

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

In the Matter of	)	
	)	RM No. 11579
	)	
Petition for Rulemaking of	)	
National Public Radio to Repeal	)	
Section 73.525 of the Commission's Rules	)	

**OPPOSITION OF THE ASSOCIATION OF PUBLIC TELEVISION STATIONS**

The Association of Public Television Stations<sup>1</sup> (hereinafter “APTS”), pursuant to Section 1.405(a) of the Commission’s rules, 47 C.F.R. § 1.405(a), hereby files this statement in opposition to the above-captioned *Petition for Rulemaking* filed by National Public Radio (hereinafter “NPR”) on October 20, 2009.<sup>2</sup> NPR seeks a rulemaking to revoke Section 73.525 of the Commission’s rules, 47 C.F.R. § 73.525, which places restrictions on transmitters operating in the reserved noncommercial educational FM band in order to prevent reception interference to television transmitters operating on the adjacent television channel 6.<sup>3</sup> APTS submits that consideration of withdrawing protections for television broadcasters on channel 6 would be premature, particularly in light of the Commission’s contemplation of potential plans for spectrum reallocation—including, apparently, the consolidation of broadcasters on a smaller band of spectrum—to support wireless broadband services. To ensure the continued ability of

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<sup>1</sup> APTS is a non-profit organization whose membership comprises the licensees of nearly all of the nation’s 364 CPB-qualified noncommercial educational television stations. The APTS mission is to support the continued growth and development of a strong and financially sound noncommercial television service for the American public.

<sup>2</sup> *Petition for Rulemaking of National Public Radio to Repeal Section 73.525 of the Commission’s Rules*, RM 11579, Public Notice, Report No. 2903 (rel. Nov. 2, 2009) (the “*Petition*”).

<sup>3</sup> *Id.* at 1.

local television stations to provide essential service over the air, APTS suggests that the Commission not undertake the requested rulemaking until it has resolved these questions.

As part of its development of the National Broadband Plan, the Commission is considering how much spectrum will be needed to execute the Plan, and whether current spectrum allocations for wireless broadband are sufficient.<sup>4</sup> Members of the National Broadband Task Force have initiated meetings with APTS and the Public Broadcasting Service (PBS) at which the Task Force members have raised various potential scenarios for freeing up, for broadband use, some of the spectrum currently allocated to television broadcasters.<sup>5</sup> Some of these scenarios apparently contemplate consolidating television broadcasters on the VHF band, which includes channel 6. APTS is aware that FCC officials are having similar discussions with other groups of broadcasters.<sup>6</sup> Furthermore, CTIA – The Wireless Association and the Consumer Electronics Association recently requested that the Commission immediately undertake a proceeding to investigate potential reallocation of broadcast spectrum.<sup>7</sup>

As APTS, PBS and the Corporation for Public Broadcasting (CPB) discussed in their joint Comments in response to the Commission's *National Broadband Plan Public Notice #6*, local public television stations are fully utilizing their broadcast spectrum to provide multiple streams of programming and other advanced services to the many millions of Americans who

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<sup>4</sup> See, e.g., *Comment Sought on Spectrum for Broadband*, NBP Public Notice #6, DA 09-2100 (rel. Sept. 23, 2009).

<sup>5</sup> See Ex Parte Presentation of Public Broadcasting Service, GN Docket No. 09-51 (filed Nov. 13, 2009); Ex Parte Presentation of Association of Public Broadcasters, GN Docket Nos. 09-51, 09-157, 09-47, and 09-137, and WT Docket No. 09-66 (filed Nov. 4, 2009).

<sup>6</sup> See, e.g., "Broadcasters Defend Their Spectrum," *Broadcasting & Cable*, Nov. 1, 2009; Ex Parte Presentation of National Association of Broadcasters, GN Docket Nos. 09-51, 09-47, 09-137 (filed Nov. 2, 2009).

<sup>7</sup> Ex Parte Presentation of CTIA – The Wireless Association and Consumer Electronics Association, GN Docket No. 09-51 (filed Nov. 17, 2009).

receive their television over the air.<sup>8</sup> Currently, three full-power public television stations reside on channel 6, as do dozens of translators licensed or utilized by public television stations. APTS does not wish to comment on any specific spectrum reallocation scenarios at this time, but we do note that the Commission is apparently considering options that would require more full-power television stations to move to channel 6. According to recent data submitted by the National Association of Broadcasters, more than 51.8 million televisions continue to receive broadcast signals over the air.<sup>9</sup> Approximately 23.1 percent of television households with incomes under \$30,000 per year, 20.7 percent of African American television households, and 25.7 percent of Hispanic television households rely solely on over-the-air broadcasting.<sup>10</sup> Until the Commission settles pending questions of spectrum sufficiency, and finalizes near- and long-term allocations for television stations and others, it would be premature for it to consider a rulemaking to withdraw protections for television broadcasters on channel 6.

For these reasons, APTS requests that the Commission resolve outstanding questions about the reallocation of broadcast spectrum before it undertakes the rulemaking NPR seeks.

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<sup>8</sup> Comments of the Association of Public Television Stations, the Corporation of Public Broadcasting, and the Public Broadcasting Service, *In the Matter of Spectrum for Broadband*, GN Docket Nos. 09-47, 09-51, 09-137 (filed Oct. 23, 2009).

<sup>9</sup> Comments of the National Association of Broadcasters, *In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 07-269 (Filed July 29, 2009).

<sup>10</sup> *Id.*

Respectfully submitted,

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