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

In the Matter of	)	
	)	
Amendment of Parts 73 and 74 of	)	MB Docket No. 03-185
the Commission's Rules to Establish	)	
Rules for Digital Low Power Television,	)	
Television Translator, and Television	)	
Booster Stations and to Amend Rules	)	
for Digital Class A Television Stations	)	

Comments

George S. Flinn, Jr. (hereinafter "Flinn"), by his attorney, hereby respectfully submits his Comments in the above-referenced proceeding:

1. On September 17, 2010, the Commission released a Further Notice of Proposed Rulemaking and Memorandum Opinion and Order (MB Docket No. 03-185) (hereinafter "FNPRM") seeking to "consider issues that need to be resolved to complete the low power digital transition". Specifically, the Commission stated in the FNPRM:

> Among the issues that we consider herein are: (1) whether to adopt a hard deadline during 2012 for the termination of analog low power television facilities; (2) whether to require existing analog and digital low power television stations in the 700 MHz band (channels 52-69) to cease operations by a date certain and to submit displacement applications or discontinue operations altogether; (3) whether to delegate to the Media Bureau the authority to establish timeframes and procedures for stations "flash cutting" to digital on their existing analog channels and for those operating digital companion channels to return one of their channels; (4) whether to widen the class of low power television broadcasters subject to the Commission's ancillary and supplementary fee rules; (5) whether to modify the Commission's minor change rule so that it covers a proposed change in a low power television station's transmitter site of up to 30 miles (48 kilometers) from the reference coordinates of the station's transmitting antenna; (6) whether to revise the vertical antenna patterns used in the prediction methodology for the low power television services; and (7) whether to allow low power television stations to use the emission mask used by full power television stations.

2. Flinn is the licensee of a digital LPTV station (WFBI-LD, South East Memphis, TN); two digital LPTV companion stations (W46EF-D, Memphis, TN and W17DA-D, Memphis, TN); and, two analog LPTV stations (WPGF-LP, Memphis, TN and W15CH, Memphis, TN). In addition, Flinn anticipates (after necessary FCC approval) acquiring a number of additional LPTV stations (both digital and analog) in the upcoming months.[1]

3. The subject Comments are directed to that portion of the FNPRM dealing with the proposed transition date for analog LPTV stations. Specifically, in the FNPRM, the Commission seeks input as to whether an early transition date in the summer of 2012 is in the public interest or whether, as recommended in the recently-released National Broadband Plan, "a deadline [be established] to achieve the DTV transition of low-power TV (LPTV) stations by the end of 2015 or after the reallocation of spectrum from the broadcast TV bands is complete".[2]

4. Flinn concurs with the position stated in the National Broadband plan that the public interest would support a LPTV digital transition linked to the completion of a spectrum reallocation of the broadcast TV band (but no earlier than the end of 2015).[3]

5. While Flinn recognizes the Commission's legitimate desire to "[simplify] the reallocation/repacking process"[4] (i.e., if one should ultimately occur), it is respectfully

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[1] Flinn also owns (i.e., individually and through wholly-owned entities) approximately forty full power radio and television stations across the country.

[2] See*, National Broadband Plan*, at p. 92, released March 16, 2010.

[3] It is respectfully submitted that the complexity of any reallocation/repack plan, as well as the existence of diverse and countercurrent legal/philosophical approaches to such an effort, virtually ensures that any such reallocation/repack will occur well beyond 2015.

[4] See, FNPRM at Page 3, Paragraph 13.

submitted that the unique nature of LPTV stations militates in favor of a flexible approach to the final LPTV digital transition. As an initial matter, the vast majority of LPTV stations operating in this country are secondary services. As such, should any full power station desire to change its channel to one occupied by a low power televison station, said LPTV station would be required to cease broadcasting (or move to another channel) to accommodate the full power station. As demonstrated by the full power digital transition (an infinitely more difficult transition scenario), the FCC staff and private FCC engineers were/are able to easily take into account the existence of secondary services in analyzing proposed channel changes, station modifications and applications generally.

6. As may be noted in the Comments filed by du Treil, Lundin and Rackley, Inc. (a well-known and well-regarded broadcast engineering firm):

> While the Commission is contemplating a date certain for LPTV mandatory conversion to digital operation (Analog Shutoff Date), it should be noted that the majority of such stations [73 percent] have yet to commence digital operation. Of the approximately 7000 licensed LPTV/TV Translator stations (not including Class A stations), 5140 are licensed analog stations and only 1860 are licensed digital stations.
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> From our past experience in assisting LPTV licensees on these matters, it would take more then two years from the present for most of the remaining three-quarters of the stations to: (1) obtain FCC authority to convert these to digital operation (if not already done), (2) obtain any necessary funding, and (3) purchase and install the likely needed new transmission equipment (such as transmitters and antennas).
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> The Commission should consider a mandatory LPTV conversion deadline concurrent with any DTV re-pack implementation. With any DTV channel spectrum repack, many of these LPTV stations will be displaced, thus requiring a second facility modification (involving at least the filing of an FCC application for construction permit and possibly new transmission equipment). A simultaneous LPTV digital conversion and any spectrum re-pack will reduce the burden to the:

(1) Public by having only to perform one “final” re-scan on their DTV receiver(s).

(2) Commission by reducing the number of applications for construction permit submitted by displaced LPTV licensees caused by any spectrum repacking

(3) LPTV licensees by having to modify its transmission facility only one time.

7. As noted hereinabove, even assuming that the FCC’s goal of simplifying its engineering database (i.e., by removing the consideration of analog stations) is important in the short term, the question remains whether such simplification outweighs the logistical and financial pressures to be placed upon LPTV licensees by an accelerated transition. In the FNPRM, the Commission acknowledged that it was concerned about the financial and logistical pressures when it stated:

> We seek to ensure the continued viability of low power television stations that have been recognized as offering important services to specialized and minority audiences, foreign language communities, and rural areas. Such communities often rely on voluntary contributions for station operation and maintenance and may be the least financially and technically able to undertake the conversion. Some are completely surrounded by mountainous terrain and not able to receive directly the signal of any full-power station. Also, in such communities, those already subscribing to Direct Broadcast Satellite (“DBS”) have no incentive to financially contribute to the digital conversion of the local translator stations, increasing the burden on those depending on these stations. As for service to rural areas, some viewers in small and geographically isolated rural communities may depend entirely on TV translators for over-the-air television service. We seek to ensure that those viewers are aware that the stations they rely on for service will be transitioning to digital and provide them, to the best extent feasible, with the necessary information and assistance to prepare for this change. Such communities often rely on voluntary contributions for station operation and maintenance and may be the least financially and technically able to undertake the conversion.

8. Proponents of an accelerated transition date (assuming there are any) may argue that LPTV stations have been aware (given the full power transition to digital) that they would ultimately need to convert to digital. That is true. However, given the fact that (a) there still exists a significant portion of poor and underserved areas which still rely on analog LPTV service and (b) LPTV stations (as secondary services) offer no impediment to any full power station which seeks to change channels, most LPTV licensees would probably argue that their desire to maintain a short-term operational status quo has little to do with procrastination and more to do with legitimate financial and public interest considerations. Given the local (often rural) and modest nature of most LPTV operations, the financial viability of said stations is more often than not tied to their ability to minimize unexpected costs and to "smooth out" substantial capital expenditures (i.e., budget and pay for them over an extended period of time). In fact, such an incremental conversion can by analogy be applied to the technology/viewer marketplace generally. The more spread out the conversion process, the more likely it is that poor, disadvantaged or otherwise situated viewers will transition their television equipment as the useful life thereof wanes. In short, most markets and LPTV stations will experience a natural pressure to convert over to digital. An accelerated push to force a digital conversion, without any overwhelming need (again, since LPTV stations are secondary services and the National Broadband Plan effort is still in its infancy), will only artificially pressure both LPTV owners and viewers (in a time of prolonged financial headwinds).

9. As Venture Technologies Group, LLC noted in its October 26, 2010 letter filed in this proceeding:

> [until] the future of low power television is determined in accordance with National Broadband Plan recommendations to reallocate spectrum from the broadcast TV bands for use in the provision of mobile broadband services, it would be premature to set deadlines for low power television stations to convert to digital.
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> ... the Commission provided full power television broadcasters ten years to convert to digital broadcasting, yet they are proposing to provide low power television less than 16 months to convert to digital, with no assurance that low power television will survive beyond 2015.

Again, Flinn agrees. Without a firm legal tailwind (i.e., a definitive repack plan) necessitating a firm transition deadline, it doesn't appear to make sense to force an issue which is going to resolve itself more naturally through a combination of marketplace forces and a recovering economy.

10. Flinn expects that he it could meet any established transition deadline (assuming normal FCC processing and equipment availability) for his two existing analog LPTV stations. However, the fact that Flinn is in a financial position to convert his two analog stations to digital operations does not mean (a) other LPTV licensees are in the same position and (b) that an abrupt loss of analog service is in the best interest of his stations' current viewers.

11. Finally, putting aside the obvious effect an accelerated transition would have on viewers least likely to have viewing alternatives, the financial and legal impact of same on LPTV licensees cannot be understated. Equipment purchases. Tower lease negotiations. Engineering analyses. NEPA analyses/filings. FCC filings. Engineering and legal fees. Equipment installation. These practical considerations (particularly given the number of LPTV stations which must ultimately convert operation to digital) are not insignificant.

12. A reasonably paced approach to converting analog LPTV stations over to digital operation cannot be a bad thing. The more technical clarity which flows from any proposed repack or other similar evolution of the National Broadband Plan, the better.[5] It is respectfully submitted that the stated goal of database simplification is far outweighed by the public interest benefits outlined hereinabove which otherwise accrue (both to LPTV licensees and to LPTV broadcast viewers).

13. Finally, in Paragraph 16 of the FNPRM, the Commission seeks comment on the general legal precept that the Commission should retain the right to consider (after any transition date) the request of any analog station which believes that it is in the public interest to continue its analog operation. Flinn concurs. As the Commission noted in Paragraph 16 of the FNPRM, there are several circumstances where such flexibility is both reasonable and warranted (e.g., "in communities that rely solely on over-the-air service from stations in the low power services").

LPTV stations are an integral part of the broadcast fabric and have traditionally done much with less. The Commission is in the unique position of being able to afford LPTV stations the opportunity to work through an arduous transition (in a tremendously difficult financial environment) without compromising any of the Commission's stated regulatory goals. In sum, let marketplace and viewer evolution take its natural course (with a LPTV digital transition linked to the completion of any spectrum reallocation of the broadcast TV band) and the ultimate preservation of a critical broadcast service can be ensured.

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[5] For example, additional time might allow some of the LPTV stations to explore the viability of channel sharing.

Respectfully submitted,

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/S/

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