

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

In the Matter of

Second Periodic Review of the Commission's
Rules and Policies Affecting the Conversion
To Digital Television

MB Docket No. 03-15
RM 9832

Public Interest Obligations of TV Broadcast
Licensees

MM Docket No. 99-360

Children's Television Obligations of Digital
Television Broadcasters

MM Docket No. 00-167

Standardized and Enhanced Disclosure
Requirements for Television Broadcast Licensee
Public Interest Obligations

MM Docket No. 00-168

Reply Comments of David M. Gates

David M. Gates ("Gates") hereby submits these reply comments in response to the FCC's Notice of Proposed Rule Making in the above-captioned proceedings.¹ As further described below, Gates concurs with many comments made that ask the FCC to promote a timely transition to digital television ("DTV") service, thereby freeing up valuable spectrum for advanced communications services.

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¹ Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion To Digital Television, 18 FCC Rcd 1279, (rel. Jan. 27, 2003).

Statement of Interest

Gates holds seven 700MHz licenses obtained in Auction No. 44. Gates is also planning to bid for additional 700 MHz licenses in Auction No. 49.

Gates Supports The Following Comments:

“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.” (Arctic Slope Telephone Association Cooperative, KanOkla Telephone Association, Inc., and Peoples Telephone Cooperative, Inc.)

“The Public Interest would be served by the Commission clarifying that digital stations in the Lower 700 MHz Band that are not now operational must be fully constructed (i.e. full replication and maximization) on or before June 30, 2004 or abandoned.” (Aloha Partners, LLC)

“Any station subject to the May 1, 2002 construction deadline that has failed to construct a digital station by May 1, 2003, other than for a truly bona fide reason (of which financial hardship is not a bona fide reason), should be required to forfeit their digital allotment” (Cavalier Group, LLC)

“ To speed the fulfillment of the promise, the Congress provided broadcasters with access to a \$70 billion digital spectrum almost a decade ago. The FCC was to be the steward of this immensely valuable public asset. Broadcasters have not fulfilled their responsibilities to a timely transition. This failure makes the blatant corporate welfare that the networks received, free access to the digital spectrum, even more troubling. Of the nation’s 1,304 commercial broadcasters, 780 claim to be ‘on the air’ in DTV. But of the 780 the majority 433 is operating under temporary license at less than fully authorized power. These low power stations are not fully replicating their analog service contours in digital. That means that some percentage of homes within their analog service area cannot receive their digital signal. That leaves only 347

broadcasters currently operating full power DTV facilities and some only provide digital programming a few hours a day. Broadcasters have a clear business incentive to postpone investment in full power facilities. But while they impose more and more costs on consumers through tuner mandates and mandatory receiver performance standards, they fail to live up to their obligations to get a full power signal on the air. The FCC must no longer allow broadcasters to stall in performing their piece of the transition equation. They must not be allowed to pass off incremental progress. Low power transmission -- that leaves certain consumers unable to enjoy the benefits of digital technology, while consumers are forced to purchase more costly digital equipment. It is also time to give up the fiction of an 85 percent transition by the end of 2006. Having wasted most of the decade, there is simply no chance that 85 percent of consumers will have DTV-capable sets in their homes. Broadcasters must be required to provide full power digital transmission or give back the spectrum.” (Consumer Federation of America)

“The spectrum now used for TV channels 52-69 has been allotted for new services that will provide substantial benefit to the American public and the productive use of this spectrum should not be held hostage to a policy that ignores the reality that fewer and fewer households rely on over-the-air broadcast for their television programming.” (Crown Castle USA, Inc.)

“Given the dual goals of DTV transition and the recognized value to the American public of utilizing the Lower 700 MHz Band for wireless services, it is essential that any decisions reached in this docket promote, rather than impede, the rapid development and deployment of innovative services and applications in the *entire* 700 MHz Band, and ensure that this much-needed spectrum is put to its most beneficial use as quickly as possible. DataCom therefore respectfully submits that the Commission should reject any proposals to further extend the May 1, 2005 channel election deadline.” (DataCom Wireless, LLC)

“ The Commission should adopt DTV transition rules that will expedite the clearing of the 700 MHz band and facilitate the swift entry of new services and products in the band. The continued presence of television broadcast licensees on non-core channels 52-69 continues to limit the availability and deployment of new equipment and technologies in the 700 MHz band.” (Flarion Technologies, Inc.)

“ In the aggregate, these commenters represent a significant cross-section of the existing 700 MHz licensees and key suppliers. The Commission should take the registered concerns of this group as evidence of a serious problem that requires attention, and not allow the views of well-heeled incumbent broadcasters to overshadow the consensus of emerging 700 MHz wireless service providers.” (Harbor Wireless, L.L.C.)

“Harris provided an overview of the status of the DTV transition based upon its unique perspective as a leading supplier of DTV transmission equipment. Harris emphasized the importance of having certainty with regard to DTV build-out milestones to ensure continued progress is made toward the completion of the transition. Harris discussed the potential need for interim benchmarks beyond those already provided for under current FCC regulations, and the importance of carefully scrutinizing additional requests for extensions of time for broadcasters to commence digital broadcast operations. Finally, Harris provided information on various alternatives that would enable broadcasters to make an optimally cost-effective transition to DTV.” (Harris Corporation)

“Motorola urges the Commission to take all steps necessary to expedite the DTV transition in order to accomplish the near-term recovery of the analog broadcast spectrum for public safety and other advanced wireless services. In so doing, the Commission should consider as one of its highest priorities the clearing of the 746-806 MHz band of broadcast incumbents so that public safety entities, as well as private wireless users accessing band manager spectrum, can begin utilizing this valuable resource on a nationwide basis.” (Motorola, Inc.)

CONCLUSION

The Commission should acknowledge that new license holders have invested millions of dollars for the right to use this spectrum with the understanding that a transition to digital TV would occur in the near future. Allowing extensions which impede the implementation of actual service onto this frequency are not in the public interest. New license holders need certainty regarding spectrum availability in order to raise the necessary financing, while at the same time allow the vendors (of both digital TV technology and emerging communications technologies) to

proceed with developing, manufacturing, and supporting the equipment needed to bring these advanced services to the public.

Respectfully submitted,

/s/

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