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

In the Matter of	)	
	)	MM Docket No. 00-10
Establishment of a Class A	)	MM Docket No. 99-292
Television Service	)	RM-9260

ORDER AND NOTICE OF PROPOSED RULE MAKING

Adopted: January 13, 2000 **Released:** January 13, 2000

Comment Date: February 10, 2000

Reply Comment Date: February 20, 2000

By the Commission:

I. Introduction

1. On November 29, 1999, Congress enacted the Community Broadcasters Protection Act of 1999 ("CBPA").[1] The CBPA requires the Commission, within 120 days after the date of enactment, to prescribe regulations establishing a Class A television license available to licensees of qualifying low-power television ("LPTV") stations. The CBPA directs that Class A licensees be subject to the same license terms and renewal standards as full-power television licensees, and that Class A licensees be accorded primary status as a television broadcaster as long as the station continues to meet the requirements set forth in the statute for a qualifying low-power station. In addition to other matters, the CBPA sets out certain certification and application procedures for low-power television licensees seeking to obtain Class A status, prescribes the criteria low-power stations must meet to be eligible for a Class A license, and outlines the interference protection Class A applicants must provide to analog (or "NTSC"), digital ("DTV"), LPTV, and TV translator stations. We are initiating this proceeding to implement the Community Broadcasters Protection Act.

2. On September 22, 1999, the Commission adopted a *Notice of Proposed Rule Making ("September 22 Notice")* considering a wide range of issues related to the establishment of a form of primary status for certain low-power television stations.[2] That *Notice* responded to a petition for rule

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[1] Community Broadcasters Protection Act of 1999, Section 5008 of Pub. L. No. 106-113, 113 Stat. 1501 (1999), Appendix I, *codified at* 47 U.S.C. § 336(f). The CBPA was enacted as part of the Intellectual Property and Communications Omnibus Reform Act of 1999, which itself is part of a larger consolidated omnibus appropriations bill entitled "Making consolidated appropriations for the fiscal year ending September 30, 2000, and for other purposes."

[2] *Notice of Proposed Rule Making, In the Matter of Establishment of a Class A Television Service*, MM Docket No. 99-292, RM-9260, FCC 99-257 (*rel.* Sept. 29, 1999).

making filed by the Community Broadcasters Association ("CBA").[3] Initial comments on the *September 22 Notice* were due December 21, 1999. In light of passage of the Community Broadcasters Protection Act, which addresses many of the same issues raised in the earlier *Notice* and the CBA petition, we are terminating today our earlier proceeding, and are initiating this new proceeding to implement the CBPA.[4]

II. Background

3. From its creation by the Commission in 1982, the low power television service has been a "secondary spectrum priority" service whose members "may not cause objectionable interference to existing full service stations, and ...must yield to facilities increases of existing full service stations or to new full service stations where interference occurs."[5] Currently, there are some 2,200 licensed LPTV stations in approximately 1000 communities,[6] operating in all 50 states. These stations serve both rural and urban audiences. Because they operate at reduced power levels,[7] LPTV stations serve a much smaller geographic region than full-service stations and can be 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.[8] Even in some well-served markets, LPTV stations may provide the only local service to residents of discrete geographical communities within those markets.[9] Many LPTV stations air "niche" programming, often locally produced, to residents of specific ethnic, racial, and interest communities within the larger area, including

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[3] The petition was filed on September 30, 1997, and amended on March 18, 1998. On April 21, 1998, the Commission gave public notice of the filing of the petition and amendment and sought public comment. *Public Notice* (No. 82996), "Petition for Rulemaking Filed for "Class A" TV Service" (RM-9260), April 21, 1998.

[4] We have already suspended the comment cycle in our earlier proceeding. *See Order*, MM Docket 99-292 , RM-9260, FCC 99-389, *rel.* December 14, 1999. Parties who filed comments in response to our *September 22 Notice* who wish to have those comments considered herein should refile the comments in this proceeding.

[5] *Report and Order* in BC Docket No. 78-253, 51 R.R. 2d 476, 486 (1982). *See also id.* at n. 23: "[Because] it is integral to the concept of a secondary service that it yield to a mutually exclusive primary service, we shall not take low power stations into account in authorizing full service stations, and we urge low power applicants to consider this fact when they select channels."

[6] *Public Notice*, "Broadcast Station Totals as [of] September 30, 1999" (*rel.* November 22, 1999).

[7] LPTV stations may radiate up to 3 kilowatts of power for stations operating on the VHF band (*i.e.*, channels 2 through 13), and 150 kilowatts of power for stations operating on the UHF band (*i.e.*, channels14 through 69). By comparison, full-service stations on VHF channels radiate up to 316 kilowatts of power, and stations on the UHF channels radiate up to 5,000 kilowatts of power. LPTV signals typically extend to a range of approximately 15 to 20 miles, while the signals of full-service stations can reach as far as 60 to 80 miles away.

[8] *See First Report and Order, In the Matter of Review of the Commission's Rules Governing the Low Power Television Service*, MM Docket No. 93-114, 9 FCC Rcd 2555 (1994)("*LPTV First Report and Order*"). *See also* Comments of Free Life Ministries, Inc. at 1. References to comments pertain to comments filed in response to the *Public Notice* (No. 82996) of the filing of the CBA petition for rule making.

[9] Comments of D Lindsey Communications at 1(noting that its LPTV station is the only station providing local news for residents of Temecula and Murrietta, CA, both of which are within the Los Angeles DMA). *See also* Comments of Engle Broadcasting at 1-2.

programming in foreign languages.[10]

4. The LPTV service has significantly increased the diversity of broadcast station ownership. Stations are operated by such diverse entities as community groups, schools and colleges, religious organizations, radio and TV broadcasters, and a wide variety of small businesses. The service has also provided first-time ownership opportunities for minorities and women.[11]

5. In the Community Broadcasters Protection Act, Congress found that the future of low-power television is uncertain.[12] Because LPTV stations have secondary regulatory status, they can be displaced by full-service stations that seek to expand their own service area, or by new full-service stations seeking to enter the same market. The statute finds that this regulatory status affects the ability of LPTV stations to raise necessary capital.[13] In addition, Congress recognized that the conversion to digital television further complicates the uncertain future of LPTV stations.[14] To facilitate the transition from analog to digital television, the Commission has provided a second channel for each full service television licensee in the country that will be used for digital broadcasting during the period of conversion to an all-digital broadcast service. In assigning DTV channels, we maintained the secondary status of LPTV stations and TV translators and, in order to provide all full-service stations with a second channel, were compelled to establish DTV allotments that will displace a number of LPTV stations.[15] Although the Commission has taken a number of steps to mitigate the impact of the DTV transition on stations in the LPTV service,[16] that transition will have significant adverse effects on many stations, particularly LPTV stations operating in urban areas where there are few, if any, available replacement channels.

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[10] *LPTV First Report and Order*, 9 FCC Rcd at 2555 (1994). *See also* Comments of Community Broadcasting Company of San Diego at 2; Hispanic Broadcasters of AZ, Inc. at 1; Channel 19 TV Corp. at 2; ZGS Broadcast Holding, Inc. at 1; National Minority T.V., Inc. at 1; Liberty University, Inc. at 2; Debra Goodworth, Turnpike Television at 1-2.

[11] LPTV *First Report and Order,* 9 FCC Rcd at 2555 (1994). *See also, Sixth Further Notice of Proposed Rule Making, In the Matter of Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service*, MM Docket No. 87-268, 11 FCC Rcd 10968,10995 (1996).

[12] Section-by-Section Analysis to S. 1948, the Act known as the "Intellectual Property and Communications Omnibus Reform Act of 1999," as printed in the Congressional Record of November 17, 1999 at pages S 14708 – 14726 ("Section-by-Section Analysis") , at p. S 14724.

[13] *Id.*

[14] *Id.* at S 14724 – 14725. TV translator stations may be affected to a lesser extent, given that most are distantly located from full service stations or are terrain-shielded from them. For instance, in the DTV proceeding the Commission estimated that approximately 55 to 65 percent of existing LPTV stations and 80 to 90 percent of all TV translators would be able to continue to operate and that operations in or near major urban areas would be most affected. *Sixth Further Notice of Proposed Rule Making*, MM Docket No. 87-268, 11 FCC Rcd 10968 (1996).

[15] In addition, approximately 260 LPTV stations operate on a channel from channel 60-69 and are required by law to vacate these channels by the end of the DTV transition period or earlier if they cause interference to primary services using these channels.

[16] *See September 22 Notice* at ¶¶ 9-14.

6. Congress sought in the Community Broadcasters Protection Act to address some of these issues by providing certain low power television stations "primary" regulatory status. Congress also recognized, however, that, because of the emerging DTV service, not all LPTV stations could be guaranteed a certain future.[17] Congress indicated its recognition of the importance and engineering complexity of the FCC's plan to convert full-service stations to digital format, and protected the ability of these stations to provide both digital and analog service.[18]

III. Discussion

A. Certification and Application for License

7. Section (f)(1)(A) of the CBPA requires the Commission, within 120 days after the date of enactment (November 29, 1999), to prescribe regulations establishing a Class A television service.[19] The CBPA establishes a two-part certification and application procedure for LPTV stations seeking Class A status. First, the CBPA directs the Commission to send a notice to all LPTV licensees describing the requirements for Class A designation.[20] Within 60 days of the date of enactment, licensees intending to seek Class A designation are required to submit to the Commission a certification of eligibility based on the applicable qualification requirements.

8. The CBPA provides that, absent a material deficiency in a licensee's certification of eligibility, the Commission shall grant the certification of eligibility to apply for Class A status.[21] The CBPA further provides that licensees have 30 days after final regulations implementing the CBPA are adopted by the Commission in which to submit an application for Class A designation. The Commission has 30 days after receipt of an application to act on applications that meet applicable interference and other criteria.[22]

9. One issue not addressed by the statute is whether LPTV stations must apply for a Class A license within the time frame established in the legislation, or whether the Commission may continue to accept and approve applications from qualifying LPTV stations to convert to Class A status in the future. Section (f)(1)(B) of the statute states that licensees intending to seek Class A designation "shall" submit a certification of eligibility within 60 days after the date of enactment of the Act.[23] Section (f)(1)(C)

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17 Section-by-Section Analysis at S14725.

18 *Id.* at S14724.

19 47 U.S.C. § 336(f)(1)(A). These regulations must be in place by March 28, 2000.

20 47 U.S.C. § 336(f)(1)(B). The CBPA directs that this notice be sent within 30 days of the date of enactment. On December 13, 1999, the Mass Media Bureau issued a *Public Notice* informing the public of the statute and the eligibility requirements. *Public Notice*, "Mass Media Bureau Implements Community Broadcasters Protection Act of 1999," *rel.* December 13, 1999. The Commission has also mailed to every LPTV licensee a "Statement of Eligibility for Class A Low Power Television Station Status." Licensees intending to convert to Class A status have been directed to complete the statement and return it to the Commission by January 28, 2000.

21 47 U.S.C. § 336(f)(1)(B).

22 47 U.S.C. § 336(f)(1)(C).

23 The provision governing filing of Class A applications does not contain the same mandatory (continued....)

provides that consistent with the requirements set forth I section (f)(2)(A), a licensee may submit an application for Class A designation within 30 days after the Commission adopts rules in this docket. However, the section (f)(2)(B) of statute also gives the Commission discretion to determine that the public interest, convenience and necessity would be served by treating a station as a qualifying LPTV station, or that a station should be considered to qualify for such status for other reasons.[24] We ask commenters to address whether the statute permits the Commission to continue to accept applications to convert to Class A in the future. In addition, in the event the Commission concludes it does have this authority, we invite commenters to discuss whether the Commission should, as a matter of policy, allow LPTV stations to apply to convert to Class A status after the application period provided for in the Act.

B. Class A Protected Service Area

10. The statute requires the Commission to "preserve the service areas of low-power television licensees pending the final resolution of a Class A application."[25] Since the inception of the LPTV service, the service areas of LPTV stations have been defined in terms of protected signal contours. LPTV are protected from interference from other LPTV and TV translator stations to the following signal contours: 62 dBu for stations on channels 2-6; 68 dBu for stations on channels 7-13; and 74 dBu for stations on channels 14 – 69, calculated using the Commission's F(50,50) signal propagation curves.[26] Consistent with the proposal in the *September 22 Notice*, we propose herein to use the same protected areas now afforded LPTV stations for analog Class A television. This would preserve existing service provided by LPTV stations and minimize disruption or preclusion of other services. The CBPA also provides for digital Class A operations for which we have no readily available contour values other than those values that define DTV noise-limited service: 28 dBu for channels 2-6; 36 dBu for channels 7-13; and 41 dBu for channels 14 – 69, calculated as a predicted F(50,90) field strength.[27] We invite comment on the protected service area of Class A stations and, in particular, on whether other field strength values might be better suited for analog and digital Class A service.

11. The CBPA also provides that if, after granting certification of eligibility for Class A license, technical problems arise requiring an engineering solution to a full-power DTV station's allotted parameters or channel assignment in the digital television Table of Allotments, the Commission shall make the modifications necessary to (i) ensure replication of the full-power digital television applicant's service area as provided for in sections 73.622 and 73.623 of the Commission's regulations, and (ii) to permit maximization of a full-power digital television applicant's service area consistent with these sections, if the applicant has filed an application for maximization or a notice of its intent to seek maximization by December 31, 1999, and filed a "bona fide" application for maximization by May 1, 2000.[28]

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language. It states that licensees "may" submit an application for Class A designation within 30 days after final regulations are adopted. 47 U.S.C. § 336 (f)(1)(C).

[24] 47 U.S.C. § 336 (f)(2)(B).

[25] 47 U.S.C. § 336(f)(1)(D).

[26] 47 C.F.R. § 74.707(a).

[27] 47 C.F.R. § 73.622(e) .

[28] 47 U.S.C. § 336(f)(1)(D).

12. We propose to preserve the service area of LPTV licensees from the date the Commission receives an acceptable certification of eligibility for Class A status; that is, a certification that is complete and that, on its face, indicates eligibility for Class A status pursuant to the eligibility criteria established by statute and any other criteria ultimately approved in this proceeding.[29] This timing appears most consistent with the CBPA's dual certification and application scheme for Class A status.[30] Thus, the service area of an LPTV station would be protected, to the extent provided in the CBPA and our rules, from the date a certification for eligibility is filed with the Commission, as long as the certification is ultimately granted by the Commission. The CBPA permits the Commission to establish alternative criteria for Class A eligibility if it determines that the public interest, convenience and necessity would be served thereby, or for other reasons.[31] We invite comment later in this *Notice* on what those alternative criteria should be. There may be instances in which a certification of eligibility may be granted but the corresponding Class A application may not be granted because the alternative eligibility showing cannot be approved. We further note that a Class A application could be denied if a certification of eligibility were later determined to be incorrect.

13. Thus, with certain exceptions, we believe that the statute requires that we act to preserve the service areas of LPTV stations that have been granted a certificate of eligibility for Class A status. We further believe that this requirement can be met by protecting the protected LPTV signal contours against predicted interference from NTSC, DTV, LPTV, and TV translator stations authorized after the enactment date of the Act (November 29, 1999). We interpret the statute as creating three exceptions to the LPTV service preservation requirement: (1) DTV stations seeking to replicate their analog TV service areas within the station's allotted engineering parameters, (2) DTV stations who filed a maximization application or statement of intent to maximize their service areas by December 31, 1999 and a maximization application by May 1, 2000 and (3) DTV stations that encounter technical problems that necessitate adjustments to the stations' DTV allotment parameters, including channel changes. We believe that the statute prohibits us from authorizing any other analog or digital station proposals that would be predicted to interfere with the protected contours of LPTV stations subsequent to the date the station has filed its certification for Class A eligibility, as long as the certification is ultimately granted. We invite comment on this tentative conclusion.

14. We propose the following methods of protecting the service contours of Class A stations and LPTV stations whose contours are to be preserved from interference under the certification of eligibility provisions. Where a full-service NTSC application or rule making proposal must protect a Class A station, the protection should be based on a contour overlap approach similar to that used for LPTV applications protecting the Grade B contour of NTSC stations; i.e., according to the criteria given in Section 74.705 of the LPTV rules.[32] The interference predictions would be based on the facilities

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[29] *See* 47 U.S.C. §§ 336(f)(2)(qualifying LPTV stations); 336 (f)(1)(B) (certification).

[30] Senator Conrad Burns, a sponsor of the Community Broadcasters Protection Act in the Senate, introduced a statement on the Senate floor clarifying the issue of when an LPTV station's contour should be preserved. He stated in part: "It is clearly our intent that as soon as the Commission is in receipt of an acceptable certification notice, it should protect the contours of this station until final resolution of that application." See District of Columbia Appropriations Act, 2000 –Conference Report Resumed, Congressional Record of November 19, 1999 at. p. S14989.

[31] 47 U.S.C. § 336(f)(2)(B).

[32] 47 C.F.R. 74.705. This rule provides a number of interference protection standards depending on the channel relationship between the proposed and protected facilities. Threshold desired-to-undesired signal strength ratios (continued....)

proposed in the application. Petitioners for analog channels must identify reference NTSC facilities (location, effective radiated power, antenna height above average terrain and, if desired, horizontal antenna radiation pattern) for the purpose of showing the necessary contour protection. It is necessary to consider a variation on this approach for situations that may occur due to the manner in which LPTV stations have been authorized. Secondary LPTV stations must accept interference from full-service TV stations, and predicted interference from full-service stations is not considered in the LPTV application process. Therefore, it is possible that the authorized facilities of full-service stations would be predicted to interfere with protected Class A/LPTV service contours. Such stations may later file applications to modify their facilities; for example, to relocate the sites of transmitting antennas or increase power. In such an event, we would consider the full-service modification application proposal to be acceptable provided it did not increase the amount of predicted interference to the Class A/LPTV station; *i.e.*, by further reducing the required separation between the stations or by further decreasing the interference protection ratios. We request comment on this approach or other approaches we should consider. We note that protection based on minimum distance separations between Class A and NTSC TV stations would be simpler, but would provide less flexibility. We also note that Class A stations can propose DTV operations and we seek comment on the approach that should be used to protect digital Class A operations.

15. Class A stations and certified eligible LPTV stations are also entitled to protection from some DTV stations, except as provided in the statute. For example, petitioners for a new DTV allotment would have to protect the contours of licensed or Class A-designated stations. We seek comment on whether we should use the approach described above for Class A protection from NTSC station proposals, but with desired-to-undesired signal strength (D/U) ratios applicable to protection of analog signals from DTV signals.[33] In this regard, we could apply the co-channel and first adjacent channel, and possibly other, D/U ratios for "DTV-into-analog TV" given in Section 73.623(c) of our rules. Alternatively, we seek comment on protecting licensed Class A and Class A-designated service areas from DTV station proposals in the manner in which DTV applicants protect full-service NTSC stations.[34] If we were to adopt this approach, should we permit the same *de minimis* interference allowances to Class A service that are now permitted for DTV protection of NTSC stations? For either alternative approach, petitioners for DTV allotments would need to identify reference facilities that would satisfy the required method of protection. We invite comment on these matters and other approaches to protecting Class A service from DTV station proposals. As above, we note that a Class A station may choose digital operation and we seek comment on the method that should govern protection to digital Class A service.

16. We propose that LPTV and TV translator application proposals protect licensed Class A contours and the contours of LPTV stations that have filed certifications of eligibility in the manner that

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are provided for facilities using the same channel and 1st adjacent channels and for proposed facilities 14 and 15 channels above the channel of the protected facilities. In addition, minimum station separation distances apply to facilities using channels separated by 2, 3, and 4 channels and where the proposed facilities specify a channel that is 7 channels below that of the protected facilities.

[33] This is the manner in which LPTV application proposals must protect authorized DTV service. *See* 47 C.F.R. 74.706

[34] Prescribed in Sections 73.622 and 73.623 of the Commission's Rules and as described in OET Bulletin 69.

LPTV and translators stations now protect each other, as provided in Section 74.707 of the LPTV rules.[35] This approach is also based on D/U ratio compliance at points along the protected signal contour. We propose that applications to modify Class A stations (subsequent to receiving initial Class A licenses) protect existing Class A service in the same manner. We further propose to apply this approach to applicants for new Class A stations that would not qualify for this status within 90-days of enactment of the CBPA; that is, if we were to extend Class A application filing opportunities beyond the 30-day period permitted in the CPBA. We invite comment on these matters and ask in which manner we should protect the service of digital Class A stations from analog or digital LPTV, TV translators and other Class A stations.

C. Change Applications

17. Section (f)(1)(E) of the CBPA provides for protection of a DTV station that has been granted a construction permit to maximize or significantly enhance its service area and later files an application for a change in facilities that reduces its service area. In such a case, the statute provides that the protected contour of the DTV station is the reduced service area.[36] We believe that the protection of the reduced coverage area would become effective upon grant of the application that requested the reduced facilities and that, in these circumstances, Class A stations would no longer need to protect the service area produced by the "replication" facilities established in the initial DTV Table of Allotments. We expect that few, if any, DTV stations will follow this course, but those licensees considering it should be aware of the consequences. We seek comment on this interpretation.

D. Qualifying Low-Power Television Stations

18. *Eligibility Criteria.* The CBPA provides that an LPTV station may qualify for Class A status if, during the 90 days preceding the date of enactment of the statute: (1) the station broadcast a minimum of 18 hours per day; (2) the station broadcast an average of at least 3 hours per week of programming produced within the market area served by the station, or the market area served by a group of commonly controlled low-power stations that carry common local programming produced within the market area served by such group; (3) the station was in compliance with the Commission's requirements for LPTV stations; and (4) from and after the date of its application for a Class A license, the station is in compliance with the Commission's operating rules for full-power television stations.[37] Alternatively, Section (f)(2)(B) of the CBPA provides that a station may qualify for Class A status if "the Commission determines that the public interest, convenience, and necessity would be served by treating the station as a qualifying low-power television station for purposes of this section, or for other reasons determined by the Commission."[38]

19. The statute's requirement that, during the 90 days preceding the date of enactment of

[35] The interference protection requirements in Sections 74.705 and Section 74.707 are similar in most respects. Because of the secondary status of LPTV stations, certain protection requirements to full-service stations in Section 74.705 do not apply to protection among LPTV and TV translator stations in Section 74.707; for example, 14th adjacent channel protection.

[36] 47 U.S.C. § 336(f)(1)(E).

[37] 47 U.S.C. §336(f)(2)(A).

[38] 47 U.S.C. §336(f)(2)(B).

Community Broadcasters Protection Act, LPTV stations must have broadcast a minimum of 18 hours/day is straightforward. The statute also prescribes that, during this period, LPTV stations must have broadcast an average of at least 3 hours per week of programming produced within the "market area" served by the station. As the statute does not define "market area," we propose to define it as the station's protected service area. As discussed above, we have proposed to define the Class A protected service area as the protected area now afforded LPTV stations. We ask commenters to address whether the protected service area ultimately adopted by the Commission should also be used to define "market area" in connection with the local programming criterion. With respect to a group of commonly controlled stations, we propose to define the "market area" of such stations as the area covered by the protected service area of all stations in the commonly-owned group. We are not inclined to include repeated programming or locally produced commercials as contributing to the mandatory 3 hours of locally produced programming, and invite comment on this tentative conclusion.

20. To qualify for Class A status, the CBPA also provides that, during the 90 days preceding enactment of the statute, a station must have been in compliance with the Commission's requirements for LPTV stations. In addition, beginning on the date of its application for a Class A license and thereafter, a station must be in compliance with the Commission's operating rules for full-power stations. Consistent with this mandate, we intend to apply to Class A applicants and licensees all Part 73 rules, except for those which are inconsistent with the manner in which LPTV stations are authorized or the lower power at which these stations operate. Thus, for example, Class A stations must comply with the Part 73 requirements for informational and educational children's programming and the limits on commercialization during children's programming, the political programming rules, and the public inspection file rule. We intend to exempt Class A licensees only from Part 73 rules that clearly cannot apply, either due to technical differences in the operation of low-power and full-power stations, or for other reasons. For example, some Class A stations may not be able to comply with the requirement of Section 73.685(a) that stations provide a specified level of coverage to their community of license. We request comment on this provision and any other Part 73 requirements that, for technical or other reasons, either cannot apply to Class A stations or must be modified with respect to such stations. We also invite commenters to address whether the Commission should group the new Class A service under the Part 73 rules, governing full-service facilities, or the Part 74 rules, governing low-power stations.

21. *Alternative Eligibility Criteria.* Section (f)(2)(B) of the CBPA permits the Commission to establish alternative eligibility criteria for Class A designation if "the Commission determines that the public interest, convenience, and necessity would be served by treating the station as a qualifying low-power television station for purposes of this section, or for other reasons determined by the Commission."[39] We invite comment on the circumstances that might warrant a determination that a station that does not meet the eligibility criteria set forth in section (f)(2)(A) of the statute nonetheless should be considered qualified for Class A status. For example, under what circumstances should we permit stations that fall short with respect to one or more of the statutorily prescribed qualification criteria to nonetheless apply for a Class A license (*e.g.*, a station that has broadcast less than 18 hours/day or less than an average of 3 hours/week of programming produced in the market during the 90 days preceding enactment of the statute)? If so, how far may a station have deviated from these minimum requirements to still be considered eligible for Class A status? In addition, we invite comment on whether we should establish a different set of criteria for certain types of stations, such as foreign language stations or translators that have converted to low power status, that cannot meet the locally produced programming or other statutory eligibility criteria.

[39] 47 U.S.C. §336(f)(2)(B).

E. Common Ownership

22. Section (f)(3) of the CBPA provides that no LPTV station "authorized as of date of the enactment of the Community Broadcasters Protection Act of 1999 may be disqualified for a Class A license based on common ownership with any other medium of mass communication."[40] Thus, stations authorized as of November 29, 1999 may seek Class A status without regard to the station owner's interest in any other media entity. We request comment on the appropriate interpretation of this provision. Does the ownership exemption confer a right to convert only; that is, does it guarantee only that stations authorized as of November 29, 1999 may convert to Class A status regardless of other cross media interests held by the owner? In this regard, we note that Section (f)(3) states that stations authorized as of the date of the Act shall not be "disqualified for a Class A license;" that is, that such stations have the right to convert regardless of other media interests. Alternatively, does the exemption also confer a right to transfer the station regardless of the buyer's cross media interests? As the exemption applies to "stations" authorized as of November 29, 1999, conversions after transfer may be covered, but the statute is less clear as to transfers of stations already converted to Class A. Finally, does the exemption insulate an owner from application of the common ownership rules with respect to any new cross media interests acquired after conversion of the LPTV to Class A? We also request comment as to what, if any, ownership restrictions should apply to LPTV stations authorized after November 29, 1999 and seeking Class A status.[41] The statute and legislative history are silent on this point. Our inclination is to treat all LPTV stations seeking Class A status equally; thus, no LPTV station, regardless of when authorized, would be disqualified from Class A status based on common ownership with other media entities.[42] We invite comment on this tentative conclusion.

F. Issuance of DTV Licenses to TV Translator and LPTV Stations

23. The CBPA provides that the Commission is not required to issue an additional DTV license to a Class A station licensee or to a licensee of a TV translator,[43] but the Commission "shall accept a license application for such services proposing facilities that will not cause interference to the service area of any other broadcast facility applied for, protected, permitted, or authorized on the date of filing of the [DTV] application."[44] We seek comment on this provision and how to implement it. Does this provision

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[40] 47 U.S.C. § 336(f)(3).

[41] LPTV and TV translator stations are not subject to multiple ownership restrictions. *See* 47 C.F.R. § 74.732(b).

[42] As a practical matter, there may be few LPTV stations eligible for Class A status authorized after the date of enactment, unless we conclude that we will continue to permit LPTV stations to convert to Class A after the filing period established in the CBPA.

[43] TV translators rebroadcast the programs of full service TV stations. In most respects, translators are technically equivalent to LPTV stations and are licensed in the same manner. Currently, there are approximately 4,900 licensed TV translators, most operating in the western mountainous regions of the country. *Public Notice*, "Broadcast Station Totals as [of] September 30, 1999" (*rel.* November 22, 1999). Translators deliver free over-the-air television service, mostly to rural communities that cannot directly receive the nearest TV stations because of distance or intervening terrain obstructions. They also provide "fill-in" service to terrain-obstructed areas within a full service station's service area.

[44] 47 U.S.C. § 336(f)(4).

mean that the Commission does not need to identify a paired DTV channel for each Class A station or TV translator, but that the Commission should authorize a paired channel for DTV operation if the Class A or TV translator station licensee identifies and applies for an acceptable channel? We note that this interpretation might create an apparent inequity with respect to full service permittees and licensees that do not have a paired DTV channel because they received their initial station construction permit after the April 3, 1997 date used to define eligibility for the initial paired DTV licenses.

G. Interim Qualifications

24. *Stations Operating Between 698 and 806 Megahertz.* Section (f)(6)(A) of the Act provides that the Commission may not grant a Class A license to an LPTV station for operation between 698 and 806 megahertz (television broadcast channels 52 – 69).[45] Thus, only LPTV stations operating on channels in the core spectrum (television broadcast channels 2 through 51) are eligible for Class A status. That section also provides, however, that the Commission shall provide to LPTV stations assigned to and temporarily operating between 698 and 806 megahertz the opportunity to meet the qualification requirements for a Class A license. If a qualified Class A applicant is assigned a channel within the core spectrum, the statute further provides that the Commission shall issue a Class A license simultaneously with the assignment of the in-core channel. This provision does not address when a station operating outside the core channels becomes eligible for contour protection. We are inclined to provide protection to such stations only when the station is assigned a channel within the core spectrum and the Commission issues a Class A license. To provide interference protection before the station is assigned an in-core channel appears inconsistent with the Act's prohibition on awarding Class A status to stations outside the core. We request comment on this proposal. We also request comment on whether Class A status and contour protection should commence with the grant of a construction permit on the in-core channel or a license to cover construction.

25. *Channels Off-Limits.* The Act provides that the Commission may not grant a Class A license to an LPTV station operating on any of the 175 additional channel allotments referenced in paragraph 45 of the Commission's February 23, 1998 *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order* in MM Docket 87-268.[46] In that *Order*, the Commission expanded the DTV core spectrum to include all channels 2-51, and noted that this expansion would add approximately 175 additional channels for DTV stations and other new digital data services, many in top markets. The Act requires the Commission to identify the channel, location and applicable technical parameters of those 175 channels within 18 months. At this time, we note that these additional 175 DTV allotments will be part of the spectrum reclaimed at the end of the transition when existing stations end their dual channel analog TV/DTV operation and begin providing only DTV service on a single channel. Some stations will be continuing DTV operation on their DTV channel. Other stations will convert to DTV operation on their analog channel. In either case, the channel on which these stations discontinue operation may become available for other parties. The protection of these DTV allotments that will become available after the transition is effectively provided now because either analog TV or DTV stations are currently authorized and protected on these channels at these locations. We seek comment on our interpretation of this provision. Specifically, are other steps necessary to protect a particular set of

[45] 47 U.S.C. § 336(f)(6)(A).

[46] 47 U.S.C. § 336(f)(6)(B). *See Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order, In the Matter of Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service*, MM Docket No. 87-268, 13 FCC Rcd 7418 (1998).

175 additional DTV channel allotments and, if so, how should we go about identifying them? Alternatively, should we interpret the CBPA to prohibit the authorization of Class A service on TV channels 2-6, which were added to the permanent core spectrum in the DTV proceeding?

H. Class A Interference Protection Requirements

26. The Act provides that a Class A license or modification of license may not be granted where the station would cause interference to certain NTSC, DTV, LPTV, and TV translator stations and land mobile radio operations.

NTSC TV Protection.

27. *Operational Stations.* With respect to NTSC facilities, Section (f)(7)(A) the CBPA provides that a Class A license or modification of license may not be granted where the station will cause interference "within the predicted Grade B contour (as of the date of enactment of the ...[CBPA] ... or as proposed in a change application filed on or before such date) of any television station transmitting in analog format."[47] We invite comment on how to interpret the phrase "transmitting in analog format." We are inclined to include among the NTSC facilities that Class A stations must protect both stations actually transmitting in analog format and those which have been authorized to construct facilities capable of transmitting in analog format (*i.e.*, construction permits). Under this interpretation, pending applications for new NTSC full power stations would not be protected, nor would allotment proposals for such facilities, modified allotment proposals for channel or other technical changes, or the facilities in modification applications filed after November 29, 1999. We request comment on this tentative conclusion. In this regard, we note that the statute does explicitly protect LPTV and TV translator applications filed prior to the date on which a Class A application is filed.[48]

28. In September 1999, we held our first broadcast auction involving mutually exclusive applications for new NTSC stations. Under the deadlines established in the CBPA, applications for initial Class A licenses are due to be filed by late April 2000. It is unlikely all of these new NTSC stations will be authorized as of that date. In addition, there are still pending before the Commission applications and channel allotment rule making petitions involving channels 60 - 69 and requests for waiver of the 1987 TV filing freeze, which account for approximately 180 potential new NTSC stations. Some of these applications have been on file with the Commission for more than ten years. We note that these long pending applications are protected against new full service analog applications. They would not be protected against Class A service under this interpretation of the statute.

29. Consistent with the *September 22 Notice*, we propose that applicants for Class A stations should protect the NTSC Grade B contour in the manner given in Section 74.705 of the LPTV rules. LPTV stations have been engineered to protect the Grade B contour of full-service stations, and continuation of the current standards would be more appropriate than a new and different form of interference protection such as minimum distance separations between stations. We tentatively conclude that Class A applicants should be permitted to utilize all means for interference analysis afforded to LPTV stations in the DTV proceeding, including the Longley-Rice terrain-dependent propagation model. We invite comment on these proposals.

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[47] 47 U.S.C. § 336(f)(7)(A)(i).

[48] 47 U.S.C. § 336(f)(7)(B).

DTV Protection.

30. *Service Replication.* With respect to digital television, the statute provides that Class A applicants must protect the DTV service areas provided in the DTV Table of Allotments and the areas protected in the Commission's digital television regulations (47 C.F.R. 73.622(e) and (f)).[49] Thus, Class A stations may not interfere with DTV broadcasters' ability to replicate insofar as possible their NTSC service areas.[50] Although not addressed in the statute, we believe it would be appropriate for Class A applicants to determine noninterference to DTV in the same manner as applicants for full service NTSC facilities. In this manner, Class A facilities would not be permitted to increase the population receiving interference within a DTV broadcaster's replicated service area and any additional area associated with its DTV license or construction permit. We would not permit Class A stations to cause *de minimis* levels of interference to DTV service, other than a 0.5% rounding allowance.[51] Criteria for protecting DTV service are given in Sections 73.622 and 73.623 of our rules and in OET Bulletin 69.[52] We seek comment on these proposals.

31. *New DTV Service.* The CBPA also requires Class A applicants to protect the digital television service areas of stations subsequently granted by the Commission prior to the filing of a Class A application.[53] We interpret this provision not to apply to applications for initial Class A licenses that have filed acceptable certifications of eligibility, but rather to applications seeking to modify Class A facilities, such as power increases. Should we conclude that stations have an ongoing right to convert to Class A status, these Class A applicants would face the same requirement; that is, they would not be required to protect new DTV stations granted by the Commission after the Class A station has filed an acceptable certification of eligibility.[54] Section (f)(1)(D) of the Act, which requires the Commission to preserve the service areas of LPTV licensees upon certification of eligibility except in the case of

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[49] 47 U.S.C. § 336(f)(7)(A)(ii)(I), (II).

[50] Service areas to be replicated approximate the areas within the NTSC Grade B service contours. DTV channels and associated allotment powers and antenna heights were chosen to achieve service area replication insofar as possible. Allotment parameters are specified in Appendix B of the second DTV reconsideration order. *Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders* in MM Docket No. 87-268, 64 FR 4322 (1998).

[51] In the DTV proceeding, we permitted DTV stations in the initial allotment table to decrease by two percent the populations served by NTSC and other DTV stations, not to exceed a total reduction of more than ten percent. Unlike this DTV allowance, applicants seeking facilities modifications of full service NTSC stations may not cause any additional interference to DTV service, other than a 0.5% reduction in service population to account for rounding and calculation tolerances. *See Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order* in MM Docket No. 87-268, 13 FCC Rcd 7418 (1998).

[52] OET Bulletin 69, Longley-Rice Methodology for Evaluating TV Coverage and Interference (July 2, 1997), available at FCC Internet address http:\\www. fcc.gov\oet\info\documents\bulletins\#69. *See* also the Mass Media Bureau Public Notice "Additional Application Processing Guidelines for Digital Television (DTV)," August 10, 1998.

[53] 47 U.S.C. § 336(f)(7)(A)(ii)(III).

[54] The details of when these certifications would be filed remain to be resolved if the Commission concludes that stations will have an ongoing right to convert to Class A status.

"technical problems" in connection with DTV replication and maximization, does not include an exception to service area protection for new DTV service.[55] We believe that the exclusion of new DTV service in section (f)(1)(D) means that new DTV entrants must preserve the service areas of LPTV stations that have been granted a certification of eligibility. We invite comment on this interpretation. Class A applicants who have filed acceptable certifications of eligibility also would not be required to protect the DTV application and allotment proposals of new DTV entrants. We invite comment on these interpretations.

32. *DTV Maximization.* Finally, the statute provides that a Class A application for license or license modification may not be granted where the proposal would interfere with stations seeking to "maximize power" under the Commission's rules, if such station has complied with the notification requirements in section (f)(1)(D) of the statute. Section (f)(1)(D) requires that, to be protected against Class A applicants, DTV stations must file an application for maximization or a notice of intent to seek maximization by December 31, 1999, and file a bona fide application for maximization by May 1, 2000.[56] We seek comment on whether the term "maximize" in the statute refers only to situations in which stations seek power and/or antenna height greater than the allotted values. Alternatively, does "maximization" also refer to stations seeking to extend their service area beyond the NTSC replicated area by relocating their station from the allotted site?

33. The statutory language is ambiguous regarding the protection to be accorded by Class A applicants to DTV stations seeking to replicate or maximize power. Section (f)(1)(D), entitled "Resolution of Technical Problems," directs the Commission to preserve the service areas of LPTV licensees pending final resolution of a Class A application. That section further provides that if, after certification of eligibility for a Class A license, "technical problems arise requiring an engineering solution to a full-power station's allotted parameters or channel assignment in the digital television Table of Allotments, the Commission shall make such modifications as necessary (1) to ensure replication of the full-power digital television applicant's service area ...; and (ii) to permit maximization of a full-power digital television applicant's service area... "(if the applicant has complied with the notification and application requirements established by that section).[57] Although section(f)(1)(D) appears to tie replication and maximization to resolution of technical problems, section (7) appears to require all applicants for a Class A license or modification of license to demonstrate protection to stations seeking to replicate or maximize power, as long as the station seeking to maximize has complied with the notification and application requirements of (f)(1)(D), without reference to any need to resolve technical problems on the part of the DTV station. Despite the reference in section (f)(1)(D) to technical problems, we believe it would be more consistent with the statutory schemes both for Class A LPTV service and for digital full service broadcasting to require Class A applicants to protect all stations seeking to replicate or maximize DTV power, as provided in section (f)(7)(ii), regardless of the existence of "technical problems." Stations seeking to maximize must comply with the notification requirements in paragraph (f)(1)(D). This interpretation seems most consistent with the intent of Congress to protect the ability of DTV stations to replicate and maximize service areas. We invite commenters to address this proposed interpretation of the statute, and to suggest any alternative method of resolving the conflicting references

[55] 47 U.S.C. § 336(f)(1)(D).

[56] 47 U.S.C. §§ 336(f)(1)(D). The deadline for filing a notice of intent to maximize, December 31, 1999, has passed.

[57] 47 U.S.C. § 336(f)(1)(D).

to replication and maximization in sections (f)(1)(D) and (f)(7) of the statute.

34. Finally, we also seek comment on how the maximization rights in the statute can be applied to full power stations that maximize their DTV facilities but subsequently move their digital operations to their original analog channel after the transition. Some of these stations may not be in a position to file maximization applications on their analog channels by the deadline prescribed in the statute.[58] Can these stations preserve the right to maximize on their analog channels should they revert to those channels at the end of the transition? If so, how can the right to replicate the station's maximized DTV service area be preserved on the analog channel? As a corollary issue, we also seek comment on how the maximization allowance in the CBPA applies to full power stations for which the DTV channel allotment or both the NTSC and DTV channel allotments lie outside the DTV core spectrum (channels 2 - 51). Can these stations preserve their right to replicate their maximized DTV service area on a new in-core channel once that channel has been assigned?

35. *Allotment Adjustments.* As noted above, section (1)(D) of the CBPA directs the Commission to preserve the service areas of LPTV licensees, upon certification of eligibility, pending final resolution of a Class A application. However, that section also permits modifications to a full power station's allotted parameters or channel assignment in the DTV Table of Allotments, where made necessary by "technical problems" requiring an "engineering solution," to ensure both replication and maximization of the DTV service area.

36. We discussed in our *September 22 Notice* the issue of channel changes and adjustments to station facilities necessary to correct unforeseen technical problems among DTV stations. For example, it was necessary in some cases to make DTV Table allotments on adjacent channels at noncollocated antenna sites in the same markets, which raised concerns among broadcasters over possible adjacent channel interference.[59] In addition to changing some of those allotments, we stated that we would address these concerns by tightening the DTV emission mask and by 'allowing flexibility in our licensing process and for modification of individual allotments to encourage adjacent channel co-locations..."[60] We also provided broadcasters with flexibility to deal with allotment problems, for example, by permitting allotment exchanges in the same or adjacent markets. Section (1)(D) appears to give full power stations the flexibility to make these kinds of necessary adjustments to DTV allotment parameters, including channel changes, even after certification of an LPTV station's eligibility for Class A status.

37. The statute does not address certain questions regarding DTV allotment adjustments, some of which were posed in the *September 22 Notice.* Should a station requesting an adjustment to the DTV Table that would impinge upon the service area of a Class A station be required to show that the modification can *only* be made in this manner? If the modification requires displacement of the Class A station, should the affected Class A be permitted to exchange channels with the DTV station, provided it could meet interference protection requirements on the exchanged channel?

38. *Protection of LPTV and TV Translators.* The CBPA also requires Class A stations to protect previously authorized LPTV and low-power TV translator stations (license and/or construction permit), as

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[58] This issue was raised in a letter dated December 29, 1999 to H. John Morgan, Assistant Chief (Engineering), Video Services Division, from Jonathan D. Blake.

[59] *Memorandum Opinion and Order on Reconsideration of Sixth Report and Order, supra*, at ¶ 95.

[60] *Id.*

well as previously filed applications for these facilities. Specifically, section (f)(7)(B) of the statute provides that the Commission may not grant an application for a Class A license or modification of license unless the applicant shows that the Class A station will not cause interference within the protected contour of any LPTV or low-power TV translator station that was licensed, or for which a construction permit was issued, or for which a pending application was filed, prior to the date the Class A application was filed.[61] We propose, as we did in our *September 22 Notice*, to require that Class A stations protect the LPTV and TV translator protected contours on the basis of the standards given in Section 74.707 of the LPTV rules, *i.e.*, on the basis of compliance with certain desired-to-undesired signal strength ratios.

39. Section (f)(7)(C) of the CBPA provides that the Commission may not grant a Class A license or modification of license where the Class A station will cause interference within the protected contour 80 miles from the geographic center of the areas listed in section 22.625(b)(1) or 90.303 of the Commission's rules (47 C.F.R. §§ 22.625(b)(1), 90.303) for frequencies in the 470-512 megahertz band identified in sections 22.621 or 90.303 of our rules (47 C.F.R. §§ 22.621, 90.303), or in the 482-488 megahertz band in New York. This provision protects land mobile radio services which have been allocated the use of TV channels 14-20 in certain urban areas of the country, as well as Channel 16 in New York City metropolitan area. As we did in the *September 22 Notice*, we propose that these land mobile operations be protected by Class A applicants in the manner prescribed in Section 74.709 of the LPTV rules.

40. We seek comment on whether the requirement to protect channel 16 in the New York metropolitan area applies to low power television station WEBR-LP, licensed to K Licensee, Inc. for New York City. In 1995, the Commission adopted an Order granting a conditional waiver for public safety land mobile use of Channel 16 in New York City.[62] The waiver was granted for a period of at least five years or until any television broadcast licensee in the New York City metropolitan area initiated use of channel 16 for DTV operations, whichever is longer. The Order, at paragraph 16, stated that "the potential for adjacent channel interference to public safety operations on Channel 16 from LPTV operations on Channel 17 can be eliminated through engineering approaches and that Channel 16 can be utilized by public safety entities despite the close proximity of the LPTV operations."[63] The Commission concluded that "We therefore will specify in the grant of the Waiver Request that LPTV station W17BM [now WEBR-LP] has no responsibility to protect land mobile operations on adjacent TV Channel 16 other than from spurious emissions that exceed those permitted by our rules."[64] We note that we have no records of complaints of interference from Channel 17 to land mobile operations. In a Senate colloquy, Senator Burns, the prime sponsor of the Community Broadcasters Protection Act of 1999, stated his clarification of the meaning of section 5008(f)(7)(C)(ii)of the Bill with Senators Moynihan and Hatch. Senator Burns stated that this section was not intended to prevent LPTV station WEBR-LP (formerly W17BM) from qualifying for a Class A license, because the Commission waiver explicitly absolved WEBR-LP from any responsibility to protect the channel 16 land mobile operations other than from

[61] 47 U.S.C. § 336(f)(7)(B).

[62] *In the Matter of Waiver of Parts 2 and 90 of the Commission's Rules to Permit New York Metropolitan Area Public Safety Agencies to Use Frequencies at 482-488 MHz on a Conditional Basis.* 10 FCC Rcd 4466 (1995).

[63] 10 FCC Rcd at 4468.

[64] *Id.*

spurious emissions.[65] Senators Hatch and Moynihan concurred with Senator Burns in this regard.[66] In view of this colloquy, and the terms of the conditional grant, we are inclined to agree that station WEBR-LP is excepted from the requirement to show interference protection to use of channel 16 in the New York City metropolitan area. We seek comment in this regard.

41. We invite comment on the various Class A interference protection requirements. In particular, we ask whether, under the CBPA, we may distinguish for the purpose of interference protection requirements between applicants for initial Class A designation and applicants for new Class A technical facilities, for example, if we were to authorize new facilities by extending Class A filing opportunities to new entrants. We note that applications for initial designation will be filed by LPTV licensees who have already met the interference criteria to protect authorized full-service and other stations as a requirement for obtaining their licenses. Moreover, we propose that initial Class A applications may not include requests to modify these facilities.

I. Class A Applications

42. *Initial Class A Licenses.* We propose to grant initial Class A status to qualified LPTV stations as a modification of a station's license. The statute requires that we award Class A licenses within 30 days after receipt of acceptable applications.[67] Accordingly, to ensure that we grant Class A licenses in a timely manner, we propose that initial Class A applications be limited to the conversion of existing facilities to Class A status, with no accompanying changes in those facilities. In this manner, there should be no possibility of mutual exclusivity between Class A conversion applications. Licensed LPTV stations also holding construction permits to modify their facilities should file Class A applications to modify their licensed facilities. Station licensees must subsequently file Class A license applications to cover the modified facilities authorized in their construction permits, and must provide all required interference protection showings in these applications. We also propose that applications for Class A stations be accepted for filing on the basis of the "substantially complete" acceptance standard used for LPTV applications. Under this standard, applicants have an opportunity to correct deficiencies identified by the processing staff.

43. *Application Forms.* In the *September 22 Notice* we proposed that all Class A applications be filed on FCC Form 301, including all required exhibits. Because the initial Class A status will be awarded as a modification of license, we ask which license application form, full-service FCC Form 302 or LPTV Form 347, would be the most appropriate vehicle for this purpose. If the Class A service is incorporated under Part 73 of the rules, we propose that Class A facilities modification applications be filed on FCC Form 301. If it is placed under Part 74, we propose that Class A construction permit applications be filed on FCC Form 346. We propose to apply to Class A applications the electronic filing policies and procedures applicable to the services whose application forms are being used for Class A. Initial Class A applications will be filed in April 2000, and we envision that at that time Class A applicants will have the option to file paper applications if they so desire. We invite comment on these matters.

44. *Class A Facilities Changes.* In the *September 22 Notice*, we stated that the current LPTV

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65 Congressional Record – U.S. Senate at S14989, November 19, 1999.

66 *Id.*

67 47 U.S.C. § 336(f)(1)(C).

minor change definition may be too restrictive[68], and we sought a revised definition for Class A stations that would permit additional flexibility to change facilities outside of filing windows, while also assuring that these changes would not interfere with other services.[69] For the reasons given in that *Notice*, we propose to define Class A minor facilities modifications more in the manner of full-service TV stations. We propose to routinely grant Class A facilities changes that meet the current LPTV definition, but would permit other more expansive changes on a first-come first-served basis provided the proposed facilities would not conflict with previously authorized or proposed facilities. Under this approach, Class A stations could seek authorization for increased power, up to the limits of the service, outside of the window and auction procedures, provided their proposals met all interference protection requirements. This approach would be more consistent with the minor change provisions for full service radio and TV stations and we propose it for Class A stations.[70] Channel changes would continue to be major changes.

45. The statute appears to contemplate facilities changes to Class A stations in the future, and provides that the Commission shall not grant such applications unless they provide the same protection to existing analog television facilities and to DTV service areas that an existing LPTV station converting to Class A status must provide. *See* Section (f)(7). Among other things, this restriction requires that a modification to a Class A station protect the Grade B contour of an existing television station as that contour existed on November 29, 1999. If this provision alone were applied to Class A minor change applications as we have proposed to define them here, it would permit a Class A station to implement changes, such as substantial power increases, that do not protect the maximum facilities of full service stations allowed by the NTSC operating rules.

46. This approach was beneficial for LPTV stations because it allowed them to increase their facilities, yet had it no real adverse effect on full service stations because LPTV stations were all secondary. If a full service station were to subsequently seek to improve its facilities in a manner inconsistent with the upgraded LPTV station facilities, the LPTV station would have to yield if interference was caused to the reception of the full service station. Now that Class A LPTV stations have gained primary status, however, using "contour protection" as a basis for granting changes to their facilities could preclude a full service station from increasing its power or antenna height in the future. Moreover, if Class A stations may make preclusive changes based on protecting only the existing service of full service stations rather than their maximum facilities, it may not be appropriate to continue to insist that full service stations protect one another on the basis of maximum facilities. On the other hand, we recognize that, as a practical matter, the proximity of full service stations to DTV stations or allotments may permanently prevent them from increasing their facilities. In certain congested regions of the country many, if not most, NTSC stations may be constrained in this manner. Thus, under this approach, applicants for Class A facilities increases may be required to protect NTSC service areas that could not be achieved through authorized facilities, unnecessarily precluding them from increasing their facilities or making more difficult the location of replacement channels for displaced stations. We invite comment on

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68 The LPTV service rules define "minor" changes to be changes to existing facilities such as an antenna site relocation of less than 200 meters or, more generally, any changes (other than a channel change) that do not extend a station's protected signal contour in any direction. *See* 47 C.F.R. § 73.3572(a).

69 *September 22 Notice* at paras 54-57.

70 We recently altered the definitions of "major" and "minor" facilities changes for the AM, Noncommercial FM and FM translator services so that fewer changes are regarded as major. *See Report and Order* in MM Docket 98-93, 64 FR 19498 (1999). Most facilities modifications in the FM and TV services are now considered minor.

these issues and how we should address them. Should we require Class A stations to protect the maximum facilities of full service stations? If so, should we apply a reciprocal rule as well based on protection to the maximum facilities of Class A stations; i.e., based on the power limits in the LPTV service?[71] That is, should we oblige full service stations that seek to change their facilities to protect the maximum facilities of a Class A station considering that both stations have primary status? If we do require protection of the maximum facilities of Class A stations, what LPTV antenna height above average terrain should be used for this purpose?

47. Alternatively, should we simply adopt a "first come, first served" approach as between Class A and full service stations, as we proposed in the *September 22 Notice*, granting the modification application of whichever licensee files first? If we were to permit Class A modification applications that protect only the actual facilities of full service stations, should we permit full service stations an opportunity to file modification applications that could be mutually exclusive with the Class A application? Similarly, should we, despite our proposal that the Class A modification applications be considered minor, subject them to a petition to deny filing period?

48. We propose that the above provisions also be used for digital Class A stations. For example, the on-channel digital conversion of a Class A station would be filed as a minor change application. Facilities changes for analog or digital Class A stations not meeting the definition for minor changes would be subject to filing windows and the auction process. We invite comment on how we should define major and minor Class A TV facilities changes and on other ways to streamline the authorization of Class A TV service. If we were to adopt a more inclusive definition of minor facilities changes for Class A stations, we would be inclined to apply this definition to television translator and non Class A LPTV stations due to the technical and application processing similarities between the LPTV and proposed Class A services and to provide additional flexibility to these stations.

49. *Class A Channel Displacement Relief.* Through additional protections for Class A stations, we hope to reduce their risk of channel displacement or termination. However, it could be necessary for a Class A station to seek operations on a different channel, in order to avoid or eliminate an interference conflict. In that event, we propose that displaced Class A stations be permitted to apply for replacement channels on a first-come, first-served basis, not subject to mutually exclusive applications. We believe there is a need for displacement relief procedures for Class A stations, and we propose to adopt procedures similar to those used in the LPTV service, which have worked well over the years.[72] Class A stations causing or receiving interference with NTSC TV, DTV or any other service or predicted to cause prohibited interference would be entitled to apply for a channel change and/or other related facilities changes on a first-come first-served basis. Given the protected status of Class A stations and the significant facilities changes implicit in displacement applications, we propose that displacement applications filed by Class A licensees be treated as major changes, with the specific exception that such applications would be permitted to be filed at any time that displacement status could be demonstrated. Thus, like displacement applications by LPTV stations, Class A displacement applications would not have to be filed in a window. Applications of Class A stations would not be mutually exclusive unless filed on the same day. Mutually exclusive applications would be subject to the auction procedures.[73] We

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[72] 47 C.F.R. § 73.3572(a)(2).

[73] 47 U.S.C. § 309(j)(14)(C).

seek comment on these matters.

50. The Act provides a priority to LPTV stations that are displaced by the facilities proposed in Class A applications, and states that these LPTV stations "shall have priority over other low-power stations in the assignment of available channels."[74] We interpret this provision to mean that the channel displacement applications of LPTV stations displaced by Class A stations would have a higher priority than any other nondisplacement LPTV applications. In this regard, we note that in the LPTV service, displacement applications to avoid DTV interference conflicts are given priority over all other types of nondisplacement applications, regardless of when these were filed, and we propose to extend this policy to include LPTV stations displaced by Class A stations.[75] We seek comment on whether we should adopt a similar policy for prioritizing Class A facilities modification applications, and whether some or all of the LPTV displacement relief provisions should apply to Class A. Should there be a limitation on how far a station should be permitted to relocate its antenna site to avoid or eliminate an interference conflict or would some form of a minimum coverage requirement provide a natural limit on this distance?[76] Should we consider reasons for displacement other than electromagnetic interference, such an unavoidable loss of antenna site? The CBPA stipulates that we may not grant Class A facilities modification applications that do not protect against interference the facilities proposed in earlier filed LPTV and TV translator applications.[77] Thus, we apparently cannot grant a processing priority to a Class A displacement application over an earlier filed LPTV or TV translator application. If a Class A station and a non-Class A LPTV station file mutually exclusive displacement applications, should we favor the Class A application? In this regard, we believe there may be merit to awarding a priority to Class A stations in view of their Part 73 regulatory obligations. We invite comment on all of these issues.

J. Other Technical Issues

51. *Television Channels for Class A Stations.* The CBPA provides that Class A station licenses may not be granted to LPTV stations that operate between 698 to 806 MHz (TV channels 52-69). In the DTV proceeding, channels 2 -51 were established as the permanent "core" spectrum, permitting the recovery of channels 52 - 59 at the end of the DTV transition period. Accordingly, we propose to grant Class A status only to qualifying stations authorized on channels 2 - 51.

52. *Section 337 of the Communications Act and Channels 60 - 69.* The CBPA stipulates that its provisions do not preempt or otherwise affect Section 337 of the Communications Act.[78] Section 337 addresses two matters relevant to Class A television, the first of which involves the reallocation and licensing of TV channels 60-69. These channels are not available to Class A stations. Second, it contains

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[74] 47 U.S.C. § 336(f)(8).

[75] As a practical matter, we do expect many instances of LPTV station displacement by Class A stations because of the requirement that proposed Class A stations must show interference protection within the protected contours of LPTV stations licensed before the filing date of the Class A application.

[76] LPTV stations displaced by interference conflicts with analog TV service are permitted to relocate their sites within 16 kilometers; there is no relocation restriction to resolve DTV conflicts.

[77] 47 U.S.C. § 336(f)(7)(B).

[78] 47 U.S.C. § 336(f)(5).

certain provisions for LPTV stations already authorized to operate on TV channels 60-69. In the Balanced Budget Act of 1997 ("Budget Act"),[79] Congress required that the Commission "seek to assure" that a qualifying LPTV station authorized on a channel from channel 60 to channel 69 be assigned a channel below channel 60 to permit its continued operation.[80] In the DTV proceeding, we amended our rules to permit all LPTV stations on channels 60 to 69 to file displacement relief applications requesting a channel below channel 60, even where there is no predicted or actual interference conflict.[81] We have received more than 300 hundred applications from LPTV and TV translator stations operating on these channels. These applications have a higher priority than all other nondisplacement applications for LPTV and TV translators, regardless of when the applications were filed. Other LPTV and TV translator stations on channels 60 - 69 have so far not elected to file displacement applications, but may do so at any time provided they protect the proposed facilities of earlier-filed displacement applications. The Commission has not selected channels for qualifying LPTV stations; however, it has provided the opportunity for affected stations to seek channels below channel 60 on a priority basis. We invite comment on whether the actions we have taken in this regard meet the Congressional mandate and what, if any, further actions should be taken. Should we give special consideration to the processing of displacement applications from qualifying stations in the LPTV service seeking to vacate use of a channel above channel 59? Should these applications be given priority where they are mutually exclusive with other displacement applications that do not qualify under the terms of the Budget Act? The CPBA does not permit the authorization of Class A stations on channels 52-59, while Section 337 provides for these channels as replacement channels for LPTV stations on channels 60-69. We see no conflict between these provisions and believe that our proposals in this proceeding are consistent with both the CPBA and Section 337. We invite comments on these matters.

53. We recognize that this spectrum limitation could adversely affect stations above channel 51. LPTV and TV translator operators on channels 60 - 69 have a presumption of displacement and may seek replacement channels at any time without further qualification. However, station operators on channels 52 - 59 may seek displacement relief only where there is an actual or potential interference conflict, including a conflict with a DTV co-channel allotment. Nonetheless, these operators face displacement when channels 52 - 59 are reclaimed, and would be barred from becoming Class A stations if they could not secure a replacement channel below channel 52. Thus, we ask if the presumption of displacement should be extended to LPTV and TV translator stations authorized on these channels, giving these operators an immediate opportunity to seek replacement channels while such channels might still available. We recognize this could lead to additional competition for replacement channels, channels that may be needed now by LPTV and translator stations facing displacement. We invite comment on whether we should extend a presumption of channel displacement to LPTV and TV translator stations authorized for channels 52 - 59.

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[79] Pub. L. No. 105-33, 111 Stat. 251, §3004 (1997), adding new section number 337(e) to the Communications Act.

[80] Section 337(f)(2) of the Communications Act of 1934, as amended, establishes criteria for qualifying LPTV stations. The qualifications are: the station broadcast a minimum of 18 hours per day; the station broadcast an average of at least 3 hours per week of programming that was produced within the market area served by the station; and, the station was in compliance with the requirements applicable to low-power television stations.

[81] *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order*, *supra* at 7465-66.

54. *Power Levels*. We believe the current LPTV station power levels are sufficient to preserve existing service, and we believe that further increases could hinder the implementation of digital television and could limit the number of Class A stations that could be authorized. Although the CBA petition asked for higher power levels for Class A stations, our current belief is that any further power increases should await a fuller understanding of the coverage and interference potential of full service digital television stations.

55. *Coverage Requirements*. Another issue to be resolved is whether to require Class A stations to provide some requisite level of coverage over their community. In its amended petition, CBA proposed that a certain minimum field strength be placed over at least 75% of the community of license. Several commenters opposed this proposal, believing that coverage of population was more important than geographic area or that a certain percentage (75%) of a station's minimum field strength contour must be over the station's community of license. We question whether a minimum coverage requirement should be imposed on Class A stations. Such stations may not operate with sufficient power to serve large communities, and we have expressed reservations about increasing power limits for Class A stations beyond the current limits in the LPTV service. Those Class A stations that are intended to serve an entire community that is otherwise unserved or underserved would appear to have ample incentive to provide a requisite level of service to the residents of the whole of that community without a Commission requirement to do so. Other stations, by their very nature, might intend to serve only a narrow segment of their community. We also recognize that some LPTV stations do not place a contour over the community named on their license. We invite comment on whether we should impose a coverage requirement on these stations.

56. We seek comment on whether to require any certain signal level or other measure of Class A reception quality to any particular geographical area or population. Alternatively, if we do adopt a coverage requirement, should it be couched in terms of a certain proportion of the Class A station's signal contour having to be placed over at least some part of its community of license? This type of requirement would serve to maintain a connection between the Class A station and its community of license without requiring it to serve any requisite portion of that community. This would be particularly beneficial where the community of license is large and the Class A station is intended to serve only a part of it. We seek comment on this issue and on what portion of a Class A station's signal contour, if any, should have to be placed over some part of its community of license.

K. Remaining Issues

57. Three remaining issues should be addressed as discussed in the earlier NPRM. One issue concerns the format of call signs to be issued to Class A stations. As these stations are changing status from LPTV to Class A, should they continue to use the suffix "-LP," or should a different call sign scheme be used? Another issue is whether Class A transmitters should be certified (similar to the previous "type acceptance" requirement) or should the less stringent Part 73 "verification" requirement or some other criteria apply? We are inclined to apply the Part 73 verification requirement, but seek comment on whether the more stringent certification requirement should apply in view of the possibility that the transmitter could be used by a station that later chooses not to operate with Class A status. Finally, what class of fees should apply to Class A applicants? We believe it appropriate to classify Class A applications as minor modifications for fee purposes. How should Class A stations be considered for the purposes of regulatory fees assessed pursuant to Section 9 of the Communications Act of 1934, as

amended?[82] We seek comment and these and other issues.

IV. Conclusion

58. In this *Notice*, we propose regulations to establish a Class A television license for qualifying low power television stations in accordance with the Community Broadcasters Protection Act of 1999. The measure of primary Class A regulatory status afforded in the Act will provide stability and a brighter future to many LPTV stations that provide valuable local programming services in their communities, but without constraining the implementation of the digital television service. We seek comment on all of the issues raised.

V. Administrative Matters

59. *Comments and Reply Comments*. Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on or before February 10, 2000 and reply comments on or before February 20, 2000. We have established these relatively short comment periods due to the very short 120 day statutory deadline imposed by the CBPA. Moreover, in order to ensure that we meet the deadline imposed by Congress, we will not extend these comment deadlines. Given the existence of the statute and the relative narrowness of some of the issues raised in this *Notice*, we believe these deadlines will allow sufficient time for comment. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24,121 (1998).

60. Comments filed through ECFS can be sent as an electronic file via the Internet to http://www.fcc.gov/e-file/ecfs.html. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address." A sample form and directions will be sent in reply.

61. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W.; TW-A325, Washington, D.C. 20554.

62. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Wanda Hardy, Paralegal Specialist, 445 Twelfth Street, S.W., 2-C221, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using Word 97 or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the lead docket number in this case (MM Docket No. 00-10), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on

[82] 47 U.S.C. § 159.

the diskette. The label should also include the following phrase "Disk Copy – Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 445 Twelfth Street, S.W., CY-B402, Washington, D.C. 20554.

63. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 Twelfth Street, S.W., CY-A257, Washington, D.C. 20554. Persons with disabilities who need assistance in the FCC Reference Center may contact Bill Cline at (202) 418-0270, (202) 418-2555 TTY, or bcline@fcc.gov

64. *Ex Parte Rules.* This proceeding will be treated as a permit-but-disclose notice and comment rulemaking proceeding, subject to the "permit-but-disclose" requirements under section 1.1206(b) of the rules. 47 C.F.R. § 1.1206(b), as revised. *Ex parte* presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, *ex parte* or otherwise, are generally prohibited. Persons making oral *ex parte* presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. *See* 47 C.F.R. Sections 1.1202, 1.1203, and 1.1206(a).

65. *Initial Regulatory Flexibility Analysis.* With respect to this *Notice*, an Initial Regulatory Flexibility Analysis ("IRFA") in contained in Appendix A. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an IRFA of the expected impact on small entities of the proposals contained in this *Notice*. Written public comments are requested on the IRFA. In order to fulfill the mandate of the Contract with America Advancement Act of 1996 regarding the Final Regulatory Flexibility Analysis, we ask a number of questions in our IRFA regarding the prevalence of small business in the television broadcasting industry. Comments on the IRFA must be filed in accordance with the same filing deadlines as comments on the *Notice*, but they must have a distinct heading designating them as responses to the IRFA. The Reference Information Center, Consumer Information Bureau, will send a copy of this *Notice*, including the IRFA, to the Chief Counsel of Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. § 601 et seq. (1981), as amended.

66. *Initial Paperwork Reduction Act Analysis.* This *Notice* may contain either proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Pub. L. No. 104-13. Any new or modified information collections will be submitted to the Office of Management and Budget (OMB) for emergency clearance under Section 3507(j) of the PRA upon adoption of final rules in this proceeding.

67. *Additional Information.* For additional information on this proceeding, please contact Keith Larson, Office of the Bureau Chief, Mass Media Bureau, (202) 418-2600, or Kim Matthews, Policy and Rules Division, Mass Media Bureau, (202) 418-2154.

VI. Ordering Clauses

68. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 4(i), 303, 307, and 336(f) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303, 307, 336(f) this *Notice of Proposed Rule Making* is ADOPTED.

69. IT IS FURTHER ORDERED that the Commission's Reference Information Center,

Consumer Information Bureau, shall send a copy of this Notice, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with the Regulatory Flexibility Act.

70. IT IS FURTHER ORDERED that MM Docket No. 99-292, RM-9260 is terminated.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas

Magalie Roman Salas
Secretary

APPENDIX A

INITIAL REGULATORY FLEXIBILITY ANALYSIS

As required by the Regulatory Flexibility Act, *see* 5 U.S.C. § 603 ("RFA"), the Commission has prepared this Initial Regulatory Flexibility Analysis ("IRFA") of the possible economic impact on small entities by the policies and rules proposed in this *Notice of Proposed Rule Making* ("*Notice*"). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Notice. The Commission will send a copy of the Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. § 603(a). In addition, the Notice and the IRFA (or summaries thereof) will be published in the Federal Register. *See id.*

Need for, and Objectives of, the Proposed Rules

The Community Broadcasters Protection Act of 1999 ("CBPA") directed the Commission, within 120 days after the date of enactment, to prescribe regulations establishing a Class A television license available to licensees of qualifying low-power television ("LPTV") stations. The CBPA directs that Class A licensees be subject to the same license terms and renewal standards as full-power television licensees, and that Class A licensees be accorded primary status as a television broadcaster as long as the station continues to meet the requirements set forth in the statute for a qualifying low-power station. In addition to other matters, the CBPA sets out certain certification and application procedures for low-power television licensees seeking to obtain Class A status, prescribes the criteria low-power stations must meet to be eligible for a Class A license, and outlines the interference protection Class A applicants must provide to analog (or "NTSC"), digital ("DTV"), LPTV, and TV translator stations. We are adopting this *Notice* to initiate implementation of the Community Broadcasters Protection Act.

Legal Basis

This *Notice* is adopted pursuant to the Community Broadcasters Protection Act of 1999 and to sections 4(i), 303, 307, and 336(f) of the Communications Act of 1934, as amended, 47 U.S.C. § § 154(i), 303, 307, 336(f).

Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

The Regulatory Flexibility Act defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small business concern" under section 3 of the Small Business Act.[83] A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[84]

Small TV Broadcast Stations. The SBA defines small television broadcasting stations as television

[83] 5 U.S.C. § 601(3)(1980).

[84] 5 U.S.C. § 632.

broadcasting stations with $10.5 million or less in annual receipts.[85]

As directed by the CBPA, the *Notice* would establish a Class A television license available to licensees of qualifying LPTV stations. According to the Commission staff review of the BIA Publications, Inc., Master Access Television Analyzer Database, virtually all LPTV broadcast stations have revenues of less than $10.5 million. Currently, there are approximately 2,200 licensed LPTV stations.[86] We note, however, that under SBA's definition, revenues of affiliates that are not LPTV stations should be aggregated with the LPTV station revenues in determining whether a concern is small. Our estimate may thus overstate the number of small entities since the revenue figure on which it is based does not include or aggregate revenues from non-LPTV affiliated companies.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

As directed by the CBPA, the *Notice* would require LPTV stations seeking Class A status to file certifications of eligibility and applications to convert to Class A. In addition, as directed by the CBPA, Class A stations must comply with the operating requirements for full-service television broadcast stations, including the requirements for informational and educational children's programming and the limits on commercialization during children's programming, the political programming rules, and the public inspection file rule. These rules contain a number of recordkeeping requirements that will apply to Class A stations.

Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

The *Notice* solicits comment on a number of proposals that would limit the impact of the proposed rules on LPTV stations seeking to convert to Class A. For example, the *Notice* states that the Commission intends to except Class A licensees from Part 73 rules that clearly cannot apply, either due to technical differences in the operation of low-power and full-power stations, or for other reasons, and invites comment on which Part 73 requirements cannot apply to Class A or must be modified to apply to these stations. In addition, the Commission also seeks comment on the circumstances that might warrant considering for a Class A license stations that fall short with respect to one or more of the statutorily prescribed Class A qualification criteria.

Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

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85 13 C.F.R. § 121.201 (SIC Code 4833).

86 *Public Notice*, "Broadcast Station Totals as [of] September 30, 1999" (*rel.* November 22, 1999).