

**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)	RM 9832
To 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

REPLY COMMENTS OF LIN TELEVISION CORPORATION

LIN Television Corporation ("LIN"), through its attorneys, offers these reply comments on one issue raised by the Notice of Proposed Rule Making ("Notice") in the above-captioned docket. LIN owns or operates, through various subsidiaries and a joint venture, 25 television stations. They include stations operating in the lower 700 MHz band on NTSC Channel 54 in Austin, Texas; NTSC Channel 59 in New Haven-Springfield, Connecticut-Massachusetts; and DTV Channel 54 in Providence, Rhode Island. LIN was the successful bidder in Auction 44 for the spectrum included in Channels 54 and 59 in parts or all of those three markets. As both a television licensee and an auction winner, LIN has a keen appreciation of the relative rights, expectations, and responsibilities of parties with an interest in the band.

1. At paragraph 59 of the Notice, the Commission stated:

With respect to the Lower 700 MHz Band, digital service in the band could be proposed after the auction by a station with an existing DTV allotment on a channel outside the 52-58 band seeking to move to a channel inside this band or by a DTV station inside this band seeking to move to another channel inside the band. We invite comment on whether and how we should protect such proposed digital service on channels 52-58. The Commission has not precluded such new, post-auction digital service in channels 52-58, but should such service proposals be protected by wireless and other services operating on channels already acquired through auction? If so, how should these proposed digital services be protected, as auction bidders and winners may have no prior notice of the channels these digital operators may request? We clarify that any such protection afforded would be only for the duration of the transition since DTV stations out of the core must eventually move within the core. As a practical matter we expect few broadcasters to seek to move from the core into 52-58 because they would have to move again at the end of the transition. We also seek comment on whether 47 C.F.R. §73.622 should be amended to require that a broadcaster proposing a channel change that would cause harmful interference to a new entrant on channels 52-59 demonstrate that no other suitable channels are available on 2-58 that would avoid such interference.

2. LIN agrees with the Commission that there are likely to be few instances of television licensees seeking to migrate into the lower 700 MHz UHF band during the transition. But in the event that a licensee seeks such a move, it should not be permitted to occupy a channel that has been purchased at auction. Rather than requiring auction winners to protect new broadcast entrants in the band, the Commission should block new broadcast entrants or, at the least, require any potential new broadcast entrants to provide full protection to any services offered at any time by the area auction winner. LIN recognizes that large parts of the areas awarded at auction cannot be used until the end of the transition or until the incumbent earlier vacates voluntarily. But there may be ways to use

portions of the band in the interim, and it would be unfair to hamper use of the band by an auction winner in favor of a broadcast entrant that is new to the band or to a particular channel.

3. In their Joint Comments, the National Association of Broadcasters (“NAB”) and the Association for Maximum Service Television, Inc. (“AMST”) commented as follows (Joint Comments, page 12, fn. 11):

In the notice, the Commission also notes the possibility of incumbent broadcasters relocating their DTV facilities to channels 52-58 during the DTV transition, for example, to resolve interference problems or conflicts, though it observes that this circumstance is likely to be rare. *Id.* at ¶ 59. As a general matter, the Commission should give primacy to the public’s over-the-air television service. Accordingly, incumbent broadcasters seeking to use channels 52-58 during the transition should have primacy over new entrants, and should not receive any less protection or shoulder any additional burden of proof than broadcasters seeking to utilize channels inside the core. If exceptional circumstances dictate that this general principle should not apply, they would be accommodated most effectively by waivers rather than elaborate and speculative exceptions built into the general rules.

While LIN is generally in agreement with the views expressed by NAB and AMST on other topics in their comments, it believes that they have not in this instance properly factored in the rights and legitimate expectations of those who have purchased use of this spectrum at auction.

4. It is hard to imagine at this stage in the transition why a DTV licensee would propose to move for the balance of the transition to a channel in the “doomed” 52-58 band, unless it were to do so to accommodate another licensee in return for consideration or to clear the band in favor of an auction winner. But even if a television licensee were to belatedly seek a new channel because of interference concerns, there is no reason why

the Commission should entertain such a proposal in an area where the spectrum at issue has been sold at auction. LIN endorses, on this particular issue, the comments submitted by DataCom Wireless, LLC¹, Cavalier Group, LLC.², and Crown Castle USA, Inc.³ The FCC auctioned this spectrum subject to the wasting rights of broadcast incumbents, and not the rights of unforeseeable new broadcast users. When a bidder formed an opinion as to the value of the spectrum, it factored in the chances that a channel might be cleared before the end of the DTV transition in a particular area but had no way to include in the calculation the concept of new broadcast users staking transitional claims. It would be unjust to permit such unpredictable incursions into the auctioned band.

Respectfully submitted,

LIN TELEVISION CORPORATION

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¹ Comments of DataCom Wireless, LLC at page 8.

² Comments of Cavalier Group, LLC. at pages 27-28, paras. 57-58.

³ Comments of Crown Castle USA, Inc. at page 5.