

**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
For: The Commission

COMMENTS OF GRIFFIN COMMUNICATIONS, L.L.C.

Griffin Communications, L.L.C. ("Griffin"), the licensee, through separate subsidiaries, of television stations KWTV(TV), Oklahoma City, Oklahoma ("KWTV"), KOTV(TV), Tulsa, Oklahoma ("KOTV"), and KQCW(TV), Muskogee, Oklahoma ("KQCW"), hereby respectfully submits its comments, through counsel, in response to the May 18, 2007 *Notice of Proposed Rulemaking* ("Notice") in the Third Periodic Digital Television ("DTV") Review proceeding.¹ Griffin welcomes the opportunity to inform the Commission of the challenges presented to stations in their sincere effort to meet the February 17, 2009 DTV transition deadline. Griffin is making substantial efforts, at significant expense, to meet the transition, and readying the final steps to complete the transition. However, Griffin will need flexible regulatory treatment by the Commission, as discussed below, to complete the transition.

¹ *Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, Notice of Proposed Rulemaking, MB Docket No. 07-91, FCC 07-70 (rel. May 18, 2007).

I The Commission Should Lift the Filing Freeze, or Alternatively Adopt a More Flexible Waiver Policy as the End of the Transition Approaches

As an initial matter, Griffin is troubled by the *Notice's* lack of any discussion concerning the ongoing filing freeze and its termination. The freeze has been in place since August 3, 2004² and it has prevented many stations from making necessary modifications to their facilities. In particular, Griffin desires to collocate the facilities of KOTV and KQCW which requires a move of the KQCW facilities to the current KOTV tower site at Oneta, Oklahoma. However, Griffin has been prevented from doing so owing to the filing freeze.³

The Commission's stated reasons for the continuing freeze, i.e., facilitating the DTV channel election process and maintaining a stable database while a new DTV Table was being developed, have been eliminated given that all stations have elected a post-transition channel and the Commission has now issued the final DTV Table.⁴ Therefore, Griffin urges the Commission to lift the filing freeze upon the effective date of an Order adopted in this proceeding.

If the Commission declines to lift the freeze prior to the end of the DTV transition, Griffin encourages the Commission, at a minimum, to adopt a flexible waiver policy as the end of the DTV transition rapidly approaches. Griffin submits that under a flexible waiver policy,

² See *Freeze on the Filing of Certain TV and DTV Requests for Allotment or Service Area Changes*, Public Notice, 19 FCC Rcd 14810 (MB 2004).

³ If Griffin is precluded by the freeze from filing a modification to collocate KQCW at Oneta, Griffin may have to build out the KQCW digital facilities twice — once at the current KQCW site and again at the Oneta site. Obviously, this would entail unnecessary expense.

⁴ *Advanced Television Systems and their Impact Upon the Existing Television Broadcast Service*, Seventh Report and Order and Eighth Further Notice of Proposed Rule Making, MB Docket No. 87-268, FCC 07-138, ¶¶ 7, 90, App. B (rel. Aug. 6, 2007) (“*DTV Table Order*”). The *DTV Table Order* briefly discusses the freeze, but does not address the fundamental problems that Griffin and others are facing. In addition, Griffin believes that the *Notice* is the more appropriate proceeding in which to discuss a termination of the freeze.

waivers should be issued if: 1) the proposal would cause no more than 0.5% interference⁵ to other operating DTV stations;⁶ and 2) the proposal would result in a net increase in the number of DTV viewers to be served.

Griffin's consulting engineer has confirmed that collocating the KOTV/KQCW facilities at the Oneta site would meet these waiver criteria. In addition, the Commission has previously determined that the collocation of facilities is a useful means of speeding the DTV conversion and should be encouraged.⁷ Accordingly, Griffin urges the Commission to adopt flexible policies to allow collocation of the KOTV/KQCW facilities prior to the end of the DTV transition.

II. Additional Flexibility Is Needed to Complete the DTV Transition

KWTV is a Category 2 station because it intends to return to its analog channel.⁸ KOTV is a Category 3 station because it has been assigned a completely different channel than its currently assigned digital and analog channels.⁹ KQCW is a Category 4 singleton station because it was not assigned a paired DTV channel. All three stations face many challenges involving antenna replacements, transmitter replacements and power adjustments, as explained below.

⁵ Griffin supports the Commission's proposal to adopt a 0.5% interference criteria post-transition. *Notice* ¶ 104. This level of interference allowance is consistent with the criteria currently used to measure LPTV/TV translator interference, and it is rational to allow a "rounding down" to zero.

⁶ Griffin suggests that the 0.5% standard should only be applied to operating DTV facilities prior to February 17, 2009, and not to protected maximized facilities, due to the temporary nature of the maximization protection. Thus, a station could cause more than 0.5% interference to a station's theoretical maximized facilities but only 0.5% or less interference to an operating DTV station.

⁷ *Applications of KRCA License Corp., KSLs, Inc., Golden Broadcasting Co., Inc.*, 15 FCC Rcd 1794 (1999); see also *Notice* n.71.

⁸ *Notice* ¶ 24.

⁹ *Notice* ¶ 28.

A. KWTV

KWTV operates its licensed analog facilities on Channel 9 and its licensed DTV facilities on Channel 39. KWTV elected to return to Channel 9 for its post-transition DTV operations, and the newly adopted DTV Table of Allotments reflects this election.

Griffin has determined that it may not be possible for KWTV to complete the construction of the Channel 9 DTV facilities prior to February 17, 2009 without significantly disrupting both its analog Channel 9 operations as well as its DTV Channel 39 operations. Accordingly, Griffin supports the Commission's proposal in the *Notice* to allow stations to use their in-core pre-transition DTV channel on a temporary basis.¹⁰ This regulatory flexibility would allow KWTV to remain on Channel 39 after February 17, 2009 until the analog Channel 9 facilities are taken down and replaced with the digital Channel 9 facilities. Griffin supports the use of a Special Temporary Authority ("STA") for issuing such authorizations, but suggests that additional flexibility be provided to permit stations to operate at reduced power as necessary.¹¹

Griffin anticipates that it will need approximately 90-120 days to complete the transition for KWTV, at which time it would cease operations on Channel 39 and commence fully maximized DTV operations on Channel 9.

To the extent that the Commission does *not* grant a waiver for Channel 39 post-transition operations as described above, KWTV would need to reduce power significantly (below 80%, and possibly well below 80% authorized ERP) on its analog Channel 9 in order to prepare for the

¹⁰ *Notice* ¶ 90.

¹¹ In addition, to the extent that new construction permits issued for post-transition operations contain an expiration deadline of February 18, 2009, Griffin submits that construction permit extensions may be needed. Griffin believes that the best way to avoid the regulatory burden of processing such construction permit extension requests would be to have a three-year construction period on all construction permits, regardless of when issued.

transition. Reduced power operations would need to commence months in advance of February 17, 2009 pursuant to STA, resulting in significant loss of service for analog viewers.

This scenario would be further complicated because the KWTV post-transition DTV Channel 9 facilities would need to operate at reduced power for several months after the transition and thus require a further STA with a loss of service to digital viewers. STA operations would be necessary because the main antenna and main lines are currently tuned for an analog signal. Modifications and tuning adjustments would be needed to optimize to a digital signal, and perform the required testing.. Finally, the power modules would need to be taken out of the analog transmitter to maximize the DTV Channel 9 transmitter.

Importantly, none of the foregoing steps would be necessary if the Commission were to grant a STA for post-transition operations on DTV Channel 39. Such a STA would allow the station to remove the analog Channel 9 facilities in a seamless fashion without a resulting loss in analog or digital service or causing significant interference to other stations.

In any of the above scenarios, KWTV will continue to provide a signal that at the very least Griffin serves its community of license.

B. KOTV

KOTV operates its licensed analog facilities on Channel 6 and its licensed DTV facilities on Channel 55, which is an out-of-core channel. KOTV elected Channel 19 for post-transition operations but the FCC denied the election. Instead the FCC tentatively assigned the station Channel 45, as the new DTV Table of Allotments reflects.

Although Channel 45 was neither KOTV's elected or preferred channel, KOTV nonetheless has expended significant resources to prepare for operations on Channel 45 after the transition. To complete the transition, KOTV will need to take DTV parts from its Channel 55

operations, which will require KOTV-DT Channel 55 to reduce power approximately 40%, i.e., to such an extent that a STA will be required for a significant period (2-3 months) prior to February 17, 2009.¹² Griffin acknowledges that post-transition operations on Channel 55 will not be possible, and therefore intends to commence DTV operations on Channel 45 as of February 17, 2009. However, the station may require STA for reduced power operations on Channel 45 while it completes construction of full power facilities on Channel 45 and dismantles the Channel 6 and Channel 55 facilities on the tower. Accordingly, KOTV will need maximum regulatory flexibility in the form of two STAs, and seeks protection to its maximized facilities on Channels 45 and 55 during STA operations.

In any of the above scenarios, KOTV will continue to provide a signal that at the very least serves its community of license.

C. KQCW

KQCW operates its licensed analog facilities on Channel 19, and did not have a paired digital channel. KQCW elected Channel 20 for its post-transition operations, and the newly adopted DTV Table of Allotments reflects that election.

In completing the transition, KQCW will have very similar problems to KOTV. Specifically, KQCW will need to remove existing analog transmitter parts, including power modules and cabinets, and use them to begin construction of the DTV Channel 20 transmitter. KQCW anticipates that a STA will be necessary for Channel 19 operations for at least several months prior to February 17, 2009, because reduced power operations are expected to be below 80% of authorized ERP.

¹² Analog operations on Channel 6 will not be affected prior to the end of the transition.

Additionally, KQCW may need an STA for reduced power operations on DTV Channel 20 after the transition for several months. This STA will be necessary as the station completes construction of the DTV transmitter from parts taken from the analog transmitter and other sources.

These steps will be necessary regardless of whether the Commission authorizes the relocation of KQCW to Oneta prior to the end of the transition.

In any of the above scenarios, KQCW will continue to provide a signal that at the very least serves its community of license.

Finally, Griffin requests that the Commission clarify the continuing applicability of Section 73.622(e)(5) once the freeze is lifted. That section allows licensees and permittees to request an increase in ERP or HAAT or both, that exceeds the technical facilities specified in Appendix B of the initial DTV Table, up to the maximum permissible limits on DTV power and antenna height *or* up to that needed to provided the same geographic coverage area as the largest station within their market, whichever would allow the largest service area. Griffin requests that the rule be changed or clarified to specify Appendix B of the DTV Table adopted in the *Seventh Report and Order* instead of the initial DTV Table.

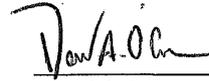
III. Broadcasters' Efforts to Complete the Transition May Be Impeded by Events Beyond Their Control

Finally, a timely completion of the transition by all three stations is contingent on several events that are beyond the control of Griffin. For example, Griffin has ordered antennas for all three stations well in advance, but timely installation of those antennas is contingent on timely delivery of those antennas by the manufacturers. In addition, tower riggers have been scheduled well in advance to install the antennas; however, timely installation of the antennas is contingent on the riggers performing their obligations as scheduled with no weather delays. Griffin requests

that any rules or policies adopted in this proceeding provide flexibility for broadcasters to resolve any unforeseen circumstances as the DTV transition date nears.

Respectfully submitted,

GRIFFIN COMMUNICATIONS, L.L.C.



David A. O'Connor
Holland & Knight LLP
2099 Pennsylvania Ave., NW
Suite 100
Washington, DC 20006-6801
Tel: 202-828-1889
E-mail: david.oconnor@hklaw.com
Its Counsel

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