

FCC Open Commission Meeting  
En Banc on Digital Television Transition

Panel 3: Analog Termination PN

Good afternoon Mr. Chairman and Commissioners. I am pleased to participate on this panel to describe the Public Notice issued by the Commission earlier today.

The Public Notice addresses the issue of whether and how stations may terminate their analog signal on February 17 notwithstanding the Congressional action to delay the transition to June 12, 2009.

In drafting the PN, the Commission was mindful of the purpose of the Delay Act to provide consumers with additional time to prepare for the DTV transition but also to provide broadcasters with flexibility to transition to digital service before the new deadline.

The DTV Delay Act specifically references the procedures in the Commission's Third DTV Periodic Review as governing stations' termination prior to the new June 12 deadline.

The PN describes how the Third Periodic applies to the current circumstances and finds that terminations on 2/17 (now a "pre-transition" termination due to the change in the deadline) would have required submissions for Commission approval 90 days in advance, Commission approval, and 60 days of viewer notifications. The PN adopts a partial waiver of these procedures to permit stations to notify us and terminate their analog signal on February 17, subject to certain conditions.

The PN further explains that terminations of analog service after February 17 are subject to the 3<sup>rd</sup> Periodic requirements, which are not waived.

- 2/18-3/13 would be subject to 90 days notice to us and 60 day notice to viewers, and therefore could not occur. (page 8)
- 3/14-6/11 are subject to 30 day notice to us and viewers (page 8)

The PN notes that the Commission reserves the right to limit or reconsider this partial waiver in the event that analog termination on February 17 by a station or group of stations is contrary to the public interest.

- for example, if all or most stations in a market will terminate their analog service on February 17, and that the market is one in which many viewers are unprepared for the transition or at risk if the transition proceeds. (page 3-4)
- If so, may require affected stations to submit additional information to explain and justify how their early termination advances the public interest.
  - E.g. information regarding significant economic, technical, contractual and other business reasons that support termination.

The PN requires stations to notify the Commission of their intention to terminate their analog service on February 17.

- Notice must be filed with the Commission no later than Monday, February 9.
  - No engineering required, no fee, no need for a grant.
  - Follow carefully the procedures in note 11.
  - Short time frame essential so that we can determine where to devote resources, and for consumers to be made aware.
  - Stations that have previously notified us **MUST** notify again.
  - Stations are expected to provide notifications in good faith and cannot change their plans except in emergency (page 8) or if Commission reconsiders waiver. (page 3)
  - Update Form 387
- Stations must provide 30 days worth of Viewer Notifications.
  - Content of Viewer Notifications as provided in the 3<sup>rd</sup> Periodic (see note 13)
  - The PN gives examples of how to calculate 30 days worth in 8 days (n. 12)
  - But stations that have already begin special viewer notification regarding 2/17 termination may count from when they began.
- Stations must also air additional crawls, if technically feasible, during the 7 days prior to 2/17 (spelled out in PN, page 5)

We also remind stations of

- the importance of coordinating with the MVPDs that carry their signals to let them know if the station is transitioning on 2/17.
- To consider providing a nightlight-type service for 2-4 weeks after terminating analog programming (page 7).
  - This is in the style of Wilmington and Hawaii, a slate or loop describing the DTV transition and what viewers need to do (including aural)
  - Not the official “nightlight” so the eligibility list does not apply
  - Notification form accommodates notice regarding informal nightlight.

Stations that want to operate a post-transition facility that is not the same as their pre-transition facility must submit a request to the FCC for approval, as required by the Third Periodic (discussed on page 6).

Stations that have notified us of their pre-2/17 termination may proceed with termination or may decide to remain on the air in light of the extended transition date. (page 8)

- Must let us know by Monday, February 9 what they want to do so that we can keep track of all upcoming terminations.

If already terminated and want to resume analog, must request approval, engineering analysis. (page 9)