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	)	MB Docket No. 03-185
Rules for Digital Low Power Television,	)	
Television Translator, and Television	)	
Booster Stations and to Amend Rules	)	
For Digital Class A Television Stations	)	

Reply Comments of the 700 MHz Advancement Coalition

The 700 MHz Advancement Coalition ("Coalition"), a newly-formed group of entities interested in the deployment of new services in the 700 MHz Band, hereby submits these Reply Comments to the Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding. The Coalition was created to promote public policies that will facilitate the rapid and effective delivery of new advanced wireless services to the public using the 700 MHz spectrum. Joining in the filing of these comments are those parties listed in Attachment A, many of whom filed Comments in the initial round of this proceeding.

Paramount among the interests of the Coalition is the clearing of television operations from the 700 MHz Band so that new 700 MHz licensees can deploy services. For that reason, the Coalition agrees with those commentors who oppose use of any part of the 700 MHz Band for Low Power Television ("LPTV") operations.

DISCUSSION

A. There Are Significant Obstacles To Use Of The 700 MHz Band For LPTV

Over 40 commentors in this proceeding opposed use of some or all of the 700 MHz spectrum for digital LPTV operations.[1] Most, but by no means all, of these commentors were Auction 44 and 49 winners who had paid for 700 MHz licenses and who were understandably distressed at the proposal to allow digital LPTV stations to share the auctioned spectrum, even on a secondary basis. Some commentors characterized the proposal as "unfair" and "poor spectrum management," affecting the integrity of the auction process.[2] Several commentors pointed out that they participated in Auctions 44 and 49 in reliance upon the Commission's clearly articulated band clearing policies.[3] Those policies included the "wasting" rights of analog broadcasters, not the creation of new rights to operate digital stations for an indefinite period.[4] Some commentors expressed the view that the proposal to use the 700 MHz Band represents a

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1 These include: Access Spectrum, LLC; Adams Telecom Inc.; Aloha Partners, L.P.; Arctic Scope Telephone Association Cooperative, Inc., Grand River Communications, Inc., Kanokla Telephone Association, Inc., Peoples Telephone Cooperative, Inc., Valley Telephone Cooperative, Inc. (collectively, the "Rural Stakeholders"); Association of Public Safety Communications Officials International, Inc.; Cavalier Group, LLC; Corr Wireless Communications, LLC; Cox Broadcasting and the Liberty Corporation; DataCom, LLC; Harbor Wireless, LLC; KM Broadcasting, Inc.; LIN Television Corp. and Banks Broadcasting, Inc.; Martin Group, Inc.; Motorola, Inc.; Paxson Communications Corporation; Pioneer Telephone Cooperative, Inc.; QUALCOMM Incorporated; 3GComm, LLC, Acumen Technologies, Inc., Allcom Communications, Inc., Arvig Communications Systems, Cameron Communications Corporation, Dickey Rural Services, Inc., Eastern Colorado Wireless Partnership, First Cellular of Southern Illinois, Gardonville Cooperative Telephone Association, Kennebec Telephone Company, North Dakota Network Company, Park Region Mutual Telephone Company, Polar Communications Mutual Aid Corporation, PVT Networks, Inc., Red River Rural Telephone Association, Inc., Rothsay Telephone Company, Webster Calhoun Cooperative Telephone Association (collectively, the "Rural 700 MHz Band Licensees"); United Telephone Association; Viacel; Vulcan Spectrum LLC.

2 See, e.g. Comments of Access Spectrum at 3; Aloha Partners at 3; DataCom at 2; Martin Group at 1; Rural 700 MHz Licensees at 9; United Telephone at 1-2; Vulcan Spectrum at 3.

3 See, e.g. Rural Stakeholders at 2; Corr Wireless at 4-5.

4 See, e.g. LIN Television Corp. at 5; Motorola at 4.

change in policy, unprompted by changed circumstances and unexplained by the Commission, which affects the property rights of the 700 MHz licensees.[5]

At the very least, the Comments make clear that the NPRM underestimated the barriers to use of the 700 MHz Band for LPTV Operations. The Comments provided a more realistic picture of the problems associated with using 700 MHz spectrum for digital LPTV operations.

These include:

- *Licensees in the 700 MHz Band are nearer to deployment of services than the Commission believes.* Several commentors indicated that they will be prepared to provide service within 12-24 months, depending on ongoing discussions with equipment manufacturers.[6] The NPRM's implied conclusion that 700 MHz operations will not commence in the foreseeable future is wrong.

- *Licensees in rural areas are as close, if not closer, than urban licensees to deployment.*[7] The NPRM suggests that rural areas are available for LPTV operations. The Comments demonstrate that this, too, is incorrect.

- *Secondary status is no panacea.* The Comments make clear the practical problems associated with terminating interfering secondary operations.[8] One Commenter pointed to ambiguities in the rules that would appear to allow secondary stations to continue operating even after causing interference.[9]

- *No interference protection criteria is proposed for the 700 MHz bands.* A number of commentors pointed out that current interference protection

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5 See, Corr Wireless at 6, citing *U.S. v. Winstar Corp.*, 518 U.S. 839 (1996); QUALCOMM at 8-11.

6 See, Comments of Access Spectrum at 5; Rural Stakeholders at 4; Cavalier Group at 2-6; Harbor Wireless at 2-3.

7 See, Harbor Wireless at 2; LIN Television Corp. at 4; QUALCOMM at 11; Rural 700 MHz Band Licensees at 5-10.

8 See, e.g. Access Spectrum at 4-5; Rural Stakeholders at 6; Cavalier Group at 6-7; Corr Wireless at 3-4; Cox Broadcasting at 5-7; DataCom at 2-3; LIN Television Corp. at 5; Pioneer Telephone at 2; QUALCOMM at 11-13; United Telephone at 2; Vulcan Spectrum at 3.

9 Aloha Partners at 3.

criteria for land mobile operations (470-512 MHz) is not sufficient for 700 MHz operations and that the NPRM failed to propose any alternative.[10]

- *Use of the upper 700 MHz would be constrained by LPTV operations.* Commentors believed that LPTV operation on Channels 60-69 would inhibit deployment by public safety users, who are poised to begin operations after the band is cleared of full service broadcasters.[11]

- *LPTV operations will discourage the development of secondary spectrum markets.* Commentors pointed out that allowing LPTV operations on auctioned spectrum will inhibit the attractiveness of the spectrum to potential lessees, depriving carriers of a promised business opportunity, and undermining the Commission's efforts to develop secondary spectrum markets.[12]

In sum, many commentors expressed strong opposition to allowing use of the 700 MHz spectrum for digital LPTV operation. That opposition is based, not only in self-interest, but also in an appreciation of the practical obstacles to use of the spectrum by LPTV stations. The Commission may not have understood those obstacles before issuing the NPRM. After studying the Comments filed, the Commission can only conclude that the obstacles prevent any use of the 700 MHz spectrum by digital LPTV operators.[13]

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10 See, Access Spectrum at 5; Adams Telecom at 2; QUALCOMM at 11-12.

11 See Association of Public Safety Communications Officials – International at 2-3; Motorola at 2-3.

12 Rural 700 MHz Licensees at 12.

13 The Coalition also believes that the FCC should prohibit the deployment of new *analog* translators and LPTV stations in the 700 MHz band. In the NPRM, the Commission noted that it has the discretion to preclude the filing of such applications for stations seeking to operate on channels 52-69 and that it may now be "appropriate" to do so. *See* NPRM at ¶29. Simply put, expanding analog broadcast services in the 700 MHz bands will delay the digital television transition. Because any new analog broadcast facilities will impose unnecessary coordination costs on 700 MHz licensees, the Coalition urges the FCC to reject translator or LPTV applications specifying channels in the 52-69 range. The Coalition further notes that the FCC has recently issued a public notice announcing the acceptance of 18 such applications for LPTV and translator facilities proposing to operate on channels 52-69. *See Low Power/Television Translators: Proposed Construction Permits*, Public Notice, Report Number Auct 81-10, released December 3, 2003. The Coalition urges the FCC to deny those applications.

B. The Commission's First Priority Must be the Full Service DTV Transition.

Another theme that runs through the Comments is the notion that allowing LPTV stations to operate both analog and digital stations will hinder the DTV transition by making it more difficult to identify channels that will be available for full service digital TV, as well as for new services.[14] The Coalition agrees with the Association for Maximum Service Television, Inc. and the National Association of Broadcasters ("MSTV/NAB") who argue:

> Creating new channels for digital operations of non-full power broadcasters in already crowded spectrum would represent a step backwards – it would impede the ability of full service stations to move to purely digital operations by inhibiting the repacking of core broadcast spectrum and causing interference to the digital service provided by the full power broadcasters.[15]

Furthermore, the Commission's effort to assist LPTV stations is an inappropriate diversion from its most important task. It is certainly true that the transition to digital television is one of the most massive undertakings of an industry and regulator. It demands extraordinary effort, time and resources. Nothing should be permitted to detract from it. This proceeding, unfortunately, does that. Not only does the digital LPTV proposal negatively impact the repacking of the core broadcast spectrum, it dissipates the resources needed for the full service DTV transition.[16] The more time spent on LPTV operator's attempts to gain "permanent" status, a matter not raised in the NPRM, the less time available for the Commission's highest priority, the full service

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[14] See Cavalier Group at 6-8, 11-14; Corr Wireless at 2-3; Cox Broadcasting at 2-5; MSTV/NAB at 3-6; Paxson Communications at 5; Vulcan Spectrum at 2.

[15] MSTV/NAB at 3.

[16] See Paxson at 1.

DTV transition. The Commission should not allow the tail to wag the dog. Rather, the Commission should concentrate its efforts on the full service DTV transition and allow the LPTV transition to occur afterwards.

CONCLUSION

For these reasons, the Coalition urges the Commission not to permit Low Power TV use of the 700 MHz spectrum.

Respectfully submitted,
700 MHz Advancement Coalition

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Its Attorneys

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Attachment A

Access Spectrum, L.L.C.
Aloha Partners, L.P.
Cavalier Group, L.L.C.
DataCom Wireless, L.L.C.
GVNW Consulting, Inc.
Harbor Wireless, L.L.C.
LIN Television Corp.
Pioneer Telephone Cooperative Inc.
QUALCOMM Incorporated
Rural Telecommunications Group
Southern Missouri 700 Consortium