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FEDERAL COMMUNICATIONS COMMISSION OFFICE OF THE SECRETARY

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

In the Matter of)
)
Initial Filing Date for More Inclusive) MM Docket No. 00-10
Minor Change Applications)
for Class A, LPTV, and TV Translators)

To: Chief, Mass Media Bureau

CBA'S OPPOSITION TO MOTION FOR REVISION OF FILING DATE FOR CLASS A, LPTV, AND TV TRANSLATOR MINOR CHANGE APPLICATIONS

1. The Community Broadcasters Association ("CBA"), hereby opposes the "Motion for Revision of Filing Date for Class A, LPTV, and TV Translator Minor Change Applications" filed by Donald G. Everist on January 3, 2001.

2. The petition seeks a postponement of the effective date of an amendment to Section 73.3572(a)(2) and (3) of the Commission's Rules, changing the definition of "major" change for Class A, Low Power Television ("LPTV"), and TV Translator stations to exclude applications for facilities changes in existing stations that do not involve a change of frequency or a change of service contour so great as not to overlap with the authorized contour.^{1/} If the petition is granted, stations will continue to be barred from filing applications for power increases or qualifying transmitter site moves as minor changes other than during a major change filing window.

3. Many of the stations subject to the rule have waited for almost five years for an opportunity to file for power increases and site changes. There has not been a universal major

^{1/} The change was adopted in the Report and Order in MM Docket No. 00-10, 20 CR 154 (2000).

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change window since 1996. Subsequent windows have barred applications near the largest full power television markets and have excluded large segments of the nation. The effective date of the rule has already been postponed once, from October of 2000 until January of 2001. The wait has been long enough. There should be no further delay.

4. Prompt implementation of the rule is especially important because there has never been an opportunity for Class A, LPTV, and TV Translator stations to take advantage of the amendment of Section 74.735 of the Rules, to regulate power based on effective radiated power ("ERP") instead of transmitter power output ("TPO").^{2/} That rule change permits significant power increases by many stations. It was adopted some three and one-half years ago. The time is long overdue for the rule to be usable.

5. The petition is premised on the difficult properly preparing applications for minor changes in existing stations in light of the presence in the Commission's database of numerous entries that have a significant likelihood of not being entitled to protection, including in particular, Class A television, Low Power Television ("LPTV"), and TV Translator applications filed during the year 2000 window that are patently defective; applications for new analog full power television stations and rule making proposals to change the TV Table of Allotments filed in 1996 that request major market freeze waivers that may never be granted; and outright errors in the Commission's database. These problems are all real, and all artificially constrain the facilities for which stations may apply and raise the possibility of unintentional errors in preparing applications. However, in light of the high importance to so many stations of being able to file minor change power

^{2/} See *Sixth Report and Order in MM Docket No. 87-268*, 7 CR 994 (1997).

increase and site change applications, these reasons do not justify postponing the effective of the amendment to Section 73.3572.

6. It is important to note that the problems cited by Mr. Everist cannot likely be eliminated within a reasonable time. There were well over 4,000 applications filed in the year 2000 window for major changes and applications for new stations, and the Commission will not examine any them on their technical merits until after auctions have been held. It will likely be many months before all the applications are sorted and assembled into mutually exclusive groups, an opportunity is provided for engineering settlements, and then an auction is held. Also, it is should be noted that because applications near major television markets were excluded from the year 2000 window, there are substantial areas of the country where the pending window applications will not block applicants seeking facilities modifications.

7. There is no timetable for resolving the 1996 full power waiver requests, and many of them involve complex technical issues that may take a long time to resolve. Class A stations do not have to protect the vast majority of the 1996 full power filings. While LPTV applicants may not ignore the 1996 filings to the extent that those applications and petitions are ultimately granted, they may operate in conflict on a secondary basis while the applications and petitions remain pending. Some will elect to take that risk.

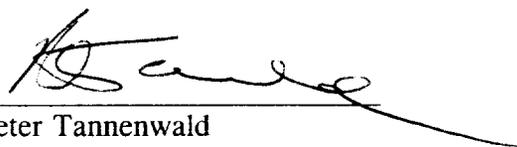
8. Finally, there will always be errors in the Commission's database. Correction and improvement of the database is a continuing process that everyone supports. While electronic application filing should improve the problem, perfection is a goal that is not likely ever to be 100% achieved. Improvements in existing stations cannot be held up in the meantime.

9. There are problems within the Class A, LPTV, and TV Translator industries that require remediation to improve the database as well. Many stations that have lost their transmitter sites or encountered other difficulties requiring an immediate remedy have been forced to obtain special temporary authorizations ("STAs") to operate at variance from their licenses because the old version of Section 75.3572 barred them from filing permanent modification applications. The existence of all these STAs in and of itself makes the database not reflect all actual operating conditions. It also puts many stations at risk of losing their facilities, since STAs are secondary to all regular authorizations of any kind. It is important to allow stations that are operating under STAs to regularize their status through permanent applications and to achieve whatever primary status they are entitled to have based on regular licensing.

10. CBA shares Mr. Everist's concerns with the frustration of preparing applications that are blocked but should not be and by the potential for errors in applications because of database errors. However, on balance, CBA believes that it is important to get things moving and to allow stations to take advantage of the flexibility arising from amendments to Sections 73.3572 and 74.735 -- especially the change in Section 74.735 that was adopted over three years ago but has never been actually available to stations until now.

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Respectfully submitted,



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January 10, 2001

CERTIFICATE OF SERVICE

I, Jennifer N. Reyes, do hereby certify that I have, this 10th day of January, 2001, caused copies of the foregoing "CBA's Opposition to Motion for Revision of Filing Date for Class A, LPTV, and TV Translator Minor Change Applications" to be sent to the following by the methods indicated:

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