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July 26, 2004

**Via Electronic Comment Filing System**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554

Re: *In the Matter of Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television* (Docket No. 03-15)  
**Additional Comments on "Special Submission of the Association for Maximum Service Television, Inc., on the DTV Channel Election and Repacking Process"**

Dear Secretary Dortch:

On behalf of Morgan Murphy Stations, we respectfully submit the following Additional Comments in support of the proposal outlined in the May 6, 2004 "Special Submission of the Association for Maximum Service Television, Inc. on the DTV Channel Election Repacking Process."

Sincerely,

/s/ Robert J. Rini

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# Morgan Murphy Stations

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Re: *In the Matter of Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television* (Docket No. 03-15)  
**Further Comments on "Special Submission of the Association for Maximum Service Television, Inc., on the DTV Channel Election and Repacking Process"**

Morgan Murphy Stations ("Morgan Murphy") writes to supplement its comments of June 3, 2004 and to reiterate its support for the proposal outlined in the May 6, 2004 "Special Submission of the Association for Maximum Service Television, Inc. on the DTV Channel Election and Repacking Process" with respect to the digital transition. In particular, Morgan Murphy joins MSTV in opposing any efforts by the Media Bureau to adopt a "use it or lose it policy" that would require the "top four" network stations in the top 100 markets to build out their maximized facilities by July 2005 rather than at the end of the DTV transition. As detailed below, Morgan Murphy believes that the affected broadcasters' financial resources would be better directed toward construction of their final, post-transition DTV facilities rather than through the build-out of merely interim digital facilities, which the "use it or lose it" policy would require.

Morgan Murphy understands that the Media Bureau, in its consideration of MSTV's proposed channel-election process to further the DTV transition, has proposed requiring the top 4 network stations in the top 100 markets to construct their maximized facilities by July 2005, with exceptions for stations with out-of-core DTV channels. All other stations would have to build by July 2006. Morgan Murphy believes that forcing stations to build a maximized station that would be in operation only until the end of the transition loses the forest among the trees at a significant cost to broadcasters, particularly those such as Morgan Murphy that operate in small-to-medium-sized markets. In particular, the "use it or lose it" policy would force the construction of maximum facilities during the channel election process for four DTV stations in which Morgan Murphy has an indirect ownership interest – KAPP-DT and KVEW-DT (licensed to Apple Valley Broadcasting, Inc.), WISC-DT (licensed to Television Wisconsin, Inc.) and WKBT (licensed to QueenB Television, LLC). The MSTV plan already requires stations to build maximized facilities for their final DTV channels, and there seems to be little public interest benefit in the planned obsolescence inherent in the "use it or lose it" policy for many broadcasters.

In contrast to the Media Bureau's proposal, Morgan Murphy believes that MSTV's transition plan and channel election process represents a preferable means for facilitating DTV transition. As Morgan Murphy has previously submitted, fundamental fairness requires that the channel-election and repacking process account for — and preserve — broadcasters' investments in constructing and operating their DTV stations. The "use it or lose it" policy would undermine that investment by diverting resources from construction of post-transition facilities and improvements to DTV facilities and programming. Moreover, Morgan Murphy believes that this policy would disproportionately impact broadcasters in small-to-medium-sized markets and needlessly strand investment dollars.

For the above-referenced reasons, Morgan Murphy reiterates its support for the MSTV proposal and urges the FCC to adopt the proposal at the earliest opportunity without adopting a "use it or lose it" policy as contemplated by the Media Bureau.

Respectfully submitted,

**Morgan Murphy Stations**

/s/ Elizabeth Murphy Burns

Elizabeth Murphy Burns, President