, the Commission should not overlook a critical element in ensuring that viewers can receive good quality signals from stations operating at disparate power levels: the quality of the consumer's television receiver. The Commission should require that all DTV television receivers distributed in the United States be at least as discriminating and achieve receiver noise figures as low as the Grand Alliance's prototype receiver.^{24/} Viewers who purchase receivers without state-of-the-art capabilities may be unable to receive reliable signals from U/U Stations despite the best efforts of the Commission and the industry to lessen the power disparities between U/U and V/U Stations. This would clearly be contrary to Congress's intent in adopting the All-Channel Receiver Act.^{25/} Failure to specify minimum receiver standards that will assure adequate reception of U/U Stations in the digital environment would frustrate accomplishment of Congress's objectives to achieve UHF/VHF comparability and efficient utilization of the UHF spectrum.^{26/} The Commission clearly has the authority under the Act to establish minimum

^{24/} The Broadcasters have urged the Commission to adopt these minimum receiver standards. See Comments of Broadcasters on Fifth Further Notice of Proposed Rule Making, filed July 11, 1996 at 32-34.

^{25/} The All-Channel Receiver Act, Pub. L. No. 87-529, 76 Stat. 150 (1962), granted the Commission authority to require that all television receivers shipped in interstate commerce or imported into the United States "be capable of adequately receiving all frequencies allocated by the Commission to television broadcasting." 47 U.S.C. § 303(s) (1996). The purpose of the All-Channel Receiver Act was to achieve UHF/VHF comparability and "permit maximum efficient utilization of the broadcasting spectrum, especially the portion of the spectrum assigned to UHF television." S. Rep. No. 1526, 87th Cong., 2d Sess. 2 (1962), U.S.C.C.A.N. 1962, pp. 1873, 1874. See also *Association of Maximum Service Telecasters v. FCC*, 853 F.2d 973, 978 (D.C. Cir. 1988); *Electronic Industries Ass'n Consumer Electronics Group v. FCC*, 636 F.2d 689, 696 (D.C. Cir. 1980).

^{26/} See *id.*

performance standards for DTV receivers that are necessary to assure *adequate* reception of UHF signals and that are attainable with existing technology.^{27/}

II. The Commission Should Reject UTC's Proposal to Delete All Vacant Allotments.

In a sudden policy reversal, the Commission proposed for the first time in the *Sixth Notice* to delete all vacant NTSC allotments, including those reserved for noncommercial use.^{28/} It asserted that it needs to use those vacant channels to accommodate all eligible broadcasters with digital allocations, avoid congestion and interference, and maximize the service areas of DTV stations.^{29/} It sought comment, however, on whether it should, where possible, allot DTV channels to replace the deleted noncommercial NTSC channels as part of the initial DTV table or replace those deleted channels after the transition.

In its Comments, Public Television urged the Commission to preserve vacant noncommercial reservations unless it concludes, on the basis of engineering analysis, that there is no other practicable way to accommodate all eligible broadcasters with DTV channels or alleviate overcrowding in the broadcast spectrum.^{30/} In those cases where there is no practical alternative to deletion, Public Television suggested that the Commission replace the deleted channel with a substitute channel for DTV use, either in the initial table of allotments or at the

^{27/} See *Electronic Industries Ass'n Consumer Electronics Group v. FCC*, 636 F.2d at 693-98. See also 47 U.S.C. § 302(a) (1996).

^{28/} See *Sixth Notice* at ¶ 58.

^{29/} See *id.*

^{30/} See Public Television Comments at 19-26.

end of the transition period.^{31/} In this way, the Commission can reconcile deletion of reserved channels with its long-standing policy and statutory mandate to encourage the growth and development of public broadcasting.

In Comments filed November 22, 1996, UTC opposes “any proposal to retain spectrum for broadcast use that is not needed for the transition to DTV.”^{32/} UTC, which represents utility companies on communications issues, participates in this proceeding in an effort to convince the Commission to reduce the spectrum available to broadcasters as much as possible so that such spectrum can be made available for land mobile use.^{33/} Arguing that its members need additional spectrum for land mobile uses, UTC asserts that “the retention of these vacant channels by the broadcast services cannot be justified.”^{34/}

UTC’s position is obviously motivated by the single-minded desire of its members for more spectrum, and utterly ignores the Commission’s long-standing noncommercial reservations policy and statutory mandate to encourage the development of public broadcasting.^{35/} Indeed, UTC does not even acknowledge that such a policy exists, much less establish that circumstances

^{31/} *Id.* at 24-26.

^{32/} *See* UTC Comments at 8.

^{33/} *See* UTC Comments at 2-8.

^{34/} *Id.* at 8.

^{35/} *See, e.g.,* Public Television Comments at 19-26.

warrant its abandonment. Thus, its comments do not provide sound guidance to the Commission concerning whether that policy should be compromised or discarded.^{36/}

As Public Television stated in its opening Comments, it supports the Commission's ultimate objective of increasing spectrum efficiency by concentrating DTV service in a narrower spectrum band than is currently allocated to the broadcast service. But the public interest would not be well served by reallocating a portion of the broadcast spectrum during the transition for nonbroadcast uses. During that challenging period when television stations across the nation will be operating dual facilities, the Commission should use the full broadcast spectrum for broadcast purposes, for the reasons set forth in the opening comments of Public Television and the Broadcasters.^{37/} There is certainly no justification for reallocating isolated vacant channels -- scattered throughout the broadcast band and utilized in different cities -- for land mobile or other uses, as UTC suggests. This sort of fragmented spectrum allocations and interservice spectrum sharing is likely to give rise to precisely the kinds of interference and coordination problems raised as a concern by land mobile interests in this proceeding.^{38/} Equally important, reallocation

^{36/} As the Commission is aware, administrative agencies are required to articulate a reasoned basis for deviating from existing policies. *See Motor Vehicles Mfrs. Assn. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 41-42 (1983). UTC's comments do not suggest any basis for such a change in policy, much less a reasoned basis.

^{37/} *See* Public Television Comments at 12-19; Broadcasters Comments at 24-42. In their Reply Comments, the Broadcasters respond at length to the comments filed by public safety and land mobile interests regarding reallocation of channels 60-69 during the DTV transition, and Public Television will not repeat those arguments here. *See* Broadcasters Reply Comments, Sections III, IV.

^{38/} *See, e.g.*, Comments of Motorola, files November 22, 1996 at 12-15; Final Report of the Public Safety Wireless Advisory Committee to the Federal Communications Commission and the National Telecommunications and Information Administration, September 11, 1996, at 19; Broadcasters Reply Comments, Section III.B.

of vacant interstitial digital channels in the broadcast band would eliminate the only chance many translator and low power television stations will have to continue providing service to their communities if the commencement of DTV service forces them to cease operations on their present channels.^{39/} At the end of the DTV transition period, channels outside a core region can be cleared of broadcast users, and will then be far more valuable and useful for land mobile and other purposes than they would be if reallocated piecemeal during the transition period.^{40/}

^{39/} Public Television, as well as many other parties in this proceeding, have demonstrated the severe impact that implementation of DTV will have on translator and low power service and the serious loss to the public if those services cease. *See, e.g.,* Public Television Comments at 15-17, 39-42; Comments of Noncommercial Television Stations KUED-TV and KULC-TV, Salt Lake City, Utah, filed November 22, 1996. As Public Television noted in its comments, these stations provide vital services to viewers throughout the country, filling in pockets with poor reception and extending programming to areas that cannot support full service stations.

^{40/} *See* Broadcasters Comments at 40-42.

Conclusion

For the foregoing reasons, the Association of America's Public Television Stations and the Public Broadcasting Service urge the Commission to act expeditiously to adopt a table of digital allotments that (1) protects minimum service areas of 65 km for all stations; (2) takes additional steps to decrease the power disparities between stations in the same market until adequate field data can be collected on the effect of such disparities; and (3) preserves vacant noncommercial NTSC allotments or replaces them with DTV channels, to the extent possible.

Respectfully submitted,

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Certificate of Service

I, Shirley F. Oliver, hereby certify that on this 24nd day of January, 1997, I served a true copy of the foregoing Comments of the Association of America's Public Television Stations and the Public Broadcasting Service by hand delivery to:

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