

Cohen, Dippell and Everist, P.C.

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
Second Periodic Review)
of the Commission's Rules) MB Docket No. 03-15
and Policies Affecting the)
Conversion to Digital Television)

PETITION FOR RECONSIDERATION

This Petition for Reconsideration is submitted on behalf of Cohen, Dippell and Everist, P.C. ("CDE") and seeks resolution to certain issues raised in the Report and Order entitled, "*In the Matter of Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*" at the Federal Communications Commission ("FCC"), adopted August 4, 2004 and released September 7, 2004.

Table of Station Assignment
and Service Information

The Commission released on October 7, 2004 the *Table of Station Assignment and Service Information*. Several items emerge. It is understood that this table was based on the September 27, 2004 technical parameters and not on all of the data received as a result of the October 1, 2004 data base requirement. Further, this firm has determined to date that CDE's version of the Longley-Rice program¹ yields significant disagreement with 5 percent of the

¹Predicted interference analysis is based on a model of the Longley-Rice program as described in OET Bulletin No. 69 (July 2, 1997) and the Public Notice, "Additional Application

population values listed in the October 7, 2004 table.

Therefore, it is herein requested that additional time be permitted to update and incorporate all data base corrections filed in response to the October 1, 2004 mandate, as noted in the proceeding paragraph.

Data Base Corrections Paragraph 34
October 1, 2004 Deadline

The Commission correctly noted that corrections to the data base were to be made by October 1, 2004. However, the Commission did not specifically address that data sought to be examined and, if necessary, corrected. For example, uniform guidance was not received from the Commission staff and when guidance was requested from the Commission staff, it ranged from that technical data required to perform the Longley-Rice analysis for the repacking, to all parameters including antenna make and model, beam tilt, HAAT, etc. Further some in the industry presumed that the Tower Registration is a station authorization for the purpose of the Report and Order and the October 1, 2004 mandate. Therefore, if the license did not specify the correct coordinates, that the station could do so by filing a letter with the Commission.

In fact, it now appears that the FCC accepted some corrections by notification or letter

Processing Guidelines for Digital Television (DTV)” (August 1998). The FCC’s FORTRAN-77 code was modified only to the extent necessary (primarily input/output handling) for the program to run on a Windows 98/Intel platform. Comparison of service/interference areas and population indicates that this model closely matches the FCC’s evaluation program. Best efforts have been made to use data and calculation identical to the FCC’s program. The model employs the Longley-Rice propagation methodology and evaluates in grid cells of approximately 4 sq. km. Using 3-second terrain data sampled approximately every 1 km at one-degree azimuth intervals with 2000 Census centroids, all studies are based upon data in the current CDBS data base update of the FCC’s engineering data base.

while others required further filings.

It is requested that the Commission give specific guidelines on the data it seeks and to the extent that a good faith effort by the station to comply with the FCC October 1, 2004 deadline was made that the Commission correct that station's data. It is further requested that the Commission enter it for the *Table of Station Assignment and Service Information* if that station further submits corrected data after October 1, 2004.

Channel 6

The Commission should release any and all technical data and analysis relevant to DTV implementation on Channel 6 to the public regarding absence or presence of FM educational interference to DTV operations. It is not certain that non-colocated FM educational with modest to high power will fully protect the reception of the DTV signal. It is not clear that stations authorized under Section 73.525 of the FCC Rules will provide adequate protection to off the air DTV reception. Therefore, it is critical any potential technical issues be addressed before the final DTV allotments and if necessary appropriate adjustments to FCC Rules, Section 73.525 be made. This is important to many stations seeking to make a choice required in FCC Form 382.

Maximization

Clarification is sought of the maximization standard to include the area calculation of the DTV largest station be determined by its actual contour defined by the Longley-Rice prediction methodology service and OET Bulletin 69 as defined by Section 73.622(e) (net of terrain loss and before any interference calculation).

Technical Operation

Further clarification is needed of the operation of a DTV transmitter and what system control and monitoring functions are required at the transmitter and the remote control site.

Pending NTSC Applications

It is requested that guidance be given on how the Commission will address those NTSC applications which are on file which constrains or prohibit DTV operations per MM Docket 87-268 from operating a full power.

International

As previously indicated², a further constraint to an orderly transition is evident regarding the uncertainties created along the border areas and effective coordination with the neighboring administration. Currently, the information in the CDBS does not provide sufficiently accurate information of the neighboring administration's current inventory and request for changes to permit detailed studies to occur based on complete information. There are many instances where the absence of complete, accurate, and up-to-date information regarding neighboring administration's proposals have resulted in delays and wasted effort by industry and the Commission.

This will be more evident as various parties seek to return to their NTSC channel for their final DTV facility. A further complication arose for stations attempting to comply with the Community Broadcasters Protection Act of 1999. This act required stations to file their maximization requests by May 1, 2000.

²Comments submitted by Cohen, Dippell and Everist, P.C. Notice of Proposed Rule Making, MB Docket 03-15, Page 6

Many stations elected to maximize their facilities. However, little information was available regarding other administrations' intentions or planning factors and therefore these filings occurred without benefit of this information. For example, the *Letter of Understanding* between Canada and the United States was released months after the May 1, 2000 maximization deadline and did not include the maximization requests with the Commission. These maximization requests have been hampered by the lack of complete, up-to-date, and accurate documentation by neighboring administrations. This data vacuum, if not filled, will serve to hamper stations³ electing to return their DTV facility to their NTSC channel.

Further, the FCC is urged to examine in a constructive manner and assist where possible those domestic stations within the coordination zones that desire to return to their NTSC channel with the DTV operation and achieve replication. This will ensure that areas near the border do not suffer substantial loss of coverage.

Domestic

With reference to returned channels and their availability for use by other entities, the FCC should consider making these channels available for educational station use with a requirement that the proposed facility basically serve "under-served area".

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³It is noted that there are over 500 stations within the coordination zones. These stations, if impacted by coordination concerns, will potentially impact stations domestically outside the coordination zone.

The Commission permits in MB Docket 03-15 agreements between stations. Clarification is sought whether agreement can now be made and the Commission recognize between a non-core station and a DTV station in the core. The issue arises when a Channel 51 DTV allotment or application must protect an existing Channel 52 NTSC facility. That Channel 52 NTSC facility will ultimately cease its operation at the end of the transition, however, the Channel 51 DTV facility needs the ability to consider this fact in its desire to buildout a practical DTV facility. Therefore, negotiations and agreements of this type should be recognized by the Commission.

Latitude With The Term Maximization

Inherent in the redetermination of a DTV facility returning to its NTSC channel is the ability to achieve a Longley-Rice based reference pattern. It is requested that the Commission recognize the inherent inability to achieve real world pattern that fully replicate a reference pattern and permit “good faith efforts” to maximize or replicate the facility within the physical limitations posed at each transmitter site.

DTV Channel Changes From Rule Makings

Clarification is sought on how the FCC will administratively handle those DTV rule makings which are subject to a Report and Order who have an effective date after August 4, 2004 or October 1, 2004.

Respectfully Submitted,

COHEN, DIPPELL AND EVERIST, P.C.

Donald G. Everist
President

Date: November 3, 2004