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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
	)	
Digital Television Distributed Transmission System Technologies	)	MB Docket No. <u>05-312</u>
	)	

**MAILED**  
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**ORDER****Adopted: June 2, 2009****Released: June 2, 2009**

By the Commission:

1. On March 13, 2009, the Commission released its *Third Report and Order and Order on Reconsideration*<sup>1</sup> in response to the Congressional extension of the digital television (DTV) transition deadline from February 17, 2009 to June 12, 2009.<sup>2</sup> In the *Third Report and Order*, we took a number of actions to implement the DTV Delay Act, including revising our analog service termination and reduction procedures. This Order amends these procedures to allow stations to commence broadcast service on their authorized post-transition channels and facilities<sup>3</sup> at any time of day on June 12, 2009 without obtaining prior Commission approval to operate before 11:59:59 pm on that date.

2. In the *Third Report and Order*, we concluded that it was appropriate to permit all stations the flexibility to terminate analog service at any time on the day they terminate analog broadcasting.<sup>4</sup> We stated that “[w]e do not believe it is necessary to treat analog termination on June 12 but prior to 11:59:59 pm local time as an ‘early’ termination” requiring prior Commission approval.<sup>5</sup> We required stations to

<sup>1</sup> *Implementation of the DTV Delay Act*, MB Docket No. 09-17, Third Report and Order and Order on Reconsideration, FCC 09-19 (rel. March 13, 2009) (“*Third Report and Order*”).

<sup>2</sup> DTV Delay Act, Pub. L. No. 111-4, 123 Stat. 112 (“*DTV Delay Act*”). The DTV Delay Act was enacted into law on February 11, 2009.

<sup>3</sup> This Order pertains to stations whose post-transition channel or facility is not the same as the channel or facility they are authorized to operate prior to the transition deadline. See *Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, MB Docket 07-91, Report and Order, 23 FCC Rcd 2994, 3017-19, ¶¶ 42-44 (2007). Stations whose pre-transition and post-transition digital channel and facility are the same may, of course, continue their digital operation and complete their transition by simply terminating their analog service or switching it over to Analog Nightlight operation. See *Implementation of the DTV Delay Act*, MB Docket 09-17, Second Report and Order and Notice of Proposed Rulemaking, FCC 09-11, ¶¶ 41-45 (rel. Feb. 20, 2009).

<sup>4</sup> *Third Report and Order* at ¶ 32.

<sup>5</sup> *Id.*

inform the Commission of the time of day that they plan to cease analog broadcasting, and we have allowed stations to revise their planned timing provided they update their filing with us.<sup>6</sup> At the same time, however, the *Third Report and Order* reminded stations that “they must obtain Commission approval for operation of a post-transition digital facility at any time prior to June 12 at 11:59:59 pm.”<sup>7</sup>

3. We now conclude that the same flexibility afforded stations in terminating their analog service should also be extended to stations commencing their post-transition digital operations on June 12, 2009, the deadline for the digital transition. We have considered the informal inquiries from several licensees that want to be able to commence operation on their post-transition facilities when they terminate their analog service on June 12, 2009. We have determined that this slight adjustment in our procedures will facilitate the transition for stations and their viewers by allowing flexible coordination and timing with respect to both the analog termination and the commencement of post-transition digital service. This flexibility will also reduce the paperwork that stations are required to file.

4. Therefore, stations wishing to commence their authorized post-transition digital operations on June 12, 2009 may do so at any time on that date without prior Commission approval. We expect that stations taking advantage of this flexibility intend to commence their post-transition digital service without a significant gap in time following termination of the analog signal, or that they will continue providing digital service on their pre-transition digital channel until they commence operation on their post-transition digital channel. We remind stations that they are required to notify their viewers of the time that they are terminating their analog signal,<sup>8</sup> and that they may adjust their time of day to terminate analog service by notifying the Commission.<sup>9</sup> Although we asked stations to file changes to their time of termination no later than 30 days prior to their analog termination,<sup>10</sup> stations that find it necessary or advisable may change their time of day by following the procedure outlined in the Public Notice. In particular, stations that would otherwise have a significant gap in service may change their time of analog termination to better coordinate with commencement of their post-transition digital service, or should continue analog operation until 11:59:59 PM on June 12, 2009.

5. Consistent with our existing rules,<sup>11</sup> stations commencing post-transition digital operations on June 12, 2009 must either file a license application (FCC Form 302-DTV) that day, or notify the Commission by letter that they have begun program tests. Stations filing a notification for program test authority must then file a license application within 10 days. We remind stations that they still need prior Commission approval to commence post-transition digital operation at any time prior to June 12, 2009 on a channel and facility that is not authorized for pre-transition operation.

6. We recognize that there may be circumstances in which a station commencing its post-transition operation prior to 11:59:59 pm local time on June 12 could affect another station's operation on

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<sup>6</sup> *Id.* at ¶13; Public Notice, *Forms Available for TV Broadcasters to Update Analog Termination Information and to Revoke Termination Notice*, DA 09-820 (released April 20, 2009).

<sup>7</sup> *Third Report and Order* at n.76.

<sup>8</sup> See *Implementation of the DTV Delay Act*, MB Docket No. 09-17, *Third Report and Order and Order on Reconsideration*, 24 FCC Rcd 3399, ¶ 32 (March 13, 2009).

<sup>9</sup> See *Forms Available for TV Broadcasters to Update Analog Termination Information and to Revoke Termination Notice*, Public Notice, DA 09-820 (April 20, 2009) (“Public Notice”).

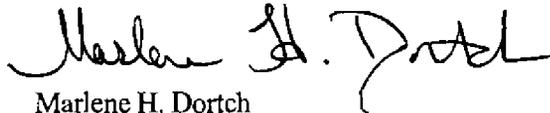
<sup>10</sup> *Id.* at n. 9.

<sup>11</sup> See 47 C.F.R. § 73.1620(a)(1).

June 12, *e.g.*, where station A's post-transition channel is the same as station B's channel for pre-transition (analog or digital) service. Although these stations are not required to request Commission approval to commence post-transition operation on June 12, prior to 11:59:59 pm, before doing so they are required to coordinate with other stations to avoid any interference that might be caused by their decision and to ensure that all stations successfully transition to their post-transition operations by the transition deadline. Stations that are unable to successfully coordinate an earlier transition time on June 12 must wait until 11:59:59 pm local time to commence their post-transition operations.

7. For more information, please contact Barbara A. Kreisman, [Barbara.Kreisman@fcc.gov](mailto:Barbara.Kreisman@fcc.gov), at (202) 418-1600, or the Media Bureau, Video Division, or Eloise Gore, [Eloise.Gore@fcc.gov](mailto:Eloise.Gore@fcc.gov), at (202) 418-7200, of the Media Bureau.

FEDERAL COMMUNICATIONS COMMISSION



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