

Federal Communications Commission

Before the
Federal Communications Commission
Washington, D.C. 20554

DA 97-23

In the Matter of)
)
Advanced Television Systems)
and Their Impact upon the) MM Docket No. 87-268
Existing Television Broadcast)
Service)

SECOND ORDER EXTENDING TIME FOR FILING REPLY COMMENTS

Adopted: January 8, 1997 ; **Released:** January 8, 1997

Reply Comment Date: January 24, 1997

By the Chief, Office of Engineering and Technology:

1. On July 25, 1996, the Commission adopted a *Sixth Further Notice of Proposed Rule Making (Sixth Further Notice)* in MM Docket No. 87-268, 11 FCC Rcd 10968 (1996), that proposed policies for developing the initial channel allotments for digital TV (DTV) service, proposed procedures for assigning DTV allotments, and plans for spectrum recovery. The *Sixth Further Notice* also contains a draft DTV Table of Allotments. Comments responding to the *Sixth Further Notice* were due November 22, 1996. On November 20, 1996, we issued an *Order*, FCC 96-1929, extending the date for filing reply comments in response to the *Sixth Further Notice* to January 10, 1997. This extension was in response to a request submitted by the consulting engineering firm of Cohen, Dippell and Everist.

2. On January 2, 1997, Sinclair Broadcast Group and Sullivan Broadcasting Company, Inc. (Group Owners) requested that we extend the date for filing reply comments in response to the *Sixth Further Notice* an additional 60 days. The Group Owners submit that this additional time is needed for themselves and other UHF station licensees to finalize and present to the Commission a technically and commercially reasonable solution that creates better coverage parity between UHF and VHF stations and also ameliorates certain seriously adverse effects on UHF television stations inherent in the primary allotment plans now under consideration by the Commission. They state that they have grave concerns that a DTV allotment plan that merely replicates the existing contours of NTSC stations, as proposed in the *Sixth Further Notice*, will result in vast power discrepancies between VHF and UHF stations. The Group Owners state that they believe that mere "service replication" would result in DTV power levels for existing UHF

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stations that are so inadequate as likely to cripple or destroy UHF broadcasters, and favor VHF operators that are relocating to the UHF band. They argue that any delay in adopting the DTV Table of Allotments that is occasioned by the requested extension would be outweighed by the need for the Commission to have a full record on the effects that its actions in this proceeding have on UHF broadcasters.

3. The Association for Maximum Service Television (MSTV) filed a motion opposing the Group Owners request for an extension of the time for filing reply comments. MSTV states that while it is sympathetic with the concerns expressed in the Group Owners' request, it believes that those concerns may be addressed without further delaying the DTV allotment proceeding. It argues that it is critical that the Commission conclude this proceeding as promptly as possible so that the transition to DTV may begin. MSTV argues that an across-the-board 60-day extension would delay our rule making action, and that the submission of any proposal could require still another round of comments that would cause further delay. MSTV therefore urges that we deny the Group Owners extension request. As an alternative, it suggests that we state that we will accept late-filed reply comments for four weeks after the current January 10, 1997, due date for reply comments to afford broadcasters the opportunity to evaluate and respond to questions concerning this issue.

4. In comments responding to the Group Owners' request, Motorola submits that we have already provided interested parties sufficient time to prepare responses to the comments on the *Sixth Further Notice* and that an additional 60 days would constitute an unwarranted delay. It states that expedited decision making on the initial DTV Table of Allotments will facilitate the introduction of DTV services to the public and clarify the status of the broadcast television spectrum and its availability for reallocation. Motorola also submits that while it can appreciate the Group Owners' concerns regarding the permissible transmitting powers provided for their DTV stations, the ramifications of "service replication" have been apparent since the release of the *Sixth Further Notice* in mid-August. It therefore argues that a further delay of two months to address DTV planning factors is unnecessary. Motorola further states that it would not, however, be adverse to a more modest extension of perhaps 15 days, given the intervening holiday season and the large number of comments received in this proceeding.

5. On January 7, 1997, the Association of Federal Communications Consulting Engineers (AFCCE) requested that we extend the date for filing reply comments for at least six weeks. The AFCCE expressed a similar request for extension of time in its comments responding to the *Sixth Further Notice*. The AFCCE states that its objective is not to unduly delay this proceeding, but to request that sufficient time be allotted to the study of major technical issues prior to the adoption of technical standards for the allotment of DTV channels by the Commission. It also submits that it is reviewing the filings of other entities and plans to respond to technical comments where it deems appropriate.

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6. In its comments responding to the *Sixth Further Notice*, the engineering consulting firm of du Treil, Lundin and Rackley (DLR) also expresses concerns regarding the significantly higher power that would be authorized for the DTV operations of existing VHF stations that would operate in the UHF band. DLR submits that it is not practical to try to replicate superior VHF propagation characteristics with brute force UHF power. To address this concern, it submits an alternative transition plan that would provide existing stations with DTV facilities that would replicate their existing Grade A contours. Under this plan, stations would return to their existing channels for permanent DTV operation after the transition. DLR states that this alternative plan would avoid high DTV power levels in the UHF band, result in less interference during the transition, and provide other benefits. DLR requests that we consider a further extension of the date for filing reply comments of not less than 45 days in view of the complexity of these issues and the intervening holiday season. It further states that, due to the extraordinary nature of this proceeding, we should designate a formal period in which to file comments responding to reply comments.

7. We agree with MSTV and Motorola that it is in the public interest to complete this proceeding and license DTV stations without unnecessary delay. At the same time, we believe that it is desirable to provide some additional time for the Group Owners, the AFCCE, DLR, and other interested parties to address in more detail the issues they have raised. We do not believe the approach suggested by MSTV that we accept late-filed comments for up to four weeks beyond the current date for filing reply comments is advisable. Rather, we believe that a two-week additional extension of the date for filing reply comments would provide an adequate period of time for broadcasters to submit additional information addressing the issues discussed in the Group Owners' and AFCCE's extension requests and DLR's comments without delaying our decision in this matter. This two week period will allow the development of a complete record on the matter of channel allotments for operation of digital TV service. We therefore are extending the date for filing reply comments to January 24, 1997. We also agree with MSTV that providing an additional period for parties to respond to reply comments would create unnecessary delay and therefore will not provide for acceptance of replies to reply comments, as requested by DLR.

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8. Accordingly, IT IS ORDERED that the requests for extension of the time for filing reply comments submitted by the Group Owners', the AFCCE, and DLR ARE GRANTED to the extent indicated herein and that the date for filing reply comments relating to the *Sixth Further Notice* IS EXTENDED to January 24, 1997. This action is taken pursuant to authority provided in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 303(r), and Sections 0.31, 0.241 and 1.46 of the Commission's rules, 47 CFR §§ 0.31, 0.241 and 1.46.

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