











As the Commission has repeatedly recognized, the nation's low power television stations, now numbering approximately 2,200, are serving the public interest in an exemplary manner. Hundreds of communities and millions of viewers are dependent upon low power television stations. These stations are of vital importance, and the public interest demands that they be preserved. The Community Broadcasters Protection Act of 1999 (CBPA) requires that low power television stations meeting certain standards be protected and accorded primary status as Class A television stations. In addition, the CBPA expressly empowers the Commission to provide such protection and primary status to all low power television stations if "the Commission determines that the public interest, convenience, and necessity would be served . . . or for other reasons determined by the Commission." See 47 U.S.C. 336 (f)(2)(B). The Commission's authority under the CBPA to accord primary status to all low power television stations, including those that may not meet the qualifying standards set forth in 47 U.S.C. 336 (f)(2)(A), is unrestricted. It is in the public interest that the Commission exercise that authority to the fullest extent in order that all low power television stations be protected and that no community be denied the service it is presently enjoying.

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### III.

It is of utmost importance that no broadcasting service, whether full power television, low power television, Class A television or any other, be subjected to an unreasonable regulatory burden. Most, if not all, low power television stations are licensed to individuals or small entities rather than large commercial enterprises. Many are owned by minorities or by organizations that are minority-controlled. Because of their lower power levels, they serve smaller audiences than their full power competitors. And, as Congress and the Commission have recognized, their secondary status has denied them access to funding and restricted their growth. If these stations are suddenly subjected to regulatory burdens that are disproportionate to their resources, they will be doomed to failure. A station having an effective radiated power (ERP) of 1,000 watts and serving a community of 10,000, for example, cannot reasonably be expected to have the same number of employees that a station having an ERP of five million watts and serving a population of millions is required to have. Nor can such a small station reasonably be expected to meet the same paperwork requirements, or to pay the same fees and fines, as are applied to larger stations. For these reasons, the part 73 rules should be revised to provide relief for smaller stations. If such revisions cannot be made within the very short time frame that applies in this proceeding, the Commission may be able to achieve the same result through

blanket waivers or by making a determination under U.S.C. 336 (f)(2)(B).

IV.

For the purposes of qualification under U.S.C. 336 (f)(2)(A), the term "market area" should be construed as broadly as possible. The term clearly applies far beyond the protected contours, and to hold otherwise would be unnecessarily restrictive and inconsistent with the legislative intent. The term "market area" has a commonly understood meaning throughout the broadcasting industry, and that commonly understood meaning should be accepted for purposes of statutory construction. The definition of the term should be the same as the definition of "market" as set forth in Section 76.55 (e) of the Commission's rules. Accordingly, any programming that is produced within a station's DMA should be considered to have been produced within its market area.

V.

Low power television stations have already endured wholesale displacement from DTV stations, and they should not be further subjected to displacement by Class A stations. In the interest of fairness, and in order to avoid loss of existing service, Class A stations should be





