

**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: The Commission

**Comments of Southern Broadcast
Corporation of Sarasota**

Southern Broadcast Corporation of Sarasota ("SBC") submits these comments in response to the Notice of Proposed Rulemaking¹ initiating this proceeding. SBC, through its subsidiaries, controls the licenses of three television stations, two of which will be required to apply for and construct new DTV facilities to operate post-transition. It has already constructed pre-transition DTV facilities for these two stations, which are presently operating in conjunction with the stations' analog facilities.

SBC is committed to constructing its stations' final post-transition facilities as expeditiously as practical, but it is dismayed by the Notice's apparent lack of appreciation for the difficulties involved in constructing a station's third television transmitting facility, at the same time the station is operating an analog facility and a pre-transition digital facility.

The Notice describes a punitive regulatory framework that, at times, seems more intent on punishing broadcasters than on removing regulatory roadblocks to the construction of final post-transition DTV stations. There simply is no need for punitive measures to ensure that television broadcasters are operating digital television facilities on February 18, 2009. The

¹ Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, FCC 07-70, released May 18, 2007 (the "Notice").

requirement that analog television transmissions cease provides ample incentive for all television broadcasters to construct and operate post-transition digital facilities. Without post-transition digital facilities in place and operating, television stations will be out of business on February 18, 2009.

The majority of television broadcasters have built the final DTV facilities they will operate post-DTV transition. However, because of the vagaries of the DTV channel allotment process, there remain 634 stations which must move their DTV operations either to their current NTSC channel or an entirely new channel for operation post-transition.² These stations have already built and operated a pre-transition DTV facility. Yet the FCC's processes now require that these 634 stations construct a second DTV facility, under a regulatory system that may not adequately provide for the real world problems inherent in building television stations.

SBC had hoped that the government would seek to lessen the additional burden placed on the 634 television stations required to build a second DTV facility for post-transition broadcasting, but that is not always the case in the Notice's proposals. Unlike the other DTV licensees who were given several years to construct their post-transition DTV facilities, these unfortunate 634 stations will be given approximately sixteen months to apply for and construct final post-transition DTV facilities. Unlike the fortunate majority of DTV licensees, whose post-transition stations are constructed, the 634 stations building second DTV facilities will not be permitted to extend their construction permits because of the unavailability of equipment or for financial difficulties short of bankruptcy or a "failed station". Indeed, the Notice proposes to apply construction permit "tolling" standards to requests to extend DTV construction permits beyond February 18, 2009. These tolling standards, however, were developed for use with the

² According to the Notice, 517 stations must build DTV operations on their existing NTSC channel and 117 stations must build DTV operations on entirely new channels. See Notice at para 17.

conventional three-year construction period that is applied to all other broadcast construction permits. Today, DTV construction permits are issued with far shorter construction periods and application of tolling standards is wholly inappropriate in the DTV context.

Serious obstacles must be overcome to construct 634 new DTV facilities in time to meet the February 18, 2009 DTV transition date. The FCC needs to focus on providing genuine flexibility in addressing the difficulties in making these stations operational. First, it should recognize that there are significant problems with tower capacity and top mounted analog antennas that will prevent many stations from simultaneously constructing their second DTV station's final facilities, while continuing present analog and DTV operations. Serious problems also exist in finding space/power/air conditioning for a third TV transmission facility within existing transmitter buildings. Some stations will not be able to test their post-transition DTV facilities prior to February 18, 2009, because of potential interference to operating stations. All these obstacles are extremely difficult to overcome and threaten to delay construction of full, final post-transition DTV facilities beyond February 18, 2009.

What is needed from the FCC, particularly for the 117 television stations which must construct their second DTV facilities on an entirely new channel, is a flexible administrative policy that will allow licensees to work around construction problems, as they arise. This will likely require early termination of some analog or out-of-core digital operations to facilitate construction of post-transition digital facilities. In some instances this could require the FCC to authorize construction of an interim digital facility, because tower and transmitter building configurations needed to maintain pre-transition digital and analog operations prevent construction of final DTV facilities.

By way of illustration, SBC is faced with the problem of constructing post-transition facilities for WWSB-DT on a new DTV allotment (Ch 24) that differs from its analog channel (Ch 40) and its pre-transition DTV channel (Ch 52). WWSB's tower is at or near full capacity and cannot accommodate a third television antenna. Further, the WWSB analog antenna is top mounted on the tower. This antenna is not capable of operating on the post-transition DTV channel. So the analog antenna must be removed to construct final post-transition DTV facilities.

The WWSB transmitter building presently houses the station's channel 40 analog transmitter and its channel 52 digital transmitter. There is no room in the building for a third full power television transmitter. Further, one of the two existing transmitters has to be changed out to build WWSB's post-transition DTV facilities.

WWSB is fortunate in that it uses fiber links to distribute its signal to cable headends. So shutting down the analog station will not prevent cable distribution of the station's signal.

SBC envisions that, in order to operate with post-transition DTV facilities on February 18, 2009, it must:

- (a) Remove the top-mounted channel 40 antenna and replace it with a channel 24 antenna.
- (b) Remove the channel 40 analog transmitter; reconfigure the transmitter to operate digitally on channel 24; and install the channel 24 transmitter.

SBC's engineers estimate that construction of the WWSB DTV facilities can be completed approximately one month after analog transmissions cease. So analog station WWSB must go off the air by January 17, 2009 if post-transition WWSB-DT is to be operational on February 17, 2009.

The analog station may have to cease operation even earlier, depending on the availability of the equipment and tower crews necessary to complete the DTV construction tasks.

The Notice discusses possible procedures for permitting stations to cease analog or out-of-core digital operations under certain limited circumstances. In SBC's view the time for limiting regulatory relief to stations constructing DTV facilities is past. If the Commission is serious about meeting its stated objective of constructing final post-transition DTV facilities by February 17, 2009, it must commit to doing everything in its power to clear roadblocks to DTV station construction, including requirements that stations continue analog or pre-transition DTV operations.

SBC submits there are only three questions relevant to granting regulatory relief to broadcasters constructing new DTV facilities for post-transition operation. First, what are the actual obstacles to prompt construction of the proposed DTV facility? Second, what is the regulatory relief requested? Third, is the requested regulatory relief reasonably calculated to overcome the actual obstacles to construction and hasten implementation of maximum post-transition DTV service? SBC believes that every serious request for regulatory relief to construct post-transition DTV facilities can and should be granted using these criteria.

To speed needed relief to broadcasters constructing new post-transition DTV facilities, SBC proposes that the FCC permit requests for relief to be filed electronically in the form of requests for special temporary authority. The Commission should permit its staff to grant these requests telephonically or by e-mail, with confirmation of staff action consisting of entries in the stations' CDBS records.

The Commission is requiring broadcasters to do everything within their power to construct final post-transition DTV facilities by post-transition DTV facilities by February 17,

2009. Certainly the public should expect the same commitment from the FCC. It is time for broadcasters and the FCC to pull together and do whatever it takes to reach the goal of achieving maximum post-transition DTV service on February 18, 2009. To this end, the Commission should adopt standards and procedures that give broadcasters and FCC staff maximum flexibility to address DTV construction problems expeditiously as they arise.

Respectfully submitted,

A handwritten signature in black ink, reading "Joseph A. Belisle". The signature is written in a cursive style with a large, prominent initial "J".

Joseph A. Belisle
Counsel for
Southern Broadcast Corporation of Sarasota

Leibowitz & Associates, P.A.
One SE Third Avenue
Suite 1450
Miami, FL 33131-1715
(305) 530-1322
jabelisle@broadlaw.com