

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Digital Television Distributed) MB Docket No. 05-312
Transmission System Technologies)

FILED/ACCEPTED
SEP 10 2009
Federal Communications Commission
Office of the Secretary

To: The Secretary for forwarding to the Commission

PETITION FOR FURTHER RULE MAKING

1. CTB Group, LLC ("CTB") requests that the Commission promptly initiate further rule making in this proceeding to apply the Distributed Transmission System ("DTS") rules to Class A and Low Power Television (together "LPTV") stations. CTB also requests that FCC Forms 301-CA and 346 be revised to allow an application for an LPTV station to specify multiple distributed transmitter sites.¹ It is critical that the changes requested herein be adopted in time to be effective when the Commission begins accepting applications for new LPTV stations throughout the country on January 10, 2010.

2. In the *Report and Order* in this Proceeding, 23 FCC Rcd. 16731 (2008), the Commission adopted rules allowing full power televisions stations to implement DTS on a regular basis, but LPTV stations were relegated to experimental operation, except for a provision allowing multiple Class A stations with overlapping service areas to operate on a common DTS channel.² It stated that LPTV stations should be able to use DTS but went on to say:

¹ The Commission has already revised the TV engineering page of Form 301 to allow full power TV stations to specify multiple transmitter sites, so the mechanics of a multi-site form have already been worked out.

² Section 73.6023 of the Commission's Rules ("Rules") states: "Station licensees may operate a commonly owned group of digital Class A stations with contiguous predicted DTV noise-limited contours (pursuant to § 73.622(e)) on a common television channel in a distributed transmission system."

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54. The record is not instructive on the specific means to implement a Class A or secondary low power DTS service. We believe that low power stations should be able to use DTS for individual station operation. However, we do not have an adequate record at this time to resolve the technical issues for low power stations as they differ from full power stations. Nor do we have sufficient indication of widespread interest in DTS among individual low power stations to warrant initiating a further notice at this time.... To provide maximum flexibility, we will allow low power stations to request an experimental license to use DTS to build out their digital facilities, as we offered to full power stations in 2004. If there is demonstrated interest in or need for DTS as an alternative for individual low power stations on a permanent basis, we can initiate a rulemaking at that time. For now, Class A and low power stations that wish to experiment with DTS technologies may request STA on a case-by-case basis. [footnotes omitted]

3. It is no longer true that there is a lack of interest in DTS for LPTV stations, nor is there any technical reason not to permit LPTV stations to use DTS on a regular basis, as long as they do not extend the geographic area of their protected service contour.³ The propagation characteristics of LPTV signals are the same as those of full power signals, and conventional prediction technology can be used for both. Moreover, there is no reason why each transmitter in a LPTV DTS arrangement cannot be evaluated for interference purposes as if it were a single stand-alone transmitter, as is done for full power stations.⁴

4. CTB has developed technology that allows a digital television broadcast station to provide both television and broadband services simultaneously over a single 6 MHz TV channel. The technology works within the existing ATSC technical standard and so can operate under existing ancillary service rules,⁵ including maintaining a free, over-the-air digital broadcast program stream.⁶ CTB is in the process of making contractual arrangements with LPTV stations

³ Section 73.792 of the Rules specifies a protected contour of 43 dBu for low-band VHF channels, 48 dBu for high-band VHF, and 51 dBu for UHF.

⁴ See Section 73.626 of the Rules.

⁵ See Section 73.624(c) of the Rules.

⁶ See Section 73.624(b) of the Rules.

throughout the country to use their ancillary capacity. An affiliate of CTB filed applications for new stations in rural areas when the opportunity opened on August 25, 2009, and intends to file additional applications for urbanized areas to fill out a nationwide footprint when the rural geographic restriction is lifted on January 10, 2010.⁷

5. CTB's technology will bring many substantial benefits to the public, including:

a. Rapid deployment of wireless broadband, including affordable new service to areas of light population density and urban pockets that do not have broadband choices.

b. Lower cost because of the use of existing infrastructure and favorable propagation characteristics of LPTV spectrum (470-698 MHz), allowing deployment over wider areas and at lesser cost.

c. More efficient use of spectrum. Provides additional new services over existing licensed channels. Combines resources of multiple stations in a market.

d. Propelling LPTV into the digital age, advancing the time when LPTV stations can transition to all-digital operation, including provision of build-out funding by CTB.

e. Multiplying available video digital streams, thus providing additional competitive video service.⁸

f. Rejuvenation of the ailing LPTV industry, which has been denied MVPD carriage rights, hurt by the full power digital transition, and damaged by the economic recession, while LPTV broadcasters can continue to provide local, minority, and niche audience television programming services.

⁷ See *Commencement of First-Come, First-Served Digital Licensing for Low Power Television and TV Translators*, DA 09-1487 released June 29, 2009.

⁸ See Section 73.624(g) of the Rules.

g. Promotion of small business, which is the predominant ownership model in the LPTV industry.

h. Operation within existing ATSC specifications and on existing licensed channels, minimizing application and rule making delays.

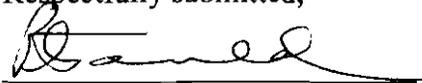
i. A public cash dividend, as LPTV stations will pay 5% of their gross revenues from ancillary services to the federal government.

6. While some of these benefits may be attainable through experimental operation, the lack of any protection or assurance of longevity for experimental services is a significant impediment to raising investment capital. Thus, the Commission's failure to include LPTV in the regular DTS rules is acting as a barrier to entry that suppresses growth and the digital transition by an industry that is known for localism, diversity, and modest entry costs within the reach of many more citizens than can afford to buy or build a full power television station.

7. CTB and the LPTV licensees with whom it is dealing have high hopes that CTB's new technology will represent a great leap forward in maximizing the technological and economic benefits attained by utilization of the electromagnetic spectrum. CTB asks the Commission to fulfill the promise of the new Administration to remove barriers and to encourage competitive entry and additional broadband pipelines to consumers. The simple rule change that CTB requests here – allowing LPTV stations to take full advantage of Section 73.626 – and the update of LPTV application forms are small and simple, but highly important and beneficial, actions which the Commission can and should promptly take to advance its public policy goals.

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Respectfully submitted,



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