



September 1, 2004

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

Re: Ex Parte Presentation, Docket No. MB 03-185

Dear Ms. Dortch:

The Association of Public Television Stations (“APTS”) hereby notifies the Commission of the following *ex parte* meeting in the above captioned proceeding. On September 1, 2004, Andrew Cotlar, Assistant General Counsel met with Jordan Goldstein, Legal Advisor to Commissioner Michael J. Copps. The participant discussed the importance of digital translators to public television and rural America. The attached talking points were also provided.

Sincerely,

/s/ Lonna Thompson _____
Lonna Thompson
Vice President and General Counsel



THE IMPORTANCE OF DIGITAL TRANSLATORS TO PUBLIC TELEVISION AND RURAL AMERICA

- **The Reach and Importance of TV translators.**
 - Approximately 700 public television TV translators are spread throughout the country and are designed to reach rural and other unserved areas, in accordance with public television's statutory mission of universal service. (See 47 U.S.C. § 396(a))
 - Over 12 million Americans are served by public television TV translators. Of these, over 2 million receive no other public television service.
 - For decades, analog public television TV translators have been encouraged, and funded, in part, by CPB, PTFP, and by state or local public or charitable funds.
 - Translators feed one another in chains to reach rural or unserved areas: a break of one link in the chain affects multiple communities.
 - Translators feed local cable head-ends in rural areas: loss of service will affect not only over-the-air viewers but also cable subscribers.

- **Converting Translators to Digital**
 - As the rest of the TV infrastructure is converted to digital, it is vital that TV translators also have some means to convert to digital—otherwise millions of rural Americans will not receive the educational benefits of the noncommercial educational broadcast service.
 - Allowing for the conversion to digital is authorized by federal law.
 - 47 U.S.C. § 336(f)(4).
 - States that while the FCC is not required to assign additional DTV channels in a table of allotments (as was done with full-power stations), it is directed to accept any individual application by television translator stations for either (1) a second channel on which to operate in digital or (2) an on-channel hot-switch at the end of the DTV transition.
 - The language “at the option of the licensee” makes it clear that the choice between an additional channel or an on-

channel hot-switch is the licensee's to make, not the Commission's.

- Other Congressional Mandates:
 - Congressional Mandate 1: FY 2003, Congress appropriated \$15 million to the Rural Utilities Service to upgrade rural public television facilities, including translators. Sen. Rep. 107-223, p. 123 (Jul. 25, 2002)
 - Congressional Mandate 2: FY 2004, because the needs of rural America were greater than the available funding in fiscal year 2003, Congress has appropriated an additional \$14 million to RUS to convert rural NCE stations to digital, including digital translators. See H. Rep. 108-401, pp. 23-24 (Nov. 25, 2003).
 - Congressional Mandate 3: 2003, the Senate FCC reauthorization bill directs the FCC to initiate and swiftly conclude a proceeding on translators to address rural access to DTV services. S. 1264, Sec. 13. This is also emphasized in the Senate Report (See attached).
- **The Current NPRM**
 - APTS supports the policies proposed in the FCC's NPRM with limited changes.
 - First, in order to limit spectrum speculation, the Commission should impose some reasonable geographic restrictions on the application process.
 - Second, the Commission could reduce the incidence of mutual exclusivities and discourage spectrum speculation by limiting the number of *multi-state* applications for LPTV and TV translator stations by a single entity.
 - Third, the Commission should refrain from using its auction procedures where applicants propose a noncommercial educational television service.
 - Instead, Public Television supports the Commission's alternative approach, which would allow parties to resolve their mutual exclusivity through settlements and engineering solutions, subject to dismissal of all mutually exclusive applications if settlements are not made within a specified period of time.
 - Lastly, while APTS agrees that the TV translator service should remain secondary to other primary users of the spectrum, APTS suggests that in order to avoid constant disruption to TV service in rural areas, requests by primary users for relocation be preceded by a reasonable period where engineering or other technical solutions can be found that are mutually agreeable.

FROM SENATE REPORT 108-140 TO S. 1264 (Sept. 3, 2003).

Sec. 13. Digital Translators.

Section 336(f)(4) of the Act authorizes television translators to operate in digital format on the current channels. The FCC, however, has promulgated no rules to implement this law. This section would require the Commission to initiate a rulemaking within 60 days after the enactment of the bill, to establish rules and standards for the operation of digital translators and digital on-channel repeaters. Broadcasters often provide service to rural or remote areas through the use television translators and on-channel repeaters. In many rural areas, these sources offer the only viable option for providing over-the-air television service. This section is intended to expedite the authorization and operation of digital translators and on-channel repeaters. It would ensure that populations served by analog broadcast operations will continue to receive service through digital broadcast operations. Nothing in this provision is intended to alter the primary status of full service television stations as they relate to digital translators. In conducting this proceeding, the FCC should ensure that digital translators do not create addition interference beyond levels currently authorized by the FCC for digital transmission, nor conflict with the channel assignments of full service analog and digital television stations.

The failure of specified digital translator rules is preventing populations served by translators from taking part in the nation's transition to digital broadcast and denying them access to broadcasters' digital services, including educational programming, public safety announcements, and local public affairs programming. Notably, public television licenses often operate with the assistance of a translator. There are over 700 public television station translators nationwide. The Committee recognizes the importance of ensuring that all areas of the United States enjoy the benefits of digital television. Also, in authorizing digital on-channel repeaters, the FCC should ensure that such authorizations remain consistent with FCC interference rules and policies.