

INSTRUCTIONS FOR FCC 385

DIGITAL CHANNEL ELECTION FOR TELEVISION BROADCAST STATION: SECOND ROUND CONFLICT DECISION

GENERAL INSTRUCTIONS

- A. This FCC Form is to be used by full power TV broadcast licensees and permittees (hereinafter referred to collectively as “licensees”) participating in the channel election process in order to identify an in-core Digital Television (DTV) Channel for post-transition DTV operation. Specifically, the purpose of this FCC Form 385, Second Round Conflict Decision Form, is for second round electors that were notified by the Commission that their channel election results in an interference conflict to make a decision concerning their interference conflict. A separate form should be filed for every full power TV broadcast station either licensed or with a construction permit. No fee is required for submission of this form.
- B. This FCC Form must be filed by **[insert date.]** All TV broadcast licensees required to make a second round conflict decision in the digital channel election process must file this FCC Form. Licensees that do not submit this FCC Form by the deadline will be assigned a channel by the Commission for post-transition DTV operation. (Such assignment may be made at the end of the channel election process.)
- C. This form makes references to FCC rules. Licensees should have on hand and be familiar with current broadcast rules in Title 47 of the Code of Federal Regulations (C.F.R.) Part 73 “Television Broadcast Services”.

FCC Rules may be purchased from the Government Printing Office. Current prices may be obtained from the GPO Customer Service Desk at (202) 512-1803. For payment by credit card, call (202) 512-1800, M-F, 8 a.m. to 4 p.m. e.s.t; facsimile orders may be placed by dialing (202) 518-2233, 24 hours a day. Payment by check may be made to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250-7954.

- D. The licensee must ensure that the Facility ID Number, Call Sign, and the Channel information are accurate.
- E. This form must be filed electronically through the Media Bureau’s Consolidated Database System (CDBS) online electronic forms system. Instructions for use of the electronic filing system are available in the CDBS User’s Guide, which can be accessed from the electronic filing

web site at: <http://www.fcc.gov/mb/elecfile.html>. For assistance with electronic filing, call the Video Services Division Help Desk at 418-2662.

- F. The licensee must sign the form. If engineering information is being provided by the licensee on Schedule B, its authorized engineering representative, if any, must also sign the form, as indicated. Depending on the nature of the licensee, the form should be signed as follows: if a sole proprietorship, personally; if a partnership, by a general partner; if a corporation, by an officer; for an unincorporated association, by a member who is an officer; if a governmental entity, by such duly elected or appointed official as is competent under the laws of the particular jurisdiction. Counsel may sign the form for his or her client, but only in cases of the licensee’s disability or absence from the United States. *See* 47 C.F.R. § 73.3513. Because the form is filed electronically, the signature will consist of the electronic equivalent of the typed name of the individual. *See* Report and Order in MM Docket No. 98-43, 13 FCC Rcd 23056, 23064 (1998).
- G. The licensee should provide all information requested by this form. Defective or incomplete forms will not be accepted. Inadvertently accepted forms are also subject to dismissal. *See* 47 C.F.R. § 73.3564(b).

INSTRUCTIONS FOR SECTION I: GENERAL INFORMATION

Licensee/Permittee Information.

1. **Item 1: Licensee or Permittee Name.** The name of the licensee or permittee must be stated exactly in Item 1. If the licensee is a corporation, the exact corporate name; if a partnership, the name under which the partnership does business; if an unincorporated association, the name of an executive officer, his/her office, and the name of the association; and, if an individual applicant, the person’s full legal name.

Licensees should use only those state abbreviations approved by the U.S. Postal Service.

Station/Facility Information.

2. **Item 2: FCC Registration Number (FRN).** To comply with the Debt Collection Improvement Act of 1996, the

licensee must enter its FRN number, a ten-digit unique entity identifier for anyone doing business with the Commission. The FRN can be obtained through the FCC webpage at <http://www.fcc.gov> or by manually submitting FCC Form 160. FCC Form 160 is available for downloading from <http://www.fcc.gov/formpage.html> or by calling 1-800-418-3676. Questions concerning the FCC Registration Number can be directed to the Commission's Registration System help desk at <http://www.CORES@fcc.gov> or by calling 1-877-480-3201.

Call Sign. Licensee must enter the current call sign for its NTSC (analog) station or, if the licensee does not have an NTSC station, for its DTV (digital) station.

Facility ID Number. TV Facility ID Numbers can be obtained at the FCC's Internet Website at www.fcc.gov/mb. Once at this website, scroll down and select CDBS Public Access. You can obtain your TV Facility ID Number by calling: (202) 418-1600. Further, the Facility ID Number is now included on all TV authorizations and postcards. In addition, provide the name of the community of license and the state where the station is providing service.

Community of License. Licensee must provide the City and State for its station's community of license.

3. **Item 3: Currently Assigned Channels (Digital and Analog).** For "3.a.," stations must indicate the number of their currently assigned DTV channel. For "3.b.," stations must indicate the number of their currently assigned NTSC (analog) channel. Single channel broadcasters should indicate "Not Applicable," where appropriate. (Stations must indicate their currently assigned channels even if they have released post-transition rights to such channels.)

Contact Information.

4. **Item 4: Contact Representative.** If the licensee is represented by a third party (for example, legal counsel), that person's name, firm or company, mailing address and telephone/electronic mail address may be specified here.

Purpose of Form.

5. **Item 5: Purpose of filing.** Licensees making a conflict decision must select "5.a." Licensees filing an amendment to their conflict decision form must select "5.b." This FCC Form, whether as a conflict decision or amendment, will not be accepted after the filing deadline.

INSTRUCTIONS FOR SECTION II: CONFLICT DECISION

1. **Item 1: FCC Letter Reference Number.** Licensees must

indicate the reference number of the FCC Letter that notified them about their interference conflict.

Second Round Conflict Decision.

2. **Item 2: Conflict Decision.** Second round electors that were notified by the Commission that their channel election results in an interference conflict are required to make a decision concerning their interference conflict. Such second round electors have three choices:
 - (a) Decide to keep their second round election and certify that they have resolved their interference conflict by (i) negotiating a conflict resolution or settlement agreement and/or (ii) reducing facilities or other technical modification;
 - (b) Decide to rescind their second round election and use their contingent channel election by entering into a negotiated settlement agreement with another licensee(s) to resolve the interference conflict; or
 - (c) Decide not to keep their second round election and make no election at this time and instead elect to participate in the third round of elections.

Licensees deciding to keep their first round election must select "2.a." Licensees demonstrating resolution of their interference conflict by negotiating a conflict resolution or settlement agreement must select "2.a.i." and complete Schedule A. Licensees must list on Schedule A the name(s), call sign(s) and facility ID numbers of all parties to the agreement. Submission of Schedule A constitutes certification that all parties listed have agreed to the negotiated conflict resolution agreement. The Commission may request submission of a copy of the Negotiated Conflict Resolution Agreement signed by all parties, if needed. The agreement must also comply with 47 C.F.R. § 73.623(g). All parties to the Negotiated Conflict Resolution Agreement must supply their proposed facility's engineering information upon request.

Licensees demonstrating resolution of their interference conflict by submitting technical engineering data must select "2.a.ii." and complete Schedule B – DTV Engineering. Licensees must select both "2.a.i." and "2.a.ii" if applicable.

Licensees deciding to rescind their second round channel election and use their contingent channel election by entering into a negotiated conflict resolution or settlement agreement with another licensee(s) to resolve the interference conflict must select "2.b." Licensee must input its new channel election (*i.e.*, contingent channel), where indicated. Licensee must complete Schedule A. The licensee may only use its contingent channel as part of a negotiated conflict resolution or settlement agreement, and may not use its contingent channel if such election would result in an interference conflict.

Licensees deciding not to keep their second round election and instead make no election at this time must select “2.c.”

International Coordination.

3. Item 3: International Coordination Pending Issue.

Licensee must answer whether it is electing a channel that is subject to a pending international coordination issue. This is not a broad inquiry as to whether the channel is subject to coordination, but rather a narrow question to determine whether an international coordination issue is preventing the licensee from obtaining its desired facilities.

If yes, licensee must attach as an Exhibit to this form an explanation about its pending international coordination issue.

Federal Communications Commission, AMD-PERM, Paperwork Reduction Project (3060-####), Washington, DC 20554. We will also accept your comments via the Internet if you send them to Leslie.Smith@fcc.gov. Please DO NOT SEND COMPLETED FORMS TO THIS ADDRESS. Remember - you are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-####.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3), AND THE PAPERWORK REDUCTION ACT OF 1995, P.L. 104-13, OCTOBER 1, 1995, 44 U.S.C. 3507.

FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT

The FCC is authorized under the Communications Act of 1934, as amended, to collect the personal information we request in this form. We will use the information provided in the form to determine the ultimate channel to be awarded for post-transition DTV operation. If we believe there may be a violation or potential violation of a FCC statute, regulation, rule or order, your form may be referred to the Federal, state or local agency responsible for investigating, prosecuting, enforcing or implementing the statute, rule, regulation or order. In certain cases, the information in your form may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; (b) any employee of the FCC; or (c) the United States Government is a party to a proceeding before the body or has an interest in the proceeding. In addition, all information provided in this form will be available for public inspection.

If you owe a past due debt to the federal government, any information you provide may also be disclosed to the Department of Treasury Financial Management Service, other federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide this information to these agencies through the matching of computer records when authorized.

If you file an incomplete form, the form may be returned without action having been taken upon it. Your response is required to participate in the digital channel election process.

We have estimated that each response to this collection of information will take from ___ minutes to ___ hours. Our estimate includes the time to read the instructions, look through existing records, gather and maintain the required data, and actually complete and review the form or response. If you have any comments on this estimate, or on how we can improve the collection and reduce the burden it causes you, please write the

INSTRUCTIONS FOR FCC 385 SCHEDULE A
SCHEDULE A
FOR NEGOTIATED CONFLICT RESOLUTION AGREEMENT:

SCHEDULE A INSTRUCTIONS

- A. This Schedule A is to be used with FCC Form 385, the Digital Channel Election for Television Broadcast Station: Conflict Decision Form. Complete this Schedule if involved in a negotiated conflict resolution agreement.
- B. Submission of this Schedule constitutes certifications that all parties listed in Item 1 have agreed to the negotiated conflict resolution agreement.
- 1. **Item 1: List of Parties to Agreement.** Licensee/permittee must provide the name(s), call sign(s) and facility ID number(s) of all parties involved in the negotiated conflict resolution agreement.
- 2. **Item 2: Additional Submissions.** Licensees/permittees must provide a signed copy of the Negotiated Conflict Resolution Agreement and/or engineering information to the FCC upon request.

NOTE: The negotiated conflict resolution agreement is valid only upon Commission approval. The Commission will review the negotiated arrangement for anti-competitive effects and significant levels of interference that would affect service to viewers. The negotiated conflict resolution agreement must also comply with 47 C.F.R. § 73.623(g).

See the FCC 385 Main Form Instructions for public burden estimate.

INSTRUCTIONS FOR FCC 385 SCHEDULE B

SCHEDULE B FOR DTV ENGINEERING DATA:

SCHEDULE B INSTRUCTIONS

- A. This Schedule B is to be used with FCC Form 385, the Digital Channel Election for Television Broadcast Station: Second Round Conflict Decision Form. Complete this Schedule if you are reducing or otherwise modifying facilities to eliminate an interference conflict.

Tech Box

1. Licensee/permittee certifies that the facility specifications listed in the Tech Box demonstrates elimination of interference conflict.

The licensee/permittee must ensure that the facility specifications listed in items 1-10 of the Tech Box are accurate. All items must be completed. The response "on file" is not acceptable. The response "not applicable" is not acceptable unless otherwise noted.

Licensee/permittee will be required to submit an application for DTV allotment at the appropriate time and must comply with relevant Commission rules.

See the FCC 385 Main Form Instructions for public burden estimate.

FCC 385

FOR
FCC
USE
ONLY

FOR COMMISSION USE ONLY
FILE NO.

DIGITAL CHANNEL ELECTION FORM SECOND ROUND CONFLICT DECISION

Must Be Filed by _____ [DATE] _____

PLEASE READ INSTRUCTIONS BEFORE
COMPLETING THIS FORM

SECTION I - GENERAL INFORMATION

Licensee/Permittee Information

1. Legal Name of the Licensee/Permittee		
Mailing Address		
City	State or Country (if foreign address)	ZIP Code
Telephone Number (include area code)		E-Mail Address (if available)

Station/Facility Information

2. FCC Registration Number	
Call Sign	Facility ID Number
Community of License: City	State

3. Currently Assigned Channels:

- a. DTV Channel Not Applicable
- b. NTSC Channel Not Applicable

Contact Information (if different from licensee/permittee)

4. Contact Representative	Firm or Company Name	
Mailing Address		
City	State or Country (if foreign address)	ZIP Code
Telephone Number (include area code)		E-Mail Address (if available)

Purpose of Form:

5. The purpose of the Second Round Conflict Decision Form is for second round electors that were notified by the Commission that their channel election results in an interference conflict to make a decision concerning resolution of their interference conflict. **(SELECT ONE)**

- a. Channel Election b. Amendment

