

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
)
DTV Consumer Education Initiative) MB Docket No. 07-148
)
)

To: The Commission

REQUEST FOR EXPEDITED WAIVER

The Micronesian Telecommunications Corporation (“MTC”) and its wholly-owned subsidiary PTI Pacifica Inc. (“PTI Pacifica” and collectively the “Petitioners”), both of whom are eligible telecommunications carriers (“ETCs”) in the Commonwealth of the Northern Mariana Islands (“CNMI”), by their attorneys and pursuant to Sections 1.3 and 1.41 of the Commission’s rules, hereby request a waiver of recently adopted Section 54.418 of the Commission’s rules. This rule requires ETCs receiving federal universal service funds to provide specified information regarding the February 17, 2009 DTV transition deadline in the monthly bills of their Lifeline/Link-Up customers and to provide the same DTV information as part of their Lifeline/Link-Up publicity campaigns.¹

Petitioners respectfully request a waiver from this requirement due to the unique circumstances in CNMI – namely that CNMI has no full power television stations subject to the February 17, 2009 DTV transition deadline and a single low power television station that intends

¹ Section 54.418 was adopted in *DTV Consumer Education Initiative*, MB Docket No. 07-148, FCC 08-56, March 3, 2008; 73 Fed. Reg. 15431 (March 24, 2008) (“DTV Consumer Education Order”).

to continue analog broadcasts after February 17, 2009. Without the requested relief, MTC would be required to include in customer bills information about local over-the-air television viewing that is inaccurate with respect to MTC's CNMI service territory, and both Petitioners would be required to provide the same erroneous information as part of their Lifeline/Link-Up publicity campaigns in CNMI. Expedited relief is requested because even one distribution of incorrect information as a telephone company bill insert is bound to cause consumer confusion and may encourage low-income CNMI residents to acquire digital converter boxes that are unneeded and will serve only to disrupt reception of the over-the-air signals of CNMI's lone television station after February 17, 2009.²

I. BACKGROUND

MTC is the incumbent local exchange carrier ("ILEC") in the CNMI, a self-governing commonwealth in political union with and under the sovereignty of the United States of America. The CNMI is an archipelago of fourteen islands located in the Micronesian area of the eastern Pacific Ocean, over 5,000 miles from the mainland U.S. MTC has Lifeline and Link-Up customers that it serves pursuant to its status as an ETC in the CNMI. PTI Pacifica, a wireless carrier, recently received ETC status but to date has no Lifeline/Link-Up customers.

CNMI has no full power television stations that are subject to the February 17, 2009, DTV transition deadline. The only terrestrial television station licensed to broadcast on the

² Digital converter boxes not only are unneeded in CNMI but if installed may disrupt over-the-air viewing as the Commission has acknowledged that the majority of certified digital converter boxes are not capable of passing through analog signals that lawfully may be broadcast after February 17, 2009, by low-power television stations. *DTV Consumer Education Order* at ¶ 36.

CNMI is KPPI-LP, a low power station on CNMI's largest inhabited island, Saipan.³ The Commission confirmed that low-power television stations like KPPI-LP are not required to cease analog broadcasting as of February 17, 2009.⁴ A representative of the Petitioners contacted KPPI-LP and was told that because the station had no obligation to broadcast digitally it had no plans to do so in the foreseeable future. Thus, under the current circumstances no television station licensed in the CNMI will be broadcasting digitally after February 17, 2009, or anytime soon thereafter.⁵

II. THE COMMISSION'S STANDARDS FOR GRANTING A WAIVER ARE MET IN THIS CASE

The Petitioners' request satisfies the waiver standards under Section 1.925(b)(3) of the Commission's rules that state that a waiver may be granted if the underlying purpose of the Section 54.418(b)(2) notice would be frustrated by application of the rule or that unique or unusual circumstances render the application of the rule inequitable, unduly burdensome or contrary to the public interest. As demonstrated below, this request satisfies both standards.

Newly adopted Section 54.418 of the Commission's Rules requires all ETCs starting April 30, 2008, to provide specified DTV transition information both in the monthly bills of their Lifeline/Link-Up customers and in their Lifeline/Link-Up publicity campaigns. The information required under Section 54.418(b)(2) to be provided by ETCs includes the following statement: "After February 17, 2009, a television receiver with only an analog broadcast tuner will require a

³ The licensee of low power station KPPI-LP claimed in a press release that KPPI-LP is the only over-the-air television broadcaster in CNMI. A search of the FCC's CDBS database found no other licensed television station in CNMI.

⁴ *DTV Consumer Education Order* at ¶ 36.

⁵ The FCC's CDBS database indicates that no applications for a full power television station in CNMI are pending.

converter box to receive over-the-air broadcasts with an antenna because of the Nation's transition to digital broadcasting. Analog-only TVs should continue to work as before with cable and satellite TV services . . .”.

The portion of the Section 54.418 notification relating to cable and satellite TV service is correct for CNMI residents. As noted above, however, CNMI is unique in that it is a U.S. territory that has no licensed full power television broadcast stations and thus no stations that are subject to the February 17, 2009, DTV transition deadline. As a result, the information about over-the-air reception that is required to be distributed by ETCs to low-income CNMI residents who may not subscribe to cable and satellite TV services is erroneous.⁶ Adherence to Section 54.418 under these circumstances would frustrate the purposes of the rule, which is to educate consumers, not misinform them. Moreover, installation of a digital converter box may disrupt reception of the only over-the-air signals in CNMI. The confusion created would be exacerbated should CNMI's low power television station broadcast information about its plans to continue analog broadcasting after February 17, 2009, because that information would directly contradict the notice required to be sent by ETCs in accordance with Section 54.418(b)(2).⁷

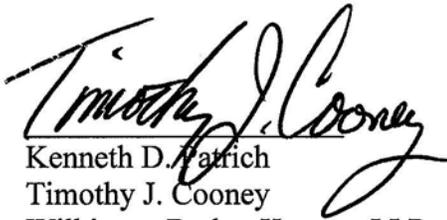
⁶ Requiring MTC to provide the misleading notification will be unduly burdensome to the Petitioners and their customers. Even though the Section 54.418(b)(2) notice includes a website and toll free number to call for more DTV information, it is inevitable that MTC customers who are confused about the applicability of the Section 54.418(b)(2) notification to them will call MTC. If MTC customer service representatives accurately inform the Lifeline and Link-Up customers that information in the Section 54.418(b)(2) notification does not apply to over-the-air viewers in the CNMI, those customers properly may question why MTC sent them the notification in the first place.

⁷ As a low power station, the CNMI television station is not subject to the DTV consumer education requirements under Section 73.674, although the FCC “urges” low power stations that plan to continue analog-only broadcasting to educate their viewers about their plans. *DTV Consumer Education Order* at ¶ 36.

The Petitioners respectfully request that a waiver of Section 54.418 be granted to ETCs in the CNMI.

Respectfully submitted,

The Micronesian Telecommunications Corporation and PTI Pacifica Inc.

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