



# PUBLIC NOTICE

**Federal Communications Commission**  
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**DA 05-2233**  
**August 2, 2005**

## **DTV CHANNEL ELECTION: FIRST ROUND CONFLICT DECISION EXTENSION AND GUIDELINES FOR INTERFERENCE CONFLICT ANALYSIS**

The purpose of this Public Notice is to extend the deadline for submitting Form 383 and to provide guidance to affected licensees. First, in response to a request dated July 28, 2005, from the Association of Federal Communications Consulting Engineers to extend by thirty days the deadline for submitting the First Round Conflict Decision Form 383, we find good cause to grant a seven day extension to August 15, 2005 to provide licensees additional time to analyze their channel elections and coordinate their responses.

Second, we provide guidance in connection with the conflict decision analysis. In the *Second DTV Periodic Review Report and Order*,<sup>1</sup> the Commission adopted a multi-step channel election process through which broadcast licensees and permittees (licensees) will select their ultimate DTV channel inside the core (*i.e.*, channels 2-51). In the first round, licensees with in-core channels (either one or two in-core channels) filed First Round Election Forms by February 10, 2005, selecting which of their assigned channels they preferred to use for digital operations. The Commission staff then determined whether and to what extent an elected in-core NTSC channel would cause an interference conflict to: (1) an in-core DTV channel that was elected in the first round; (2) an in-core DTV channel of any licensee that elected its NTSC channel in the first round that still may need to revert to its DTV channel; or (3) another elected in-core NTSC channel in the first round. By letters dated June 7, 2005, the Commission staff notified all licensees involved in an interference conflict of the existence of the conflict, and that licensees are allowed a 60-day period to resolve their conflicts, either through mutual agreement, modification of facilities, electing their DTV channel, or continuing to the second round of channel elections. In light of the extension granted herein, the 60-day deadline is extended from August 8, 2005, to August 15, 2005.

### Filing Requirements:

All licensees that received a conflict analysis letter concerning the channel they elected in the First Round should submit Form 383, and any necessary attachments and supplemental information as described in this Public Notice and the *Second DTV Periodic Review Report and Order* to inform the Commission how they wish to resolve their conflict. Licensees should

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<sup>1</sup> *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, 19 FCC Rcd 18,279 (2004).

determine which of the following categories they are in to determine the appropriate steps they should take.

(1) Licensees that decide not to maintain their first round NTSC channel election and to change their election for final DTV operation to their in-core DTV channel, and (2) Licensees with two low VHF channels (2-6) or one in-core channel (*i.e.*, licensees now assigned only their NTSC channel in the range 2 through 51, either as a singleton without any DTV channel or paired with an out-of-core DTV channel) that decide to withdraw their first round channel election and instead elect to participate in the second round, should file Form 383 and select 2.b. to elect their assigned in-core DTV channel or 2.c. to elect to participate in the second round of elections. Post-transition rights to the in-core channel(s) currently assigned to the licensees are released when they elect to participate in the second round of elections.<sup>2</sup>

(3) Licensees that wish to keep their NTSC channel election and agree to accept interference should file Form 383 and Schedule A. In addition to filing Form 383 and Schedule A, licensees should submit interference acceptance agreements or no-objection letters entered into in this conflict resolution round to the Commission no later than August 15, 2005. Such agreement or letter should clearly indicate the amount of interference that each of the parties is agreeing to receive. All such agreements and letters should reference the FCC File No. of Form 383 (First Round Conflict Decision) and docket number 03-15 (the Media Bureau docket number of the Second DTV Periodic Review Proceeding) and must be filed electronically using the Commission's Electronic Comment Filing System ("ECFS"). A copy of the agreement should also be sent by email to [form383@fcc.gov](mailto:form383@fcc.gov) no later than August 15, 2005 and by regular mail to Nazifa Sawez, Federal Communications Commission, Room 2-A726, 445 12th Street, S.W., Washington, D.C. 20554.

(4) Licensees that meet the "One in-core channel" situation described below should file Form 383, select 2.a. only and not check (i) or (ii) and submit Schedule B and also notify the Commission of their special situation by email to [form383@fcc.gov](mailto:form383@fcc.gov) no later than August 15, 2005 and by regular mail to Nazifa Sawez, Federal Communications Commission, Room 2-A726, 445 12th Street, S.W., Washington, D.C. 20554.

(5) Licensees that want to request a modification of their facilities to eliminate interference should file Form 383 and Schedule B. Such licensees should certify that they will resolve their interference conflict(s), and submit technical engineering data substantiating that certification.

(6) Licensees that were notified of the existence of a conflict and do not submit Form 383 by August 15, 2005, will be deemed to have elected their in-core DTV channel, or, if not assigned an in-core DTV channel, will be deemed to have given up their in-core DTV and NTSC channel(s) and may be expected to participate in the second round of channel elections.

#### Conflict Resolution Guidelines:

**One in-core-channel.** In the *Second DTV Periodic Review*, the Commission determined that an interference conflict exists if a proposed facility would cause more than 0.1% interference in

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<sup>2</sup> See *Second Periodic Review*, 19 FCC Rcd at 18,300.

addition to existing interference.<sup>3</sup> The Commission also stated that it would allow licensees with out-of-core DTV channels to exceed this interference level to afford these licensees an improved opportunity to select their in-core NTSC channels.<sup>4</sup> In general, the staff intends to approve such in-core elections if they do not cause more than 2.0% additional interference to other stations (based on their DTV replication facilities, not their maximized facilities). Such licensees must notify us in writing that they are eligible for and wish to take advantage of this special treatment, as described in (4), above.

**Interference Agreement.** Licensees and affected stations may propose to accept more than .1% interference, either in conjunction with, or in lieu of, a reduction in power or other modifications. The Commission will review such proposals to determine whether they are consistent with the public interest. Among the factors licensees should address include: (1) the amount that the proposal exceeds the .1% interference level; (2) the cumulative level of interference that would be received by the affected station;<sup>5</sup> (3) the availability of an in-core digital channel that the licensee could use for digital operations in lieu of its NTSC channel; (4) where the interference occurs (e.g., whether it is outside the affected station's DMA); (5) the number of remaining services to the population in the loss area; and (6) any other relevant public interest considerations. While the decision to accept interference is voluntary at this point and we do not intend to consider arguments that an affected station's refusal to accept interference was unreasonable, we may take such considerations into account in resolving any potential conflicts in Round Three.<sup>6</sup>

**Contingent Conflict.** Where a licensee's election of its NTSC channel is contingent upon approval of another licensee's NTSC channel election (i.e., the first station causes interference to the second station's protected DTV channel), and the affected licensee will not consent to the interference, the interfering licensee may submit a Form 383 to indicate how it wants the Commission to proceed in the event that the affected licensee elects its DTV channel at the conclusion of the first round. Such licensees should also submit an explanation of this contingency by email to [form383@fcc.gov](mailto:form383@fcc.gov) and by regular mail to Nazifa Sawez, Federal Communications Commission, Room 2-A726, 445 12th Street, S.W., Washington, D.C. 20554. We will permit these licensees to withdraw their Form 383 in the event the affected licensee's NTSC channel election is approved.

For additional information, contact Nazifa Sawez or Joyce Bernstein of the Video Division, Media Bureau, at (202) 418-1600 or at [Nazifa.Sawez@fcc.gov](mailto:Nazifa.Sawez@fcc.gov) and [Joyce.Bernstein@fcc.gov](mailto:Joyce.Bernstein@fcc.gov).

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<sup>3</sup> See *Second Periodic Review*, 19 FCC Rcd at 18,302.

<sup>4</sup> *Id.*

<sup>5</sup> We note that, in the MX DTV applications context, the Commission applies a 10% cumulative interference cap. See Section 73.623(c)(2).

<sup>6</sup> See *Second Periodic Review*, 19 FCC Rcd at 18,306.