ASSOCIATION FOR **MAXIMUM SERVICE TELEVISION, INC.** MSTV

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October 7, 2004

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: ***Ex Parte* Communication in ET Docket No. 03-104 and ET Docket No. 04-37**

Dear Ms. Dortch:

This letter is submitted in the above-referenced proceedings to reiterate the position of the Association for Maximum Service Television, Inc. (MSTV) that the Commission should defer any deployment of Broadband over Power Lines (BPL) service in the low VHF band (50 to 80 MHz) until after the transition to digital television (DTV) is complete.

As MSTV explained in our comments (copy attached), there is material evidence suggesting that operation of Access BPL services in the low VHF band could cause significant interference to DTV reception. This type of interference to low VHF channels could derail the DTV transition at a critical juncture, both damaging consumer perception of DTV and complicating the Commission's efforts to "re-pack" DTV stations to facilitate the return of analog spectrum.

The record in this proceeding continues to show that the Commission need not threaten the success of the DTV transition in this manner to enable the deployment of BPL services. Our review of the record reveals no BPL provider that has specifically opposed MSTV's request to limit BPL to operation below 50 MHz (at least until the end of the DTV transition) or otherwise has advocated a BPL system that depends on the use of spectrum above 50 MHz. Accordingly, the deployment of BPL services would not be hindered by a limitation on the use of frequencies above 50 MHz pending completion of the DTV transition. Once the DTV transition is over and broadcasters have moved to their permanent DTV channels, the Commission can then re-evaluate both the scope of use of low VHF channels and the potential for interference to those channels from the BPL technology then in use or development. This approach will best facilitate the deployment of a full range of new technologies to consumers.

Please direct any questions to the undersigned.

Respectfully submitted,

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CC: The Honorable Michael Powell
The Honorable Kathleen Abernathy
The Honorable Jonathan Adelstein
The Honorable Michael Copps
The Honorable Kevin Martin