*Before the*
**Federal Communications Commission**
*Washington, DC*

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| In the Matter of | ) | |
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| Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations | ) | MB Docket No. 03-185 |
| | ) | |
| Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions | ) | GN Docket No. 12-268 |
| | ) | |
| Amendment of Part 15 of the Commission's Rules to Eliminate the Analog Tuner Requirement | ) | ET Docket No. 14-175 |

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# COMMENTS OF CENTRAL PARK CHURCH OF GOD, INC.

Central Park Church of God, Inc., licensee of Channel 6 station KZFW-LP, Dallas, Texas, by its attorney, hereby submits its comments with regard to the *Third Notice of Proposed Rulemaking*, FCC 14-151 (October 10, 2014) ("*Third NPRM*"). The *Third NPRM* requests comments on extension of the September 1, 2015 transition date for conversion from analog to digital operations; proposed channel sharing of LPTV and TV translator channels; use of LPTV stations to fill-in loss areas by full-service stations; and the continued use of Channel 6 stations for the provision of FM radio service. With respect thereto, the following is stated:

Central Park Church of God strongly supports the proposal for formally allowing licensees of Channel 6 stations to provide audio service on 87.76 MHz, as already is implicitly allowed in the Commission's rules. Licensees already providing the service are adding to the

overall competitive environment in their communities, and are making optimal use of the spectrum to the overall betterment of Section 307(b) of the Communications Act. Section 74.790(i) of the Commission's Rules plainly allows for digital LPTV stations to offer "services of any nature, consistent with the public interest, convenience, and necessity, on an ancillary or supplementary basis" consistent with Rule 73.624(c). Rule 73.624(c) states that "[t]he kinds of services that may be provided include, but are not limited to … audio signals … that do not derogate DTV broadcast stations' obligations under [Rule 73.624(b)]."

As to types of restrictions that should be imposed on providers of such service, as Venture Technologies states in its Comments in this proceeding, the agency should make a practical, public-interest judgment of the regulations that should apply to the FM radio service. Therefore, the practical public interest obligations that should be applied include:

- political broadcasting (Sections 73.192, 73.1942, and 73.1943 of the Rules);
- prohibited contest practices (Section 73.1216 of the Rules);
- sponsorship identification and payment disclosure (Section 73.1212 of the Rules);
- ban on discrimination in broadcast transaction (Section 73.2090 of the Rules);
- cigarette advertising (15 U.S.C. § 1335);
- broadcast of taped or recorded material (Section 73.1208 of the Rules);
- broadcast of telephone conversations (Section 73.1206 of the Rules);
- station log and public file requirements (Section 73.2526 of the Rules);
- equal employment opportunities (Section 73.2080 of the Rules);
- station identification announcements Section 73.1201 of the Rules); and
- Emergency Alert System ("EAS") requirements (Part 11 of the Commission's Rules).

In addition to these requirements, Central Park Church of God has no objection to requiring those stations to maintain a local presence through operation of a main studio, and to compile local issues/programs lists of important community issues addressed by the audio portion of the stations, just as is the case with respect to other radio facilities in such markets.

The LPTV-based radio stations should not, however, generally be subjected to a 5% surtax. The FM signal on 87.76 MHz already cannot be received on all FM radios, and such a tax would place them at a further competitive disadvantage *vis a vis* other stations. The 5% tax only should be applied if a service meets the definition of a feeable ancillary or supplementary service. Insofar as most current FM radio-type service is available to the general public without subscription, the 5% tax would not apply to such service.

Central Park Church of God also supports the proposal to extend the transition date for analog LPTV and TV translator licensees. Proposals being considered by the FCC concerning the upcoming incentive auction and comments made in the press has created extreme discomfort and unrest in the LPTV community, and requiring such licensees to "transition" to digital operations (which requires a significant expenditure of resources for the purchase of equipment) without having certainty that the license will survive any upcoming "purge" of LPTV licenses that the FCC may undertake in the near future would be contrary to common sense and the public interest. Rather, a reasonable amount of time should be given for stations to transition to digital operations after a determination is made whether service will be allowed to be maintained by specific LPTV licensees, and on what channel operations will be allowed so that proper equipment could be purchased. Because it is not known what backlog will exist for the

purchase of such equipment, it is proposed that licensees be allowed to maintain their present analog operations for at least one year following the completion of the repacking process.

To eliminate the risk that LPTV licensees will have their frequencies and licenses revoked and their service to the public utterly destroyed by the FCC as a result of the repacking process, Central Park Church of God supports the Commission's proposal to allow voluntary channel sharing. The approach proposed by the FCC seems to allow for a sensible way for a greater amount of service to be preserved to local communities. As the FCC suggests, for the most part those arrangements should be considered to be private contractual arrangements between the local parties. Nevertheless, the idea of granting rights as a licensee to each party to such agreements is believed to be a good one, insofar as each licensee only will be responsible to the Commission for its own programming.

That being said, other additional proposals should be considered by the Commission to preserve LPTV service to the public. In 1982, Congress created the Low Power Television (LPTV) service to fill a void in local communities that were not fully covered by full-power television broadcasting, and to enhance the diversity of the unique "voices" providing free, over-the-air television service. Today, in many places throughout the country, these stations are the only locally-based broadcast television service available.

In recent years, the Commission has promoted Low-Power FM Service as a service that provides great benefits to the public. As the Commission stated with regard to the LPFM service:

> the LPFM service was created "to foster a program service responsive to the needs and interests of small community groups, particularly specialized community needs that have not been well served by commercial broadcast stations." [quoting *Low Power Television Service*, 15 FCC Rcd 2205, 2213

> (2000)]. Numerous LPFM service and comparative licensing criteria are designed to promote these goals…. Based on these factors, we find that LPFM stations are uniquely positioned to meet local needs, particularly in areas of higher population density where LPFM service is practical and sustainable.

*Creation of a Low Power Radio Service (Fourth Report and Order and Third Order on Reconsideration)*, 27 FCC Rcd 3364, 3372-73 ¶ 18 (2012). Similarly, when discussing LPTV service in 2004, the Commission stated:

> From its creation by the Commission in 1982 …. there are approximately 2,200 licensed LPTV stations in approximately 1,000 communities, operating in all 50 states. These stations serve both rural and urban audiences. Because they operate at reduced power levels, LPTV stations serve a much smaller geographic region than full-service stations and can fit into areas where a higher power station cannot be accommodated in the Table of Allotments. In many cases, LPTV stations may be the only television station in an area providing local news, weather, and public affairs programming. Even in some well-served markets, LPTV stations may provide the only local service to residents of discrete geographical communities within those markets. Many LPTV stations air "niche" programming, often locally produced, to residents of specific ethnic, racial, and interest communities within the larger area, including programming in foreign languages. [7]

*Creation of Class A Television Service*, 15 FCC Rcd 6355, 6357-58 ¶ 2 (2000) (footnotes omitted). Despite this implicit recognition that both the LPTV and LPFM broadcast services help satisfy similar unmet broadcast needs to local communities, while the Commission has taken great effort to foster, promote, and expand the existence of LP<u>FM</u> service (an audio service), it is doing very little in the way of innovation in devising means to foster, promote, and expand the future of LP<u>TV</u> service to the public.

Today, according to the FCC CDBS, there currently are 1779 licensed analog LPTV stations, and 3977 licensed digital LPTV stations serving the United States, with 2464 digital LPTV stations still awaiting construction -- licensed LPTV service therefore has more than doubled since 2004. Many of these stations provide local programming that cannot be found

elsewhere, providing local ethnic programming, local sporting events, medical advice, local political news, etc. These licensees truly are local broadcasters. As the FCC acknowledges on its own website:

> The FCC created the Low-Power Television (LPTV) service in 1982 to provide opportunities for locally-oriented television service in small communities. These communities may be in rural areas or individual communities within larger urban areas. LPTV service offers programming tailored to the interests of viewers in small localized areas in a less expensive and more flexible way than traditional full-service/power TV stations. It has created opportunities for new entry into television broadcasting, provided a means of local self-expression, and permitted fuller use of the broadcast spectrum. LPTV stations are currently undertaking their transition to digital operations.

http://www.fcc.gov/guides/low-power-television-lptv-service.

A part of the problem is that no mechanism is being established to cope with the specific difficulties and spectrum limitations being found in specific markets. Additionally, in even congested spectrum-limited markets, in order for a digital LPTV station to be licensed, it must be granted on a specific channel that will allow 6 MHz of service; and with respect to the full-service stations with which they compete for spectrum, the full 6 MHz of spectrum they are allowed may not be currently effectively used by the stations. In both cases, this could result in an inefficient use of spectrum. Third, in some markets, there are LPTV stations that in actuality have not been on the air, or else may have been on the air only sporadically. Those stations do not deserve as much protection as local LPTV stations that are on the air and providing regularly scheduled local programming. Fourth, there are some LPTV stations that are on the air, but have chosen to provide no local community-based service to the local community that is served by the station. Those stations also do not deserve as much protection as local LPTV stations that are on the air utilizing regularly scheduled local programming. Finally, in some markets near

especially the Mexican border, there are other constraints which unfairly affect the ability of an LPTV station to survive.

All of these considerations need to be taken in account devising a means by which these stations can survive. While "channel sharing" is one laudable solution that may, in particular instances, allow some LPTV stations to survive, based on the forgoing, the following also represent additional solutions and procedures that need to be considered:

- Information should be solicited concerning the type of service that currently is being provided by LPTV stations in congested markets. When deciding what stations will be permitted to be displaced to new channels (or which LPTV stations will be permitted to remain on their current channels of operation), stations that provide local programming service to their service areas should be given preferences over stations that currently are not on the air; have provided service only sporadically; or do not provide local community service.

- Preserved service from all LPTV stations that provide local programming service should be considered a priority, and in general, the Commission should preserve from as many LPTV stations as possible. Currently, a full 6 MHz channel is automatically given to all digital LPTV stations, even in congested areas. In congested areas, this full 6 MHz channel unduly limits the number of LPTV stations that will survive. A means can and should be developed whereby in congested areas, LPTV channels of smaller sizes, *e.g.*, 5 MHz or smaller, are allotted if such a smaller channel footprint is necessary to allow all digital LPTV stations in a given geographic are to survive. While there may be some decrease in quality on such LPTV stations (and it may limit the ability for the creation of certain "sub-channels" on such stations with reduced bandwidth), "some" service is better than the elimination of "all" service from such licensees.

- Consideration also should be given to limiting the amount of bandwidth being reclaimed by the Commission in border regions to 82 MHz. Due to the necessity of engaging in Mexican Coordination, reclaiming the same amount of spectrum in border regions unduly limits the amount of spectrum available to preserving the optimal number of digital LPTV stations.

- Finally, the new ATSC 3.0 standard, when adopted, may alleviate some of the congestion issues and make channel sharing more attractive and likely to be utilized. Requiring sharing choices to be made prior to adoption of the

new standard may be short-sighted.

LPTV stations provide valuable services to the public, and for the last 30 years licensees have established businesses and livelihoods based on the likelihood that the only significant risk they faced to their long-term ability to continue to provide service to the public was primary full-power television stations. The FCC needs to make all effort necessary to preserve the important LPTV service.

Respectfully submitted,

**CENTRAL PARK CHURCH OF GOD, INC.**

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