

FCC MAIL SECTION

Federal Communications Commission

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Before the

Federal Communications Commission

Washington, D.C. 20554

In the Matter of)
)
 Amendment of Parts 1, 21 and 74 to Enable) MM Docket No. 97-217
 Multipoint Distribution Service and)
 Instructional Television Fixed Service) File No. RM-9060
 Licensees to Engage in Fixed)
 Two-Way Transmissions)
)
 Request For Declaratory Ruling on the Use)
 of Digital Modulation by Multipoint)
 Distribution Service and Instructional)
 Television Fixed Service Stations)

ORDER ON REQUEST FOR STAY**Adopted: February 1, 2000****Released: February 3, 2000**

By the Commission:

1. On November 24, 1999, the Commission received a request for stay pending reconsideration of certain provisions of its decision in the matter of *Amendment of Parts 1, 21 and 74 to Enable Multipoint Distribution Service and Instructional Television Fixed Service Licensees to Engage in Fixed Two-Way Transmissions, Report and Order on Reconsideration*, 14 FCC Rcd 12,764 (1999) (*Reconsideration Order*). The stay request, filed by the same group of petitioners ("Petitioners") who filed the original request for rulemaking in the proceeding, asked that the Commission stay two provisions of the *Reconsideration Order*. The first provision concerns with the grandfathering of certain ITFS leases and the second concerns the interference protection afforded to certain low-power booster stations.

2. In the *Reconsideration Order*, the Commission was asked to grandfather two groups of ITFS leases: (1) those that would automatically extend from a ten to fifteen year term if the Commission adopted rules permitting such a term, and (2) those that were subject to automatic renewal. The Commission granted the reconsideration request with respect to the first group of leases, but denied it with respect to the second group because of concern that leases not complying with rules adopted in the proceeding could remain in effect in perpetuity. *Id.* The Commission has been asked to reconsider its decision and to grandfather the leases subject to automatic renewal because a significant number of those leases may be year-to-year leases with automatic renewal provisions having a total term of only ten years. Specifically, petitioners observe, the reasoning and equitable considerations applicable to the first set of leases are equally applicable to the second group of leases. However the *Reconsideration Order* requires parties to bring automatic renewal leases into compliance with the new rules fifteen days after the rules become effective. Thus, Petitioners have asked for a stay of this requirement pending the resolution of the grandfathering

issue to eliminate the need for negotiations that may later prove to be unnecessary. Given these circumstances, we will stay the new requirements until fifteen days following the effective date of the Commission's order resolving the motion for further reconsideration.

3. The second aspect of the stay request pertains to the protection to be afforded certain low power booster stations. This issue will be resolved in a further reconsideration order. That order should be issued well in advance of the opening of any window permitting the filing of MDS two-way applications pursuant to either the *Reconsideration Order* or the original order in this proceeding. Therefore, a stay is unnecessary on this issue.

4. Accordingly, IT IS ORDERED that the above-referenced petition for stay of the *Reconsideration Order* IS GRANTED IN PART AND DENIED IN PART, as described above.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Román Salas
Secretary