

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

In the Matter of)
)
Pending Applications and Pleadings Related to)
Proceedings for New Analog Full-Power)
Television Stations for Communities)
In Several States)

ORDER

Adopted: October 12, 2011

Released: October 14, 2011

By the Chief, Video Division:

1. On June 12, 2009, pursuant to statutory mandate, full power television stations completed their transition from analog to digital service, and the full power analog television service terminated.¹ For this reason, this Order dismisses the following applications and pleadings seeking new analog full power television station licenses and channel allotments (collectively the “Analog Proceedings”): (1) applications for new full-power analog television station construction permits;² and (2) petitions for reconsideration of dismissals or denials of such applications.³

2. In the Balanced Budget Act of 1997 Congress added a new section to the Communications Act of 1934, as amended (the “Act”), prohibiting the FCC from renewing analog full power television broadcast licenses to authorize operation beyond a specified digital television transition date, subject to extension under certain circumstances.⁴ Later, Congress again amended the Act, adding a provision obligating the Commission to take affirmative steps to ensure that all analog full power television stations cease broadcasting, and terminate their licenses, by the June 12, 2009 digital television transition deadline.⁵ Specifically, the statute mandated that the Commission “require cessation of

¹ See *infra*, para. 2. Although Congress established a deadline for the full power television station digital transition, the statutory deadline did not apply to low power television stations, which do not need to complete their digital conversion until 2015. For this reason, this Order only addresses applications and pleadings ultimately seeking an analog full service television station. See Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations, MB Docket No. 03-185, ¶¶ 1, 2 FCC 11-110 (rel. July 15, 2011).

² Appendix A lists these pending matters.

³ Appendix B lists these pending matters.

⁴ Pub. L. No. 105-33, § 3003 (1997), codified as 47 U.S.C. §309(j)(14)(A). The Balanced Budget Act of 1997 set December 31, 2006 as the digital television transition deadline.

⁵ The Digital Television Transition and Public Safety Act of 2005 (DTV Transition Act), which is Title III of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, § 3002(b)(1) (2006). In the DTV Transition Act Congress extended the digital transition deadline to February 17, 2009, Pub. L. No. 109-171, § 3002(a)(1), and then to June 12, 2009 in the DTV Delay Act, Pub. L. No. 111-4, § 3002(a)(1), both codified as 47 U.S.C. §309 Note.

broadcasting by full-power stations in the analog television service” by the deadline.⁶ Because these statutory provisions preclude us from issuing the authorizations ultimately sought in the Analog Proceedings, we dismiss the Analog Proceedings.

3. Our action here follows naturally from years of prior notices that the analog service would be terminated. When the Analog Proceeding applicants initiated their proceedings in 1996, along with numerous others seeking analog facilities (collectively the “1996 Analog Applicants”),⁷ the Commission had already explicitly stated that it would eventually terminate the analog service.⁸ Shortly thereafter, the Balanced Budget Act of 1997 selected December 31, 2006 as the first in a series of Congressionally-mandated termination dates.⁹ In addition to knowing that only digital operations would be allowed past the termination date, the Analog Proceeding applicants knew that they would not be issued an initial companion digital allotment. Prior to the Analog Proceeding filings, the Telecommunications Act of 1996 required the FCC to limit eligibility for initial digital allotments to entities that held an analog authorization (a license or construction permit).¹⁰ Thus, in its initial proposed DTV Table of Allotments, the agency provided a paired 6 MHz digital channel only to those entities holding an analog authorization as of April 3, 1997.¹¹

4. Nevertheless, the Commission attempted to provide the 1996 Analog Applicants with digital facilities. First, in reconsidering the *Fifth Report and Order* in 1998, the Commission allowed the 1996 Analog Applicants granted a construction permit after April 3, 1997 to construct digital facilities on their analog channels immediately, or to convert to digital service at a later date prior to the transition.¹²

⁶ DTV Transition Act, § 3002(b)(2).

⁷ The Commission set July 25, 1996 as the deadline to file a petition for rule making for a new analog channel allotment, and September 20, 1996 as the deadline to file an application for a new analog television station. See Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service (Advanced TV), *Sixth Further Notice of Proposed Rule Making*, 11 FCC Rcd 10968, 10992 (1996) (*Sixth FNPRM*). This created a rush of filings, of which the Analog Proceeding applicants comprise a subset.

⁸ In 1992 and again in 1995, well before passage of the Balanced Budget Act of 1997, the Commission proposed the creation of a firm DTV transition date, after which it would no longer issue analog permits. See Advanced TV, *Second Report and Order/Further Notice of Proposed Rule Making*, 7 FCC Rcd 3340, 3353-55 (1992) (establishing a tentative conversion date 15 years from the later of the date of adoption of a digital television standard or a final Table of Digital Allotments). See also Advanced TV, *Fourth Further Notice of Proposed Rule Making and Third Notice of Inquiry*, 10 FCC Rcd 10540, 10545 (1995) (*Fourth Further Notice*).

⁹ See n. 4 *supra*.

¹⁰ 47 U.S.C. § 336(a)(1); see also Advanced TV, *Fifth Report and Order*, 12 FCC Rcd 12809, 12814-15 (1997) (*Fifth Report and Order*) (implementing the initial DTV allotment eligibility requirements). Indeed, for years prior to the Act’s passage, the Commission had proposed limiting initial eligibility to entities holding existing authorization. See Advanced TV, *Second Further Notice of Proposed Rule Making*, 7 FCC Rcd 5376 (1992); *Fourth Further Notice*, 10 FCC Rcd at 10545; *Sixth FNPRM*, 11 FCC Rcd at 10972-73.

¹¹ See Advanced TV, *Sixth Report and Order*, 12 FCC Rcd 14588 (1997) (establishing initial DTV Table of Allotments); *Fifth Report and Order* at 12892, app. E (1997) (announcing DTV channel assignments for eligible authorization holders).

¹² See Advanced TV, *Memorandum Opinion and Order on Reconsideration of the Fifth Report and Order*, 13 FCC Rcd 6860, 6863-66 (1998). Thus, the FCC did not award these permittees a second channel to convert to digital, instead allowing them to convert to digital on their single 6 MHz channel. See also *Second Periodic Review*, 19 FCC Rcd at 18308, ¶ 66 (reiterating that upon receiving a construction permit, an analog applicant would have the option of commencing either analog or digital operations, but must commence digital operations at the end of the transition).

Subsequently, in the draft final DTV Table of Allotments proposed in 2006, the FCC included digital allotments for several dozen of the 1996 Analog Applications that were not eligible for a paired digital channel in the initial DTV Table of Allotments.¹³ Additionally, in that 2006 Notice the Commission announced a method by which it would assign digital channels to analog applicants receiving grant before adoption of a final DTV Table of Allotments, as well as those receiving grant after adoption of a final DTV Table, but before the end of the transition. Finally, in that Notice the FCC warned that “in all situations, the Commission would only act to make allotment decisions once an application was granted and there was a new permittee.”¹⁴ The Analog Proceedings being dismissed here represent the relatively small number of 1996 Analog Applicants who did not secure a construction permit before the June 2009 analog termination. Because the digital transition date has now passed and we are statutorily-prohibited from granting the analog authorizations ultimately being sought in the Analog Proceedings, we dismiss them.

5. Accordingly, IT IS ORDERED that the Analog Proceedings listed in the attached Appendices A and B ARE HEREBY DISMISSED.

6. This action is taken pursuant to authority delegated by Section 0.283 of the Commission’s rules, 47 C.F.R. § 0.283.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

¹³ Advanced TV, *Seventh Further Notice of Proposed Rule Making*, 21 FCC Rcd 12100, 12118 (2006).

¹⁴ *Id.*

APPENDIX A

Pending Applications for New Full Power Analog Television Stations

APPLICANT NAME	STATE	CITY	FILE NUMBER
JEREMY LANSMAN & CAROL SCHATZ	AK	FAIRBANKS	BPCT-19960917KG
TANANA VALLEY TV COMPANY	AK	FAIRBANKS	BPCT-19960920LC
COLINA ALTA BROADCASTING, LLC	AK	FAIRBANKS	BPCT-19960920YE
FAIRCO BROADCASTING	AK	FAIRBANKS	BPCT-19970331KQ
ACTS II EDUCATIONAL CORP., INC.	AL	DOTHAN	BPET-19960920KM
COMMUNITY TELEVISION EDUCATORS, INC.	AL	DOTHAN	BPET-19970331LQ
SECOND BAPTIST CHURCH	AR	HOT SPRINGS	BPET-19960520KE
COMMUNITY TELEVISION EDUCATORS	AR	HOT SPRINGS	BPET-19960923KH
BROADCASTING FOR THE CHALLENGED, INC.	AR	HOT SPRINGS	BPET-19961001KG
KALEIDOSCOPE FOUNDATION, INC.	AR	RUSSELLVILLE	BPET-19960711LJ
THE AMERICAN LEGACY FOUNDATION	AZ	COOLIDGE	BPET-19960710LC
LAKE POWELL TV ASSOCIATION	AZ	PAGE	BPET-19960710KR
BD. OF TRUSTEES, CAL. STATE UNIV. FOR SAN DIEGO STATE UNIV.	CA	BRAWLEY	BPET-19960920WU
NORTHERN CALIFORNIA PUB TV	CA	REDDING	BPET-19960920WN
BLACK HAWK COLLEGE	IA	DAVENPORT	BPET-19960710LA
JACK I. GARTNER	IA	DAVENPORT	BPCT-19961001KU
IOWA PUBLIC BROADCASTING BOARD	IA	DES MOINES	BPET-19960508KE
GLOBAL ED. DEVELOPMENT, INC.	IA	DES MOINES	BPET-19960709KT
FAMILY EDUCATIONAL BROADCASTING, INC.	IA	DES MOINES	BPET-19960715KG
COMMUNITY TELEVISION, INC.	IA	DES MOINES	BPET-19960724KM
MEDIA PROPERTIES LTD, PARTNERSHIP	ID	POCATELLO	BPCT-19960919KH
RETLAW ENTERPRISES, INC.	ID	POCATELLO	BPCT-19960919LC
HARRIS BROADCASTING COM	ID	POCATELLO	BPCT-19970328KF
INDEPENDENT SCHOOL DIST #492	MN	WINONA	BPET-19960725KX
LIVING LIGHT, INC.	MN	WINONA	BNPET-20010220AAT
EDUCATIONAL BROADCASTERS ASSOCIATION	MN	WINONA	BNPET-20010220AAU
THE ARUNDEL GROUP	MN	WINONA	BNPET-20010220AAV
MISSISSIPPI AUTHORITY FOR EDUCATIONAL TELEVISION	MS	CLARKSDALE	BPET-19960919KK
COMMUNITY TELEVISION EDUCATORS, INC.	MS	CLARKSDALE	BPET-19970331SD
MISSISSIPPI AUTHORITY FOR EDUCATIONAL TELEVISION	MS	COLUMBIA	BPET-19960724KR
MISSISSIPPI AUTHORITY FOR EDUCATIONAL TELEVISION	MS	HATTIESBURG	BPET-19960724KS
KB PRIME MEDIA LLC	MS	WIGGINS	BPCT-19960920LV
MEDIA PROPERTIES, LTD PARTNERSHIP	MT	BILLINGS	BPCT-19960919KI
RAPID BROADCASTING COM	MT	BILLINGS	BPCT-19970331KF
MERIDIAN COMMUNICATIONS OF MONTANA, INC.	MT	BILLINGS	BPCT-19970331KJ
BILCO BROADCASTING	MT	BILLINGS	BPCT-19970331KU
STEVEN K. BRUGGEMAN	MT	BILLINGS	BPCT-19970331LV
JJH, LLC, A DELAWARE LIMITED	MT	BILLINGS	BPCT-19970331LZ
WXXI PUBLIC BROADCASTING COUNCIL, INC.	NY	ROCHESTER	BPET-19960228KF
FAITH PLEASES GOD CHURCH CORPORATION	TX	BIG SPRING	BPET-19960726KL
FAITH PLEASES GOD CHURCH CORPORATION	TX	SAN ANGELO	BPET-19960726KI
UNIVERSITY OF UTAH	UT	VERNAL	BPET-19960705KJ
DAVIS TELEVISION FAIRMONT, LLC	WV	FAIRMONT	BPCT-19960920IY
MARRI BROADCASTING, LP	WV	FAIRMONT	BPCT-19960920KS

APPENDIX B

**Pending Petitions for Reconsideration of Previous Dismissals
Or Denials of New Analog Television Station Applications**

APPLICANT NAME	STATE	CITY	FILE NUMBER
FAITH PLEASES GOD CHURCH CORPORATION	AZ	NOGALES	BPET-19960726KQ
COMMUNITY TELEVISION EDUCATORS	AZ	NOGALES	BPET-19961118KG
BROADCASTING FOR THE CHALLENGED, INC.	AZ	NOGALES	BPET-19961119KH
NORTHERN CALIFORNIA PUB TV	CA	WEAVERVILLE	BPET-19960920KV
NATCHEZ TRACE BROADCASTING COMPANY	MS	JACKSON	BPCT-19960710KU
PAPPAS TELECASTING OF AMERICA	OH	DEFIANCE	BPCT-19960722KK
PAPPAS TELECASTING OF AMERICA, A CALIFORNIA L.P.	OH	XENIA	BPCT-19960722KP
FAITH PLEASES GOD CHURCH CORPORATION	TX	DEL RIO	BPET-19960726KM