

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

In the Matter of)
)
Amendment of Parts 73 and 74 of the)
Commission's Rules to Establish) MB Docket No. 03-185
Rules for Digital Low Power Television,)
Television Translator, and)
Television Booster Stations and to)
Amend Rules)
for Digital Class A Television Stations)

To: The Commission

COMMENTS

Submitted on behalf of
Sunbelt Television, Inc.
by
Vincent A Pepper, Esq.
Mark Blacknell, Esq.

Womble Carlyle Sandridge
& Rice, PLLC
Its Attorneys
1401 Eye Street, NW
Seventh Floor
Washington, DC 20005
(202) 857-4400

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COMMENTS

I. INTRODUCTION

1. In response to the Commission's August 6, 2003 released *Notice of Proposed Rule Making*,¹ Sunbelt Television, Inc., ("Sunbelt") licensee of television broadcast station KHIZ-TV, Barstow, California, submits its Comments on rules and issues related to digital television booster stations. Specifically, Sunbelt proposes that the Commission adopt rules allowing for the use of digital boosters to enhance service to both a station's licensed community and those outside of its protected signal contour. Furthermore, Sunbelt believes that the Commission, in adopting such rules, should give licensees the flexibility to deliver a good quality digital signal to its community of license via a digital TV booster, so long as it meets all of the interference requirements of the Commission and lies within the station's protected signal contour. Sunbelt believes that boosters can play a significant role in allowing stations to successfully make the transition to digital television. Through our proposal, we seek to secure rules which allow for

¹ MM Docket No. 03-185.

flexible and affordable means by which a licensee may provide digital service to as many communities as possible. In support thereof, the following is offered:

II. THE COMMISSION SHOULD PERMIT THE USE OF DIGITAL BOOSTERS TO ENHANCE AND EXTEND THE COVERAGE OF FULL SERVICE STATIONS.

2. Sunbelt, as licensee of a full service television station in a market that involves challenging terrain, appreciates the usefulness of TV booster stations. The regulatory provisions for television booster stations were originally adopted by the Commission in 1987² and have been developed as part of the LPTV service rules since that time.³ Analog TV booster stations are intended to provide fill-in service to areas within the predicted Grade B contours of full-service television stations on the same TV channel as that of the full-service station. Presently, television booster stations may not cause interference to, and must accept interference from, full-service television stations and certain land mobile radio operations.⁴

3. Sunbelt requests that the Commission now establish a digital booster class of station with service rules modeled on – but not replicating – the rules currently in place for analog boosters. In Sunbelt's own situation, digital boosters will prove useful in delivering its DTV signal to significantly-sized terrain-challenged portions of the KHIZ-DT service area. In fact, presuming rules equivalent to those in place for analog services, an on-channel booster may be the only means of providing service to the majority of viewers within KHIZ-DT's predicted 41 dBu contour.

² See *Amendment of Part 74 of the Commission's Rules Concerning FM Booster Stations and Television Booster Stations*, 2 FCC Rcd 4625 (1987).

³ 47 C.F.R. §§ 74.701 (i), 74.731 at subparagraphs (g) and (h) and 74.784 (d).

⁴ See, e.g., 47 C.F.R. §§ 74.703, 74.709, 90.303.

4. In adopting new booster rules, however, the Commission should not just mechanically adapt the existing analog rules to digital boosters, but take a hard look at the ultimate purpose of boosters. Sunbelt believes that the provision of maximum digital television service to viewers in a way that does not interfere with the signal of full-service stations should be the Commission's guiding principle. Under such an approach, and as outlined below, the Commission should adopt three specific proposals set forth below by Sunbelt. Such flexible digital booster rules will allow boosters to deliver programming to communities or areas located beyond the protected area of the full service station whose signal is being retransmitted.

A. Digital Boosters Should Be Permitted to Operate Within the Protected Signal Contour of a Full Service Station on a Primary Basis.

5. A licensee should be permitted to use digital boosters to augment the signal of its primary full service station within its own protected signal contour.⁵ The Commission has already seen fit to permit such operations in the analog service, and there are no technical or policy reasons as to why this should not be permitted in the digital service. Such operations are essential for broadcasters who operate in challenging markets where terrain blockage of the primary station signal is a significant impediment to the delivery of a good quality over the air signal to the areas within its protected signal contour.

B. Digital Boosters Should Be Permitted to Extend Beyond the Protected Signal Contour of its Full Service Television Station on a Primary First-Come-First-Serve Basis.

6. At present, full service analog television stations are generally not permitted to provide booster service that extends beyond their Grade B contours (which are roughly

⁵ See 47 C.F.R. §73.622(e)(defining the noise-limited signal contour of UHF and VHF stations).

equivalent in function to a DTV station's protected signal contour).⁶ As a result, viewers living outside of those Grade B contours – especially in terrain-blocked or rural areas – are forced to turn to cable or satellite service at substantial costs. Viewers that live beyond the protected signal contour of a full service digital television station should not be prevented from receiving a good quality signal by rules that are grounded in now-discredited anti-competitive policies that were intended to protect full-service stations from commercial competition.⁷

7. Specifically, Sunbelt proposes that a full service licensee be permitted to operate a digital booster in such a way that its protected signal contour overlaps with the full service digital station's protected signal contour. Such a booster should be required to meet all existing interference requirements – *e.g.*, it should not be permitted to interfere with the signal of other full service digital stations within those stations' protected signal contours. In the case of mutually exclusive booster applications, the Commission should adopt the same first in time, first in right approach that it has crafted for analog LPTV stations.

C. Digital Boosters Should Be Permitted to Operate Within the Protected Signal Contour of Another Full Service Television Station.

8. The Commission should adopt digital booster rules that recognize the reality of terrain-shielding in many markets. There are a number of instances in which viewers well within a protected signal contour of a full service station are not able to view that station due to massive terrain shielding of the station's signal. In many instances, the full service station involved may

⁶ See 47 C.F.R. § 74.731(j).

⁷ See *In the Matter of Inquiry into the Future Role of Low-Power Televisions Broadcasting and Television Translators in the National Telecommunications System*, 68 FCC 2d 1525, ¶ 17; see also Remarks of Michael K. Powell at the Association for Local Telecommunications Services, Crystal City, Virginia (As prepared for delivery), 2001 FCC LEXIS 6507, (November 30, 2001) (noting that “[c]ompetition is a critical objective of a robust public policy” while committing the Commission to quickly reacting and adjusting to the changing marketplace).

choose to serve those terrain-blocked viewers with a booster. In others, however, the station may decide that it does not want the expense of erecting a booster and those viewers will remain underserved.

9. Sunbelt proposes that such viewers have a better chance of service should the Commission adopt digital booster rules which allow an applicant to operate a booster station within the protected signal contour of a full service digital station so long as that booster meets all interference requirements.

10. The adoption of such rules would lead to the maximum provision of over the air digital service to viewers in all markets. This proposed use of digital boosters is a more efficient use of spectrum in areas of hilly or mountainous terrain than the authorization of multiple translators attempting to provide fill-in service. Since DTV broadcast stations are not actually servicing shadowed areas, other full service stations willing to bear the costs of a booster should be allowed to provide service in those areas. These booster rules would motivate full service television station licenses to improve the quality of service throughout their markets, and would bring additional service to presently underserved viewers in terrain-shielded and rural communities.

III. DIGITAL BOOSTERS SHOULD BE PERMITTED TO PROVIDE COVERAGE TO THE CITY OF LICENSE OF A FULL SERVICE STATION

A. Providing a Good Quality Signal to the Community of License Remains Paramount

11. The basis of the Commission's broadcast allocation model is the community of license and non-interference to other allocations. Every station that is licensed to a community – from the first aural service stations to today's digital television stations – has been obligated to provide a quality signal that covers its city of license. Respecting that paramount goal, Sunbelt now proposes that the Commission provide licenses with technological flexibility in meeting that goal.

B. Digital Booster Stations Within the 41 dBu Service Contour of the Primary Full Service Television Station Should Be Permitted to Deliver a Good Quality Signal to the City of License.

12. Sunbelt proposes that the Commission allow the licensee of a full service television station to provide the required good quality signal to the community of license with a digital booster, presuming both that: 1) the booster meets applicable interference requirements; and 2) the city of license remains within the protected signal contour of the licensee's main facility. Under such a rule, the city of license receives the exact same service that it receives under the Commission's current rules, and it is not likely that any viewers in the city of license would notice any change in service.

13. The flexibility that such rules would provide to the licensee, though, would be enormous. Licensees would be able to overcome many of the terrain-related obstacles in their markets, and provide maximum coverage to viewers in its market in an efficient manner. Licensees would have significantly more freedom in selecting tower sites for their main facilities, and could do so with an eye towards providing maximum service in their market. Communities

of license would benefit in that boosters are often more precise instruments than main facilities. Boosters could focus on providing the best service to the community of license, whose quality of service is often a function of the balancing between market coverage and community of license coverage that goes on when licensees select main facility sites under the current rules. Under Sunbelt's approach, the Commission would essentially free licensees to provide services to their communities of license and markets in the best way they see fit, so long as they meet the Commission's community coverage and interference requirements.

14. Such an approach is not a novel issue before the Commission. Siete Grande Television, Inc., the licensee of WSTE-TV in Ponce, Puerto Rico, operates four licensed booster stations under special authority from the Commission to serve its market, rather than one main facility supplemented by fill-in boosters.⁸ In the *Second DTV Periodic Review NPRM*, the Commission is considering a distributed "single frequency network" transmission technology.⁹ While this differs from the on-channel booster stations addressed in this proceeding, it recognizes the essential value of Sunbelt's proposal – technological flexibility for the licensee in delivering service to its community of license.

C. Modern Market Realities Require Permitting Such Flexibility in Serving the Community of License

15. The Commission has long viewed the Designated Market Area ("DMA") of a station as the natural financial market of a television station. Some stations, such as Sunbelt's

⁸ Citing the extraordinary terrain in WSTE-TV's service area, the Commission granted authority to operate with multiple transmitters. WSTE-TV's current four-site multi-transmitter booster facilities operate from Arecibo, Mayaguez, San Juan, and Ponce, Puerto Rico.

⁹ *Second DTV Periodic Review NPRM*, paragraphs 99-106. Distributed transmission systems involve the operation of multiple highly synchronized transmitters. In that proceeding, the Commission sought comment on a range of issues for distributed systems including regulatory status, location and service area, power, interference protection and other technical standards.

KHIZ, are licensed to communities that are far from the geographic center of the market, but nonetheless clearly part of it and subject to all of its competitive pressures. By permitting a station the flexibility to compete as effectively as possible in its DMA, the Commission will free stations to earn the revenues and resources required to provide competitive local service.

16. Sunbelt's station is not unique in its position, but its story is illustrative of the difficult situation in which many stations find themselves. Sunbelt is faced with paying Los Angeles DMA costs without the opportunity to earn Los Angeles DMA revenues because it cannot put a good quality signal over the majority of the Los Angeles viewing market. This prevents the station from competing fairly in its own market. Sunbelt pays the same for staff, talent, and programming as other Los Angeles DMA stations. Similarly, the station has to compete with other Los Angeles stations for advertising revenue. Yet when the advertisers look at the comparative coverage of stations in the market, the station is put at a distinct disadvantage by its inability to provide over the air coverage to the majority of the Los Angeles DMA. Should the Commission adopt Sunbelt's proposal, however, KHIZ-DT will be able to compete on equal footing with the other stations in the DMA.

17. By adopting flexible booster rules and allowing Sunbelt to provide service to its community of license with a booster while permitting its main facility to serve the majority of the viewing households in its DMA, the Commission would promote local broadcast service and foster diversity and competition in the Los Angeles DMA. Such flexibility would benefit not only Sunbelt, but many similarly situated licensees across the nation in other DMAs.

D. Sunbelt's Proposal Puts Over the Air Service Coverage on Par With Cable and Satellite Coverage in a Market

18. The Commission has already adopted a DMA-wide approach for television stations

when it comes to cable and satellite carriage. The Commission's rules implementing the must carry provisions of the Cable Television Consumer Protection and Competition Act of 1992 (the "Cable Act") provides for DMA-wide carriage of all full service stations on cable systems.¹⁰ Similarly, once a satellite provider offers local-into-local service in a DMA, it must carry all broadcast stations in the DMA.¹¹ As a result, all cable and satellite households in a DMA will have access to the station, but those households relying on over the air service may be denied service not only because of the vagaries of geography, but because of the Commission's insistence that the station signal for a community of license must come from the biggest antenna and transmitter that a station owns.

IV. CONCLUSION

19. Sunbelt urges the Commission to take a hard look at its existing rules, and work to provide licensees with as much flexibility as possible when it establishes the new service and technical rules for digital boosters. Adoption of Sunbelt's proposals will result in additional service to communities without undermining established interference protection rights. Sunbelt submits that the Commission can do so while respecting and strengthening its existing public interest goals of providing maximum service to the public. As such, Sunbelt seeks the Commission's adoption of its three specific proposals as part of a new permissive set of service rules for digital boosters.

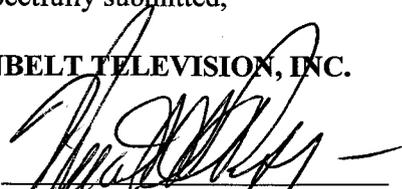
¹⁰ Section 614 of the 1992 Cable Act. Pub. L. No. 102-385, 1992 U.S.C.C.A.N. (106 Stat.) 1460.

¹¹ See 47 C.F.R. §76.66

Respectfully submitted,

SUNBELT TELEVISION, INC.

By:



Vincent A Pepper

Mark Blacknell

Womble Carlyle Sandridge
& Rice, PLLC
1401 Eye Street, NW
Seventh Floor
Washington, DC 20005
Its Attorneys
(202) 857-4400

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