

FCC Releases Rules Governing Digital Transition of Low Power Television Stations; Sets September 1, 2015 Deadline

July 2011

On Friday, July 15, 2011, the FCC released its Second Report and Order (the Order) regarding the digital transition of low power television, television translator, television booster and Class A television stations (collectively, LPTV station). In the item, the agency established several hard deadlines. On September 1, 2015, all LPTV stations operating on "in-core" channels (channels 2-51) must cease analog transmissions. By September 1, 2011, LPTV stations currently operating on "out-of-core" channels (channels 52-69) must file displacement applications proposing operations on in-core channels and must cease all operations on channels 52-69 by December 31, 2011. The Commission also made amendments to the LPTV service rules both to facilitate LPTV stations' digital transitions and to address technical issues that have arisen since LPTV stations began to convert from analog to digital operations. For a complete summary of the Order, please see our Alert.

In-Core LPTV Digital Transition

In the Order, the FCC took several steps to facilitate the digital transition of in-core LPTV stations, including the following:

- **September 1, 2015 Transition Date:** As noted above, the Commission established a September 1, 2015 deadline for the termination of all analog LPTV operations. To provide LPTV broadcasters with flexibility to make their digital transition, the Commission has extended to September 1, 2015, the construction deadlines of all outstanding construction permits for digital flash-cut or digital companion channel facilities.

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(Construction permits for new digital stations will continue to receive the usual three-year construction period.)

- **Last-Minute Extension Requests:** In-core LPTV stations that will not be able to complete construction of their digital facilities by September 1, 2015, may request a single six-month extension of their digital construction permits to March 1, 2016. Such requests must be filed with the FCC by May 1, 2015, after which requests for additional time will be evaluated under the Commission's tolling standards. LPTV stations granted a "last minute" extension must still terminate analog operations on September 1, 2015.
- **Consumer Education:** The Commission declined to adopt specific consumer education measures at this time and indicated that the issue will be addressed in a future proceeding.
- **Viewer Notification:** The FCC will require LPTV stations to give notice to viewers before terminating analog operations and transitioning to digital-only operations. The agency, however, did not specify the content or timing of the required viewer notifications, but will require LPTV stations that are capable of originating programming to broadcast notices. LPTV stations that have already ceased analog operations will not need to provide notice to viewers.
- **Conversion of Class A Station Status:** The FCC adopted its proposal to allow Class A stations to choose, through the filing of an FCC Form 302-CA, to either flash cut to digital on their analog channel or to operate on their digital companion channel while preserving their primary, protected status for the channel they choose to retain for digital operations.

Out-of-Core LPTV Transition

To further its goal of efficiently clearing the 700 MHz band, the FCC adopted separate rules governing LPTV stations' use of out-of-core channels 52-69, which include the following:

- **December 31, 2011 Deadline to Vacate 700 MHz Band:** LPTV stations operating on out-of-core channels 52-69 must cease all operations (*i.e.*, analog and digital) by December 31, 2011. On December 31, 2011, all out-of-core LPTV authorizations will be cancelled; all outstanding out-of-core construction permits will be rescinded; and any pending application (analog or digital) for an out-of-core channel will be dismissed if, by September 1, 2011, the permittee has not submitted a displacement application proposing operations on an in-core channel.
- **September 1, 2011 Deadline to Seek Displacement Relief:** Out-of-core LPTV stations must file displacement applications proposing operations on in-core channels by September 1, 2011. Displacement applications filed by out-of-core LPTV stations after this date will be dismissed. Out-of-core stations that do not submit displacement applications by September 1, 2011, will be required to cease all operations on December 31, 2011, when their out-of-core authorizations will be cancelled.
- **Notification to Analog LPTV Stations:** In the Second Report and Order, the FCC revised its rules to require a primary wireless licensee in the 700 MHz band to provide notice to all affected out-of-core LPTV stations (*i.e.*, both analog and digital) 120 days before initiating or changing operations. Previously, wireless licensees were only required to provide notice to digital LPTV stations operating in

the 700 MHz band.

Technical Amendments

In light of its experiences with the full-power DTV transition and LPTV broadcasters' digital transition efforts, the FCC made several other changes to its LPTV service rules, such as increasing the maximum power of VHF LPTV stations to 3 kW; dismissing certain applications for new analog LPTV stations; extending the ancillary/supplementary service rules to apply to LPTV stations operating pursuant to a digital Special Temporary Authorization; amending the definition of a "minor change" of an LPTV facility; allowing broadcasters to submit, on a voluntary basis, actual vertical-pattern relative field values for their antenna systems; and permitting LPTV applicants to use the DTV emission mask available to full power television stations to protect existing stations operating on first adjacent channels.