

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Second Periodic Review of the)	MB Docket No. 03-15
Commission’s Rules and Policies)	
Affecting the Conversion to)	RM 9832
Digital Television)	
)	
Public Interest Obligations of TV)	MM Docket No. 99-360
Broadcast Licensees)	
)	
Children’s Television Obligations of)	MM Docket No. 00-167
Digital Television Broadcasters)	
)	
Standardized and Enhanced Disclosure)	MM Docket No. 00-168
Requirements for Television Broadcast)	
Licensee Public Interest Obligations)	

To: the Commission

**COMMENTS OF
KANOKLA TELEPHONE ASSOCIATION, INC.
PEOPLES TELEPHONE COOPERATIVE, INC.
ARCTIC SLOPE TELEPHONE ASSOCIATION COOPERATIVE**

KanOkla Telephone Association, Inc. (“KanOkla”), Peoples Telephone Cooperative, Inc. (“Peoples”) and Arctic Slope Telephone Association Cooperative (“Arctic Slope”) (collectively “Parties”), by their attorneys, hereby file these Comments in response to the Notice of Proposed Rulemaking issued by the Federal Communications Commission (“FCC” or “Commission”) in the above-captioned matter.¹ The Parties are rural telephone companies that provide landline and, in the case of Peoples and Arctic

¹ *In the Matter of Second Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television, Public Interest Obligations of TV Broadcast Licensees, Children’s Television Obligations of Digital Television Broadcasters, Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, MB Docket No. 03-15 *et al.*, Notice of Proposed Rulemaking, FCC 03-08 (released January 27, 2003)(“NPRM”).

Slope, wireless services to remote, rural areas of the country. The Parties have acquired licenses for C Block spectrum in the Lower 700 MHz Band (UHF channels 52-59) pursuant to the Commission's recently completed Auction No. 44. They intend to utilize their 700 MHz licenses to expand their current service areas and service offerings by providing newly emerging advanced telecommunications services, including high speed, broadband services, to underserved rural America. The Lower 700 MHz Band, however, is currently encumbered by both analog and digital television station assignments that may effectively prevent the Parties from using that spectrum until incumbent broadcasters relocate to the core television channels 2-51, or at least until the Commission and/or Congress provide greater certainty about when such relocation will ultimately occur. Accordingly, the Parties have a direct interest in policies adopted to effect the digital television ("DTV") transition and fully support the Commission's multifaceted efforts to complete the transition by the end of 2006.

Ensuring the deployment of basic and advanced broadband services to rural areas is a national priority, and a fundamental goal of both Congress and the Commission.²

² See, e.g., *In the Matter of Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies To Provide Spectrum-Based Services*, WT Docket No. 02-381, Notice of Inquiry, FCC 02-381 (released December 20, 2002); 47 U.S.C. §254(b)(3) ("Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas."); 47 U.S.C. §309(j)(3)(A) ("[T]he Commission shall . . . seek to promote . . . the development and rapid deployment of new technologies, products, and services for the benefit of the public, including those residing in rural areas . . .").

The 700 MHz band is an ideal vehicle for the deployment of broadband services to small and oftentimes remote markets where current broadband alternatives are few.³

Rural licensees, including the Parties, are ready and willing to deploy new services in these areas but are currently unable to do so due to lack of affordable equipment and the difficulty in attracting capital to develop and deploy 700 MHz systems. Both of these difficulties are the direct result of the uncertainty that prevails concerning when the Lower 700 MHz Band will be cleared of incumbent or newly-relocated television broadcast stations whose operations must be protected. Without certainty about the DTV transition, capital will not flow to equipment manufacturers or the large 700 MHz licensees who will ultimately drive the development and production of affordable equipment. Although the licenses that the Parties hold may not be directly encumbered by existing broadcast stations, the uncertainty about the future of the DTV transition nevertheless effectively blocks the Parties from using their 700 MHz licenses to deploy service. The uncertainty about the DTV transition is needlessly denying rural America the promise of affordable broadband services.

Accordingly, the Parties urge the Commission to continue to adopt realistic yet firm compliance dates for operational benchmarks to achieve DTV transition. The Commission has wisely chosen to impose a firm timetable requiring consumer electronics

³ Propagation characteristics make the 700 MHz Band superior to other wireless services because of the larger coverage area of individual 700 MHz cells or hubs relative to the coverage of hubs in higher bandwidth spectrum. In addition, once certain economies of scale are achieved, equipment will be less expensive to produce than equipment for higher bands.

manufacturers to incorporate DTV tuners into certain consumer electronics products.⁴ However, the presence of digital tuners in the home will be meaningless if stations are not broadcasting a digital signal that replicates their existing analog signal both in terms of geographic coverage and content. Thus, the Commission should establish the earliest possible dates by which broadcast stations are required to: 1) make their election of a single post transition in-core channel; and 2) replicate and/or maximize their digital service or lose interference protection for the unserved areas. In this regard, the Parties agree with the Commission's observation that "it may be appropriate to establish earlier replication and/or maximization deadline(s) for incumbent broadcasters in [the channel 51-69] spectrum than the deadline we establish for broadcasters operating on channels within the core."⁵ Establishing earlier deadlines in the out-of-core bands for replication and maximization will greatly further the goals of Congress and this Commission to ensure the deployment of broadband services to all Americans, especially those in rural areas.

Adopting firm deadlines for the various transition benchmarks will help to create certainty that the Lower 700MHz Band spectrum will be unencumbered by the end of

⁴ The FCC is also currently reviewing a framework proposed by the cable television and consumer electronics industries that will allow "plug and play" compatibility of digital consumer electronics equipment when connected to cable television systems and examining the need for federal requirements to protect digital content that will be carried on television broadcast stations. See *In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices, Compatibility Between Cable Systems and Consumer Electronics Equipment*, CS Docket No. 97-80, PP Docket No. 00-67, Further Notice of Proposed Rulemaking, FCC 03-3 (released January 10, 2003); *In the Matter of Digital Broadcast Copy Protection*, MB Docket No.02-230, Notice of Proposed Rulemaking, FCC 02-231 (released August 9, 2002).

⁵ *NPRM* at ¶40.

2006. While it is possible that the digital transition could continue beyond that date in certain markets where the 15% threshold set forth in Section 309(j)(14)(B) is met, the establishment of firm deadlines for each of the transition benchmarks substantially increases the likelihood that any such extensions will be minimized both geographically and temporally. Furthermore, the Parties urge the Commission to narrowly construe the reach of section 309(j)(14)(B) so as to prevent what was intended as a very limited exception to eviscerate the firm 2006 digital transition deadline specified by Congress. To this end, the Commission should make clear that the burden of justifying a deadline extension based upon digital penetration should be born by the stations seeking to justify retention of channel capacity outside of the core spectrum. The Commission should also clarify that stations must make this showing on an individual market basis and should not be allowed to rely on regional or national averages or statistics in attempting to demonstrate that the 15% threshold has been reached.

Firm deadlines provide the certainty that will allow rural licensees to make concrete plans for the deployment of new services, knowing that the spectrum for which they spent significant amounts of money will be unencumbered. Such certainty will allow the larger companies to make arrangements for the development and purchase of the equipment that will be needed to provide new services in their markets. Without such certainty, the mass-market economies of scale will not exist to support the development and availability of new product from equipment manufacturers at reasonable price levels. Not only will service be delayed in those larger markets, but the lack of low cost equipment will also prevent smaller service providers, serving mostly underserved rural areas, from being able to deploy new services in an economically feasible manner. Firm

