

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

In the Matter of)	
)	
Implementation of the DTV Delay Act)	MB Docket No. 09-17
)	
DTV Consumer Education Initiative)	MB Docket No. 07-148
)	
Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion To Digital Television)	MB Docket No. 07-91
)	
Implementation of Short-term Analog Flash and Emergency Readiness Act; Establishment of DTV Transition "Analog Nightlight" Program)	MB Docket No. 08-255
)	
Service Rules for the 698-746, 747-762 and 777-792 MHz Bands)	WT Docket No. 06-150
)	
Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission's Rules)	WT Docket No. 06-169
)	
Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band)	PS Docket No. 06-229
)	
Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010)	WT Docket No. 96-86

To: Secretary, FCC
For: The Commission

COMMENTS OF GRIFFIN COMMUNICATIONS, L.L.C.

Griffin Communications, L.L.C. ("Griffin"), by its counsel, hereby submits these comments regarding the February 20, 2009 *Notice of Proposed Rulemaking* ("NPRM"), in

connection with Commission implementation of the DTV Delay Act.¹ Griffin is the licensee, through wholly-owned subsidiaries, of three full-power television stations in Oklahoma – KWTV, Oklahoma City, a CBS affiliate (“KWTV”); KOTV, Tulsa, also a CBS affiliate (“KOTV”); and KQCW, Muskogee, a CW affiliate in the Tulsa market (“KQCW”).

All three of Griffin’s stations completed the digital transition on February 17, 2009. Working with an extraordinary array of community members, station employees, Commission staff, NAB and others, Griffin’s stations have helped their viewers with the transition to digital television. In addition, KOTV served as the only nightlight station in the Tulsa market on a voluntary basis.²

Having completed the transition, however, Griffin is concerned that the continued broadcast of DTV consumer education information on Griffin stations is having the perverse effect of causing viewer confusion about the status of the stations’ transition to DTV. For this reason, Griffin appreciates the opportunity to provide the following comments concerning several proposals in the NPRM.

Off-Air Campaigns by Already-Transitioned Stations May Better Serve the Public Interest than Confusing On-Air Campaigns

As an initial matter, Griffin takes its public interest obligations very seriously, and wishes to make it clear that these comments do not represent an effort to somehow be relieved from further DTV consumer education requirements. Rather, Griffin fundamentally believes that on-air countdowns, PSAs and CSTs by stations that have already transitioned merely serve to cause viewer confusion about the transition status of those stations, and that alternative education methods exist.

¹ FCC 09-11 (rel. Feb. 20, 2009).

² Nightlight operations on KOTV ceased on March 3, 2009 following two weeks of service. KWTV in Oklahoma City could not serve as a nightlight due to its commencement of digital operations on its former analog channel, Channel 9.

Indeed, as part of its ongoing efforts to ascertain the needs of viewers, Griffin has learned from numerous viewers that PSAs and CSTs about the June 12 transition date tend to cause viewers to call into question the transition status of Griffin stations. Given such reactions from viewers, the further broadcast of such PSAs and CSTs by Griffin stations appears to be counterproductive. For this reason, Griffin believes that off-air DTV consumer education efforts, such as the ones described below, are preferable to a confusing on-air campaign in situations where a station has already completed the DTV transition.

For example, Griffin engineers have been traveling to numerous viewers' homes upon request to resolve antenna and converter box technical issues. Griffin also has donated converter boxes to needy individuals, and has fielded hundreds of viewer telephone calls about antenna orientation issues, rescanning requirements and other technical issues. With respect to coupon inquiries, Griffin has been helping viewers check the status of coupon applications, and has helped viewers procure coupons by filling out the online form for them. Griffin also has purchased newspaper ads informing viewers how to contact Griffin stations, how to obtain a converter box, and how to obtain further information about the transition.

These are ongoing efforts to which Griffin has devoted a substantial amount of time, human resources and capital, and Griffin will continue to do so for the remainder of the transition.

Additionally, Griffin notes that the countdowns and PSAs that would be aired on Griffin's digital stations would not directly reach the viewers to whom they matter most – i.e., analog-only viewers. While there may be some ancillary benefit if a digital viewer were to pass on information to an analog viewer about the transition, there is no evidence that this occurs frequently enough to justify continued on-air consumer education requirements for digital-only stations, or to justify the danger of viewer confusion. In any event, such information is simply a

repetition of the information that the analog viewer is receiving directly from the consumer education efforts of analog stations. Griffin believes that analog viewers would be better served by having digital-only stations devote their efforts more to resolving the practical transition problems described above, and less on airing repetitive PSAs that are available elsewhere.

For these reasons, Griffin recommends that an already-transitioned station should be permitted to certify that it will continue an off-air campaign to inform viewers of the fact that the station has completed the transition, and to assist viewers in connection with the transition. Such off-air campaigns should include addressing any viewer questions about service loss, converter boxes, antenna orientation issues, rescanning issues and other common post-transition questions. Griffin submits that any station that has already completed the transition should be eligible for a blanket waiver of remaining consumer education requirements (similar to the Wilmington stations),³ provided that the station certifies that it will continue an off-air education campaign, such as the one described above, and dedicate its resources accordingly until the completion of the transition on June 12, 2009.

For administrative convenience, Griffin suggests that on-air DTV consumer education requirements for stations that have completed the transition should end on March 31, 2009. In this way, such stations could file a Form 388 on April 10, 2009, thereby completing their reporting requirements regarding consumer education efforts.

Alternatively, A Waiver Process Should Be Adopted

If the Commission is not inclined to adopt a blanket waiver for such stations, Griffin urges the Commission to adopt a liberal waiver process whereby stations can set forth reasonable

³ As noted in the NPRM, the Commission granted certain relief to Wilmington stations that agreed to serve as analog nightlight stations following their transition in September 2008. Griffin believes it would be unfair to penalize a station that was unable to serve as a nightlight due to the fact that the station was assigned its analog channel as a post-transition channel, or could not serve for other reasons beyond its control. *See* NPRM ¶¶ 67-68.

bases for terminating on-air consumer education efforts. For example, such reasonable bases would include but not be limited to: 1) the presence of at least one major network affiliate in the DMA that will operate an analog service until June 12, 2009; 2) the presence of an analog nightlight station in the DMA; or 3) evidence, in the form of viewer letters or e-mails, confirming that the station's ongoing consumer education efforts are causing confusion to viewers. Griffin suggests that any process adopted contemplate expedited and streamlined procedures.

At the Very Least, the Commission Should Waive the Countdown Requirement for Already-Transitioned Stations

Finally, Griffin urges the Commission at the very least to waive the requirement that all stations continue to air 100-day countdowns to June 12. Such countdowns make no sense for stations that have already completed the transition, and are certain to cause viewer confusion. Griffin is encouraged by the Commission's March 3, 2009 decision to temporarily waive the 100-day countdown pending completion of this proceeding,⁴ and urges the Commission to make the temporary waiver permanent, at least with respect to stations that have already completed the transition.

Respectfully submitted,

GRIFFIN COMMUNICATIONS, L.L.C.



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⁴ FCC 09-15 (rel. Mar. 3, 2009).