

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

In the Matter of )  
 )  
Third Periodic Review of the ) MB Docket No. 07-91  
Commission’s Rules and Policies )  
Affecting the Conversion )  
To Digital Television )

To: Secretary, FCC

**COMMENTS**

Hawaii Public Television Foundation (“HPTF”), by its attorneys, provides these comments in response to the *Notice of Proposed Rulemaking* in the referenced docket, FCC 07-91 (released May 18, 2007) (“*NPRM*”).

HPTF applauds the FCC’s determination to have a strong DTV system in place across the country on the February 17, 2009 digital transition deadline, and it fully supports that goal. However, HPTF has determined that its DTV facilities specified in Appendix B to the “Final” DTV Table of Allotments are inaccurate. Thus, HPTF strongly urges the FCC to exercise its discretion under the law establishing the transition deadline to provide substantially more flexibility to stations regarding the process and timing of their achieving their “ultimate” or “final” DTV transmission facilities and retiring analog facilities.

Specifically for HPTF, the Final DTV Table parameters in the just-released *Seventh Report and Order and Eighth Further Notice of Proposed Rulemaking* in MM Docket No. 87-268 (“*Seventh Report and Order*”) are incorrect for HPTF’s two DTV stations, KHET-DT and

KMEB-DT. The FCC needs to determine a method to resolve these discrepancies in a way that allows the DTV Transition to flow smoothly.

## **BACKGROUND**

HPTF is a non-profit 501(c)(3) organization and the licensee of noncommercial educational stations KHET-TV/KHET-DT, Honolulu, Hawaii (sited on Oahu) and KMEB-TV/KMEB-DT in Wailuku, Hawaii (sited on Maui), plus an entire TV translator system that provides service to other islands and areas in the state. KHET-TV/DT is the network hub station, while KMEB-TV/DT is a satellite/repeater. HPTF is the PBS member station for Hawaii, broadcasting a wide variety of high-quality news, public affairs, informational, educational and entertainment programming, including children's programming, to the islands of Hawaii.

**KHET-DT.** KHET-TV was allotted Channel 18 as its pre-transition digital channel, and KHET-DT is currently licensed and operating on Channel 18. See FCC File No. BLEDT-20060516ACN. However, HPTF has long planned to return to Channel 11 for KHET-TV's post-transition operations. In reviewing Appendix B to the Final DTV Table, HPTF has determined that the antenna pattern for KHET-DT is incorrect – the Table specifies the same antenna pattern as the Channel 18 “interim” UHF facility, but HPTF will be using a “Final” VHF antenna that has a different pattern. The FCC needs to allow for and accommodate this change in antenna patterns, and adopt a simple process to allow such changes to the Final DTV Table.

For KHET-DT, HPTF must -- at the very least -- reduce its analog power in order to complete construction of its post-transition facilities for KHET-DT. At this stage in the transition, it makes no sense to force stations to continue full (or any) analog operations. In this case, HPTF's plans require repurposing a portion of the existing analog transmitter for its DTV transmitter. (In order to obtain its licensed analog ERP, HPTF had been operating two (2) power

amplifiers for KHET-TV.) Analog operation at half-power is required so that HPTF can remove one set of analog power amplifiers and install it with a newly purchased digital control cabinet. Moreover, HPTV will also need to purchase and arrange installation of a new antenna and new transmission line for post-transition operations for KHET-TV.

The DTV transition for KHET-DT will also impact the entire translator system across the Hawaiian Islands and needs to be carefully coordinated in a way that minimizes disruption to the public, lest there be a widespread loss of translator service.

**KMEB-DT.** KMEB-TV is a satellite/repeater station and HPTF has long planned to “flash cut” to DTV facilities at (or near) the analog giveback date on its analog channel 10. For the reasons explained below, however, all of the DTV Table information in Appendix B of the Seventh Report and Order for KMEB-DT is incorrect and must be changed. HPTF cannot build out the “final” DTV facilities in Appendix B – it is simply not possible. The FCC must allow HPTF to build out appropriate facilities, then accommodate the required changes in the Final DTV Table.

As HPTF has informed the Commission in filings related to KMEB’s DTV conversion, circumstances beyond HPFT’s control have repeatedly complicated its current and future transmitter site considerations for this KMEB(TV/DT) facility. Notably, HPTF has been working since 1997 to solve the problem of locating an appropriate transmitter site for KMEB-DT following a ruling by the Hawaii State Department of Land and Natural Resources which prohibited the construction of any DTV facilities at the current location of KMEB-TV’s analog tower, on the island of Maui near the summit of Haleakala.

As a result, HPTF and certain other local broadcasters similarly affected by the Department of Land and Natural Resources’ ruling formed an LLC for the purposes of

developing shared tower locations. Over the course of the last several years, HPTF and its fellow broadcasters involved in the tower relocation project have been engaged in protracted battles with local governments and activist groups over the selection of a new tower site. The tower LLC group has, however, managed to locate an acceptable site at Ulupakalua Ranch, and is working towards construction of the new tower.

HPTF, and all of the other co-located broadcasters, are now being forced off of their current tower location, which is presently home to KMEB(TV)'s analog facility. The University of Hawaii, which owns the site, has determined to make use of the current tower location for scientific research and related purposes, including the University Institute of Astronomy's Haleakala High Altitude Observatory Site. In addition, the U.S. Department of Defense, whose Air Force Research Laboratory is located nearby the current analog tower site, has informed the broadcasters that their use of the location causes interference due to the radiofrequency generated by the television and radio stations.

As a result of the loss of the site, KMEB(TV) and the other broadcasters must relocate from the current mountaintop site to the location proposed in its pending application in BPET-20070321AAE: the Ulupakalua Ranch site, which is 12.2 km away, but at an elevation of some 6,000 feet lower. At the new site, a transmitter power output of 6 kW at a HAAT of 747 meters will result in a KMEB(TV) ERP of 50 kW – such a facility will come in well below the maximum facility ERP of 224 kW, but will include a minor Grade B contour extension over some land area of the islands of Molokai and Hawaii (the “Big” Island.)

In sum, HPTF is being forced from its current leased tower site due to circumstances beyond its control (including University land-use decisions and U.S. Department of Defense considerations); those circumstances require relocation of KMEB's current analog (and future

DTV flash cut) facilities to a new site; and the move necessitates a modification application, in which technical considerations require a slight extension of the existing analog contour in order to maintain as much of KMEB(TV)'s current service to the public as possible. These facilities, as specified in the pending application for KMEB-TV, should be specified in the Final DTV Table, and the FCC should permit that update to the Final DTV Table.

Thus, HPTF needs maximum flexibility from the FCC in terms of allowing reasonable changes from what is specified in the DTV Table, permitting reasonable updates/changes to the DTV Table of Allotments, and allowing stations to decide – on their own – what makes most sense in terms of buildouts and timing for post-transition DTV operations.

## COMMENTS

### **I. The FCC should be flexible in the process for and timing of construction of final DTV facilities, and accommodating of Stations facing complications.**

HPTF strongly urges the FCC to exercise its discretion under the law establishing the February 17, 2009 digital transition deadline by providing substantial flexibility to stations regarding the process for and timing of their achieving their “ultimate” or “final” DTV transmission facilities. In the case of KHET-DT, the licensee intends to move its DTV operations from Channel \*18 to Channel \*11 on the February 17, 2009 deadline established by the Digital Television and Public Safety Act of 2005, Title III of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4 (2006). In the case of KMEB-DT, the licensee intends to arrange the “flashcut” conversion to coincide – to the extent feasible – with the February 17, 2009 deadline. The licensee needs the flexibility to best “time” the “flash-cut” with its forced relocation.

Thus, the licensee urges the FCC to be as flexible as the law allows, focusing on identifying and addressing ways to facilitate a smooth transition in February of 2009, and

facilitating each station's own path and timing in achieving its final DTV facilities, including, as appropriate, the opportunity to transition to DTV facilities prior to or after the deadline.

**II. The FCC should permit Stations to continue to operate current DTV facilities past the transition deadline where appropriate, or to reduce or cease analog operations earlier, in order to facilitate the transition with the least possible disruption.**

The licensee also urges the FCC to show flexibility by permitting stations to reduce or cease analog operations early or to continue to operate their currently constructed and licensed DTV facilities through the end of transition and beyond for a limited period, where such operation will not cause interference to other stations. As of this point, HPTF contemplates that it will want to turn off its interim digital facilities for KHET-DT and transmit on its "final" DTV facilities for both KHET-DT and KMEB-DT to coincide with the February 17, 2009 statutory deadline. However, depending on the outcome of this proceeding or other market factors (including its ability to permanently reduce its analog power, as discussed above), HPTF may well change its mind and want or need to be able to transmit on its digital facilities for KHET-DT on Channel \*18 after the transition deadline -- until the Channel 11 facilities are complete -- so as to permit a smooth transition for viewers converting from analog to digital receivers. Thus, the FCC should allow some period of time after the transition deadline for stations returning to analog channels to come up on the former analog channel. If HPTF decides to go that route, the FCC should permit the continued operation of KHET-DT on its interim Channel \*18, during that post-transition period, so long as no interference is caused to other stations.

**III. The FCC should permit Stations to decide how best to time analog power reductions or cessation, to facilitate the transition with the least possible disruption.**

As explained above, HPTF must reduce and cease its analog power operations in order to complete construction of its post-transition DTV facilities on KHET-DT. Moreover, the KMEB-

DT “flash-cut” may encounter further problems due to its forced relocation. The FCC should accord stations the maximum flexibility to decide when and how best to reduce or cease analog operations – based on what is best for that particular station in its particular market -- in order to be able to move toward post-transition facilities. In HPTF’s situation, as a purely technical matter, permanent reduction of analog service for KHET-DT and permanent cessation of analog service for KMEB-DT is necessary before HPTF can install and operate post-transition DTV facilities. HPTF should be permitted to reduce or terminate its analog operations, as it sees fit, based on what makes most sense in its situation. Thus, stations should have flexibility in order to permanently reduce or cease analog operations in anticipate of post-transition DTV operations.

**IV. The FCC should allow reasonable updates/changes to the Final DTV Table**

Given HPTF’s situation, described above, the FCC should permit reasonable updates or changes to the DTV Final Table, so that it accurately reflects station’s DTV facilities. Alternatively, the FCC should permit stations to build out final DTV facilities that differ from the Table, without undue oversight or complications. Circumstances change, and to permit an orderly transition (and to avoid unnecessary loss of service), the FCC should acknowledge and permit such changes.

**CONCLUSION**

HPTF urges the FCC to adopt flexible rules consistent with the comments above.

Respectfully submitted,

**HAWAII PUBLIC TELEVISION  
FOUNDATION**

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