

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

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

To: The Commission

**COMMENTS OF CORDILLERA COMMUNICATIONS, INC.**

Cordillera Communications, Inc. (“Cordillera”), by its attorneys, hereby submits these comments in response to the Commission’s *Notice of Proposed Rule Making* in the above captioned-proceeding.<sup>1</sup> Through subsidiaries, Cordillera owns commercial full power television stations, along with numerous low power television (“LPTV”) and television translator stations, licensed to communities located largely in the western United States.<sup>2</sup> As a long-time supporter of the Commission’s efforts to facilitate transition of the nation’s television system to digital technology, Cordillera believes it is important to begin considering the best means for transitioning LPTV, television translator, and Class A stations to digital, as such stations will enhance rural service and over-the-air broadcasting. Nevertheless, to further the Commission’s DTV goals and prevent the harmful consequences of spectrum speculation, the Commission should refrain from accepting applications for new digital LPTV and television translator stations

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<sup>1</sup> Amendment of Parts 73 and 74 of 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, MB Docket No. 03-185, *Notice of Proposed Rule Making*, FCC 03-198 (rel. Aug. 29, 2003) (“*Notice*”). According to publication in the *Federal Register*, these comments are timely filed. *See* 68 Fed. Reg. 55566 (Sept. 26, 2003).

<sup>2</sup> *See* Exhibit A.

by non-incumbents until such time as incumbent LPTV, television translator, and Class A stations have had ample opportunity to implement their DTV construction plans.

In the *Notice*, the Commission proposes that, in an initial application filing window, eligibility would be limited to incumbent LPTV, television translator, and Class A station licensees and permittees.<sup>3</sup> At “some time” after processing those applications, the Commission would open “rolling one-day filing windows,” permitting non-incumbents to apply for new digital LPTV and television translator stations.<sup>4</sup>

Cordillera opposes this proposal to the extent that the Commission should not accept non-incumbents’ applications for new digital LPTV and television translator stations until incumbent LPTV, television translator, and Class A stations have had ample opportunity to implement their DTV construction plans. Cordillera agrees that the Commission should place a high priority on facilitating the digital transition of existing LPTV and television translator stations and provide opportunities for Class A stations to secure channels for digital LPTV operations.<sup>5</sup> As the Commission notes, in the DTV proceeding for full power stations it has built initial digital service on the base of existing analog stations.<sup>6</sup> There is no reason to stray from this approach for low power stations, especially given the public interest benefits that would result. Given the proposed sequence of filing windows, the Commission obviously recognizes that providing existing LPTV, television translator, and Class A stations the initial opportunity to further the DTV transition in their communities before providing digital station opportunities to non-

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<sup>3</sup> *Notice*, ¶ 98.

<sup>4</sup> *Id.*

<sup>5</sup> *See id.*, ¶ 97.

<sup>6</sup> *See id.*, ¶ 97 n. 164 (describing the Commission’s DTV 5th *Report and Order* awarding initial DTV licenses and DTV channel allotments to full-service broadcasters that held either an analog station license or a construction permit on the date of adoption of that *Order*).

incumbents would maximize opportunities for viewers, stimulate DTV set penetration, and minimize the loss of existing analog program services.<sup>7</sup> In particular, providing existing television translator stations the initial opportunity to further the DTV transition in their communities will result in substantial public interests benefits. Television stations in rural and mountainous areas rely on translators to reach a substantial portion of their viewers. As the Commission notes, television translator stations are often used to deliver the only free, off-air television service available to rural communities.<sup>8</sup> An initial window limited to incumbents would make it easier for existing television translator operators to obtain channels on which to offer digital service and thus help to ensure digital service in those areas where it is needed most.

In light of the resultant important public interest benefits, the Commission should ensure LPTV, television translator, and Class A incumbents have ample opportunity to implement their DTV construction plans. Accepting non-incumbents' applications for new digital LPTV and television translator stations prior to such time likely would impede incumbents' DTV construction plans. Based on the Commission's experience, an unrestricted window could result in the filing of many thousands of applications for new digital LPTV and television translator stations, many of which are mutually exclusive.<sup>9</sup> As a result, digital authorizations likely would be authorized less quickly, preventing an earlier delivery of digital LPTV and television translator service. In addition, needless filing speculation likely would occur, resulting in tremendous processing delays for all. The Commission has recognized that the window filing

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<sup>7</sup> See *id.*, ¶ 97.

<sup>8</sup> *Id.*, ¶ 6.

<sup>9</sup> As the Commission describes, in its most recent LPTV Service auction filing window in August 2000, which was geographically restricted, approximately 4,700 applications were filed in the window, approximately 3,700 of which were mutually exclusive. See *id.*, ¶ 100, n. 169.

procedure could result in parties' applying for substantially more facilities than they realistically could construct, purposely diverting the Commission's scarce resources and delaying the processing of viable applications.<sup>10</sup>

Waiting to accept non-incumbents' applications for new digital LPTV and television translator stations until incumbents have had ample opportunity to implement their DTV construction plans is reasonable. An initial digital-only application filing window restricted to incumbent station operators would delay digital service offerings by new entrants.<sup>11</sup> However, the Commission already has postponed issuing DTV licenses to secondary facilities<sup>12</sup> and the additional delay only would be marginal. Given the significant role that incumbent LPTV, television translator, and Class A stations will play in furthering the overall transition to digital television, the Commission should focus on expediting their digital transition.

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<sup>10</sup> Amendment of Part 74 of the Commission's Rules With Regard to the Instructional Television Fixed Service, *Order and Further Notice of Proposed Rulemaking*, 9 FCC Rcd 3348, ¶ 13 (1994).

<sup>11</sup> *See Notice*, ¶ 104.

<sup>12</sup> In limiting initial eligibility for DTV licenses to existing full-service television broadcasters, the Commission noted its previous determination that "there is insufficient spectrum to include LPTV stations and translators, which are secondary under our rules and policies, to be initially eligible for a DTV channel." *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, Fifth Report and Order*, 12 FCC Rcd 12809, ¶ 18 (1997) *citing* 7 FCC Rcd 3340, ¶ 42 (1992). In addition, in the Commission's *Class A Report and Order*, the Commission deferred matters regarding the issuance of additional DTV licenses for Class A stations noting its concern to preserve spectrum to accommodate the needs associated with the transition of full-service stations to digital. *See Establishment of a Class A Television Service, Report and Order*, 15 FCC Rcd 6355, ¶ 95 (2000), *on recon.*, 16 FCC Rcd 8244 (2001) ("*Class A Report and Order*"). In addition, the Commission observed that a number of issues regarding the transition were yet to be resolved in future DTV proceedings. *See Class A Report and Order*, ¶ 95.

## CONCLUSION

Cordillera supports the Commission's proposal to provide existing LPTV, television translator, and Class A stations the initial opportunity to further the DTV transition in their communities before extending digital station opportunities to non-incumbents. Because of the likelihood that non-incumbents' applications for new digital LPTV and television translator stations would impede the DTV transition, the Commission should not accept such applications until incumbents have had ample opportunity to implement their DTV construction plans.

Respectfully submitted,

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## **Exhibit A**

Cordillera Communications, Inc. is the direct corporate parent of the following licensees, which own the following full power television, low power television, and television translator stations:

KATC Communications, Inc., licensee of KATC(TV), Lafayette, Louisiana;

KPAX Communications, Inc., licensee of KPAX-TV, Missoula, Montana;  
K18AJ, Kalispell, Montana;

KXLF Communications, Inc., licensee of KXLF-TV, Butte, Montana; K26DE,  
Bozeman, Montana; KXLH-LP, Helena, Montana;

KRTV Communications, Inc., licensee of KRTV(TV), Great Falls, Montana;  
K45CS, Lewistown, Montana; K48AI, Joplin, Montana;

KCTZ Communications, Inc., licensee of KBZK(TV), Bozeman, Montana;

KTVQ Communications, Inc., licensee of KTVQ(TV), Billings, Montana;  
K09XK, Sheridan, Wyoming; K10GF, Miles City, Montana; K24GD,  
Hardin, Montana; K64EM, Castle Rock, Montana; K69CM, Big Timber,  
Montana;

KVOA Communications, Inc., licensee of KVOA(TV), Tucson, Arizona; K20FO,  
Sierra Vista, Arizona; K64BV, Casas Adobes, Arizona; and KRIS-TV,  
Corpus Christi, Texas; K20EK, Kingsville/Alice, Texas; K30EG,  
Beeville/Refugio, Texas; K38EB, Kingsville/Alice, Texas; K47DF,  
Corpus Christi, Texas; K49DV, Beeville/Refugio, Texas; K68DJ, Corpus  
Christi, Texas;

Sangre de Cristo Communications, Inc., licensee of KOAA-TV, Pueblo,  
Colorado; K19DY, Canon City, Colorado; K30AA, Colorado Springs,  
Colorado;

WLEX Communications, LLC, licensee of WLEX(TV), Lexington, Kentucky.