

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

In the Matter of)
)
DTV Build-Out)
)
Applications Requesting Extension of the)
Digital Television Construction Deadline)
)

ORDER

Adopted: May 17, 2007

Released: May 18, 2007

By the Commission:

I. INTRODUCTION

1. This Order considers requests for extension filed by 145 stations seeking additional time to complete construction of their digital television (DTV) facilities.¹ For the reasons set forth below, we grant the applications filed by 107 stations and extend their DTV construction deadlines until six months from the release date of this Order.² For 29 stations³ that have elected to construct their post-transition DTV facility on a channel that is different from their pre-transition DTV channel, we grant their applications and extend their DTV construction deadline until 30 days after the effective date of the amendments to Section 73.624(d) adopted in the Report and Order in the Third DTV Periodic Review proceeding.⁴ For 4 stations that face unique technical challenges preventing them from completing construction of their DTV facilities (e.g., side-mounted antenna-related issues), we grant their extension

¹ 47 C.F.R. § 73.624(d)(3)(iii). A number of stations included in this Order also sought a waiver of the July 1, 2005 and July 1, 2006, deadlines established for certain stations to construct and operate digital television (DTV) facilities in order to retain interference protection within their replication or maximization service areas (“use or lose” deadlines) or waiver of the August 4, 2005 deadline of the construction of “checklist” facilities (“checklist” deadline). Those “use or lose” and “checklist” waiver requests will be addressed in a separate order.

² These stations are listed in Appendix A.

³ KGFE-DT, Grand Forks, North Dakota (File No. BEPCDT-2005718ACP), KMEB-DT, Wailuku, Hawaii (File No. BEPCDT-20050718ACN) and WENY-DT, Elmira, New York (File No. BEPCDT-20050817ACT) requested during the DTV channel election process to surrender their pre-transition DTV channel, continue to operate in analog on their analog channel, and then “flash cut” (i.e., change directly from analog operations on their analog channel to digital operations on a digital channel) by the end of the DTV transition. In “DTV Transition - Approval of ‘Flash Cut’ Requests,” *Public Notice*, DA 07-1847, released April 25, 2007, the Media Bureau granted these stations’ flash cut requests. We conclude that these stations’ extension applications are now moot and they shall be dismissed.

⁴ These stations are listed in Appendix B. See Third Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television, *Notice of Proposed Rulemaking*, FCC 07-70, released May 18, 2007 (*Third DTV Periodic Review NPRM*).

applications and extend their construction deadlines until February 17, 2009 – *i.e.*, the end of the DTV transition.⁵ We deny 2 stations’ applications but permit them to continue to operate their licensed facilities.⁶ Finally, we deny 3 stations’ applications, admonish these stations for their continuing failure to timely construct, and afford them additional time to comply with the DTV construction rule.⁷

2. In light of the impending Congressionally mandated deadline of February 17, 2009 for the nation’s transition to DTV,⁸ we believe that it is time for all stations to turn their utmost time, attention, and resources to assuring that they have fully built and are operating their DTV facilities. Although we grant extensions to stations requesting additional time to complete their DTV facilities, we caution that the final deadline for completion of DTV construction is drawing near. Congress has established February 17, 2009 as the hard deadline for the termination of analog service.⁹ The law does not permit a station to continue to provide full power analog television service beyond that date.

3. Stations have had several years to plan, finance, construct, and begin operating their DTV facilities. Many stations have been granted numerous extensions of their original construction deadline. At this late stage in the DTV transition, there remains little time for further extensions. We caution stations that they should utilize the deadline extensions granted herein to take all steps possible to complete construction, as any future extensions will be constrained by the hard deadline. In the *Third DTV Periodic Review NPRM*, the Commission proposed a stricter standard for stations seeking further DTV extensions.¹⁰ The Commission tentatively concluded that the new standard should apply to the consideration of pending extension applications once the new rule becomes effective. Therefore, stations should be aware that further DTV extensions may be examined under the stricter standard proposed in the *Third DTV Periodic Review NPRM*.

II. BACKGROUND

4. To further the rapid implementation of a nationwide system of DTV, we adopted in 1997 what we deemed to be an “aggressive” DTV construction schedule.¹¹ We determined that television stations located in the 10 largest television markets and affiliated with the top four television networks (ABC, CBS, Fox, and NBC) would be required to build DTV facilities by May 1, 1999. Stations affiliated with these networks in television markets 11 through 30 were required to construct their DTV

⁵ These stations are listed in Appendix C.

⁶ The stations denied extensions are listed in Appendix D.

⁷ The stations denied extensions, admonished and subject to our remedial measures are listed in Appendix E.

⁸ See Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4 (2006). Title III of the Deficit Reduction Act of 2005 is the DTV Act (*DTV Act*). The *DTV Act* is codified at 47 U.S.C. §§ 309(j)(14)(A) and 337(e).

⁹ *Id.*

¹⁰ *Third DTV Periodic Review NPRM, supra* at ¶¶81-84.

¹¹ See *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, Fifth Report and Order, 12 FCC Rcd 12809 (1997).

facilities by November 1, 1999. All other commercial stations were required to construct their DTV facilities by May 1, 2002, and all noncommercial stations were to construct their DTV facilities by May 1, 2003.

5. A total of 1,702 television stations in all markets (representing approximately 98.8% of all stations) have been granted a DTV construction permit or license. There are 1,603 stations now on the air broadcasting a digital signal, 1215 with licensed facilities or program test authority and 388 operating pursuant to special temporary authority (“STA”) or experimental DTV authority.

6. In the top 30 television markets, all 119 network-affiliated television stations are on the air in digital, 110 with licensed DTV facilities or program test authority and nine with STAs. In markets 1-10, of the 40 network affiliates due to be on the air by May 1, 1999, all are providing digital service, 38 with licensed DTV facilities and two with STAs. In markets 11-30, all 79 network affiliate stations required to be on the air by November 1, 1999, are providing digital service. Seventy-four have constructed their licensed DTV facilities and five are on the air with STAs.

7. Approximately 1,230 commercial television stations in markets 31 and below were due to begin digital broadcasts by May 1, 2002. As of April 2, 2007, 1,136 of these stations (92.4 percent) are broadcasting a digital signal. In addition, approximately 373 noncommercial educational television stations were required to begin digital operations by May 1, 2003. As of April 2, 2007, 348 (93.3 percent) of these stations are broadcasting a digital signal.

8. In the *First DTV Periodic Review MO&O*,¹² the Commission announced that stations that construct and operate a minimum DTV facility pursuant to STA would have their DTV construction deadline extended indefinitely until such time as the Commission set a new deadline for construction of their full licensed facility. In the *Second DTV Periodic Review Report and Order*,¹³ the Commission established deadlines for stations to construct and operate digital facilities in order to retain interference protection within their replication or maximization service areas. Those deadlines were July 1, 2005 for DTV licensees affiliated with the top-four networks (*i.e.*, ABC, CBS, Fox, and NBC) in markets 1-100 and July 1, 2006 for all other television stations. Those dates became the new deadlines for stations operating temporary DTV facilities pursuant to STA to complete construction of their licensed DTV facilities.

9. The Commission’s rules provide that stations that are not able to complete construction of their DTV facilities by their applicable deadline may seek an extension.¹⁴ Extensions may be granted when the station is able to demonstrate that “failure to meet that construction deadline is due to circumstances that are either unforeseeable or beyond the licensee’s control where the licensee has taken all reasonable steps to resolve the problem expeditiously. . . . Such circumstances shall include, but are not limited to: (A) [I]nability to construct and place in operation a facility . . . because of delays in

¹² *Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*, 16 FCC Rcd 20594 (2001).

¹³ *Second Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*, 19 FCC Rcd 18279,18318 (2004).

¹⁴ *See* 47 C.F.R. § 73.624(d)(3)(i).

obtaining zoning or FAA approvals, or similar constraints; (B) the lack of equipment necessary to obtain a digital television signal; or (C) where the cost of meeting the minimum build-out requirements exceeds the station's financial resources."¹⁵

10. The stations in this proceeding have been granted at least two extensions by the staff. The Commission's rules provide that stations' initial requests for six-month extensions be granted on delegated authority.¹⁶ The rules permit the Media Bureau to grant stations' one additional six-month extension. Further extensions may only be granted by Commission action. For 107 stations, we grant the standard six month extension permitted by the rules. However, we conclude below that, in light of the proposals in the Third DTV Periodic Review NPRM regarding stations that have elected to construct their post-transition DTV facility on a channel that is different from their pre-transition DTV channel, it is in the public interest to provide a longer extension for the 29 such stations subject to this Order. Accordingly, the extensions granted herein to these 29 stations will run until 30 days after the effective date of the amendments to Section 73.624(d) adopted in the Report and Order in the Third DTV Periodic Review proceeding. We further conclude below that it is in the public interest to provide a longer extension under the special circumstances presented by the 4 stations facing unique technical challenges preventing them from completing construction of their DTV facilities. Accordingly, the extensions granted herein to those 4 stations will run until February 17, 2009.

III. DISCUSSION

A. Stations Granted Additional Six-Month Construction Permit Extensions

11. For the reasons set forth below, we find that each of the stations discussed in this section (listed in Appendix A) seeking additional time to construct DTV facilities for channels that they have elected for post-transition use, have met the requirements for further extension of their DTV construction deadline. Therefore, we grant each of these stations a six-month extension to complete its facilities.

12. *Hurricane-Related Delays.* Damage from hurricanes constitutes the type of circumstance beyond the control of the broadcaster that warrants extension of their DTV construction deadline.¹⁷ A hurricane damaged the tower location where WPAN-DT, Fort Walton Beach, Florida, planned to locate its permanent DTV facilities. The station then constructed a temporary facility at another location and began operating pursuant to an STA. The station states that it would like to modify its DTV construction permit to specify a third transmitter location and it needs additional time to construct.

13. *September 11, 2001.* The impact of the September 11th terrorist attacks warrants extension of these broadcasters' DTV construction deadline.¹⁸

¹⁵ See 47 C.F.R. § 73.624(d)(3)(ii).

¹⁶ See 47 C.F.R. § 73.624(d)(3)(iii).

¹⁷ See "DTV Build-out - Requests for Extension of the Digital Television Construction Deadline," *Order*, 18 FCC Rcd 22705, 22709 (2003) (damage from typhoon sufficient to warrant DTV extension).

¹⁸ See "DTV Build-out - Requests for Extension of the Digital Television Construction Deadline," *Order*, 19 FCC Rcd 10064, 10066 (2004) (delay due to September 11th terrorist attack sufficient to warrant DTV extension).

14. WNBC-DT, New York, New York, completed construction of its DTV facilities several years ago. However, those facilities were destroyed during the September 11, 2001, terrorist attack on the World Trade Center. WNBC-DT states that it expects to construct a permanent facility on the Empire State Building. The station explains that construction has been delayed because of the “challenging and crowded nature of the Empire State Building and complex leasing arrangements.”

15. Construction of the DTV facilities of WNJU-DT, Linden, New Jersey was similarly delayed by the attack. WNJU-DT states that it is reviewing its options to construct its permanent digital facility in light of the technical problems posed by operating from the Empire State Building.

16. According to the station, the impact of the September 11th terrorist attack and other budget constraints have deprived noncommercial station WNYE-DT, New York, New York of the capital funding it needs to complete its DTV construction. Despite this problem, the station continues to pursue its construction plans.

17. *Construction and Siting Delays.* We recognize that the siting of DTV facilities remains a challenge for many broadcasters. Construction, tower siting and equipment delays of the type outlined below qualify as delays that warrant extension of these stations’ DTV construction deadlines.¹⁹

18. Denver, Colorado, Stations KCNC-DT, KMGH-DT, and KTVD-DT were for many years embroiled in long-standing local tower siting disputes. That dispute was resolved when Congress enacted legislation on December 22, 2006 that clarified certain land use issues on Lookout Mountain.²⁰ Specifically, the legislation states that any person that holds an approved FCC DTV construction permit for a tower located on Lookout Mountain may construct its tower if such tower is “of the same height or lower than the tallest existing analog broadcast antenna or tower at such location.”²¹ In light of this development, these stations may now proceed to complete construction of their DTV facilities expeditiously.

19. WHUT-DT, Washington, DC, states that it has experienced equipment problems with its combiner that required a redesign of some of its DTV equipment. The station explains that it is working to rebuild the necessary equipment and complete installation. The station states that it has also encountered difficulties entering into a lease, and its legal department is working on the matter.

20. KVLV-DT, Fargo, North Dakota, reports that it has completed all of the electrical and air conditioning modifications to the station’s transmitter building, and it has installed the station’s transmitter and DTV antenna. The station states that it has experienced unexpected technical problems with its microwave relay system that delayed the initiation of service. The station states that it is working to resolve these problems and expects to have the station ready for DTV service shortly.

¹⁹ See “DTV Build-out - Requests for Extension of the Digital Television Construction Deadline,” *Order*, 19 FCC Rcd 10790, 10792 (2004) (uncontrollable construction delays sufficient to warrant DTV extension).

²⁰ See Pub. L. No. 109-466 (2006).

²¹ *Id.*

21. WMTJ-DT, Fajardo, Puerto Rico, explains that it unexpectedly found that it would not be able to use an existing telecommunications tower for its DTV antenna because it was determined that the tower could not accommodate additional antennas. The station states that it has decided to build its own tower in an environmentally sensitive area and is awaiting approval by the Forest Service.

22. Noncommercial educational television station KGTF(TV), Agana, Guam, states that it discovered in late 2005 that its tower could not be adequately strengthened to support both its analog and digital facilities. The station has filed an application to modify its DTV construction permit to move to an antenna farm at Mt. Barrigada.²² The station states that it is close to obtaining FAA approval for construction of a new tower at that site.

23. WELU-DT, Aguadilla, Puerto Rico, did not receive a grant of a necessary application for modification of construction permit until March 2004. Since that action, the station states that it has sought approval of its proposed tower site from local authorities. Approval was delayed and the station did not receive local authorization until June 2005. Since that time, the station states that it has been moving forward to complete construction of its facilities. The station explains that construction has been delayed due to an exceptionally wet season, during which it was unable to pour cement. The station states that it is conducting tests to determine if the cement that was ultimately poured is satisfactory. The station has ordered all of its equipment, which has been delivered.

24. KMTP-TV, San Francisco, California, has completed construction of its DTV facilities but, maintains that, due to technical problems with its shared antenna, it is unable to operate with full power. The station has filed a request for STA to operate with reduced power while it works to resolve this technical difficulty and increase its power to its authorized level.

25. Despite having ordered their DTV equipment several months before their respective construction deadlines, KAZH-DT, Baytown, Texas; KMEG-DT, Sioux City, Iowa; KTLN-DT, Novato, California; KWKB-DT, Iowa City, Iowa; WATC-DT, Atlanta, Georgia; WTWB-DT, Lexington, North Carolina; WDTI-DT, Indianapolis, Indiana; and WLFG-DT, Grundy, Virginia; all state that they were unable to obtain their equipment in time for the stations to complete construction. These stations state that they will complete construction as soon as their equipment is delivered.

26. KPAZ-DT, Phoenix, Arizona has a tower site located in a city-owned park. The station explains that construction within the park must be coordinated with the city's parks authority. The station states that it has experienced delays obtaining all of the necessary approvals to begin construction. The station states that it expects to be able to begin constructing shortly and will work towards completing construction as soon as possible. The station also states that an incredible construction boom in the Phoenix area has resulted in shortages of workers and materials which have further delayed construction.

27. KVOS-DT, Bellingham, Washington, is authorized to mount its antenna on a tower within Moran State Park on a site which is privately owned. The station states that the site owner encountered difficulties securing a contract with a builder to construct a tower and died during construction, which resulted in construction delays. The tower was completed in July 2006 and the station states that its antenna and transmission line have been installed, but that it does not expect to

²² See File No. BMPCDT-20061013ACT.

finish construction of the transmitter building until February 2007, assuming bad weather does not hinder access to the mountaintop site.

28. WLLA-DT, Kalamazoo, Michigan, states that winter weather conditions, namely two inches of ice on the station's tower, have prevented it from completing construction of its DTV facilities. The station states that all equipment is on hand and once the weather conditions improve, it will be able to complete construction.

29. WFFF-DT, Burlington, Vermont, has proposed collocating its DTV facilities atop Vermont's Mt. Mansfield together with other area television stations, on land owned by the University of Vermont. The station states that it has experienced delays in completion of this common tower. The station explains that it has had difficulties obtaining all of the necessary approvals from the State of Vermont. The station was able to finally obtain the necessary approvals in April 2005 and states that it has been working to complete construction. The station maintains that construction was delayed in late 2006 by winter weather conditions. The station states that it cannot continue construction until the end of the winter season but is operating an STA facility.

30. WTCE-DT, Fort Pierce, Florida, states that it entered into a tower and transmitter lease with a tower owner in late 2005 and was dependent on the tower owner to complete any necessary structural analysis, fabricate and install any necessary reinforcements, and complete the necessary expansion of the transmitter building. The station explains that the tower company did not complete the tower modifications until two weeks before the construction permit expired, and still had not obtained local approval for the transmitter building addition. The tower owner submitted a letter stating that the delays were not the station's fault and anticipating that all construction would be completed shortly. The station states that all of its equipment has been ordered and is ready for delivery.

31. According to the station, commencement of full power operation of the DTV facilities of WTSP-DT, Ashland, Kentucky, has been delayed because the station's tower company must conduct a tower strength test. The station states that it is awaiting the completion of this test which has been delayed by the shortage of skilled personnel. The station states that it will complete construction as soon as the test is completed.

32. WVIZ-DT, Cleveland, Ohio, states that the primary obstacle to completion of its full DTV facilities has been its ongoing negotiations with the owner of the tower where the station plans to construct its facilities. The station explains that the owner has "effectively blocked" the station's installation of its equipment. The station states that it is working to resolve the problems and restore access so that it can complete construction of its DTV facilities.

33. *Stations with Pending Matters or Recently Granted Authorizations.* At the time that it filed its extension application, the licensee of each of the following stations was awaiting action on a pending matter (request for special temporary authorization, application for construction permit or modification, or petition for rulemaking) or had only recently received an authorization for its DTV facility. Many of the pending matters have been resolved and the Media Bureau staff is working to quickly resolve those remaining pending cases:

KAEF-DT, Arcata, California.²³
KATC-DT, Lafayette, Louisiana²⁴
KATN-DT, Fairbanks, Alaska²⁵
KCFG-DT, Flagstaff, Arizona²⁶
KLDO-DT, Laredo, Texas²⁷
KLTJ-DT, Galveston, Texas²⁸
KRCB-DT, Cotati, California²⁹
KTTW-DT, Sioux Falls, South Dakota³⁰
KVRR-DT, Fargo, North Dakota³¹
WAOE-DT, Peoria, Illinois³²
WCJB-DT, Gainesville, Florida³³
WHTV-DT, Jackson, Michigan³⁴
WNMU-DT, Marquette, Michigan³⁵

²³ See File No. BMPCDT-20060705AAE (granted July 26, 2006).

²⁴ See File No. BMPCDT-20060906AAW (granted September 29, 2006).

²⁵ KATN-DT was awaiting action on channel change rulemaking proceedings that was concluded shortly before the station filed its extension application. The station is now awaiting action on its permit application. See BPCT-20051101AAZ.

²⁶ See File No. BMPCDT-20060329AJP (granted June 23, 2006).

²⁷ See File No. BMPCDT-20060112AEV (granted March 14, 2006).

²⁸ See File No. BMPCDT-20060519ABG (granted July 11, 2006).

²⁹ See File No. BMPCDT-20060804AFZ (granted November 3, 2006).

³⁰ See File No. BMPCDT-20060613AAT (granted July 6, 2006).

³¹ See File No. BMPCDT-20061228AAO.

³² See File No. BMPCDT-20061211ABA.

³³ See File No. BMPCDT-20060707AFH (granted October 10, 2006).

³⁴ See File No. BMPCDT-20000501AEL (granted August 30, 2006).

³⁵ See File No. BMPEDT-20060628ACT (granted August 10, 2006).

WORA-DT, Mayaguez, Puerto Rico³⁶
WPPB-DT, Boca Raton, Florida³⁷
WPXS-DT, Mount Vernon, Illinois³⁸
WRFB-DT, Carolina, Puerto Rico³⁹
WSJU-DT, San Juan, Puerto Rico⁴⁰
WTIC-DT, Hartford, Connecticut⁴¹
WVEO-DT, Aguadilla, Puerto Rico⁴²
WZMY-DT, Derry, New Hampshire⁴³

34. KTDO-DT, Las Cruces, New Mexico, is awaiting action on a pending request to implement a distributed transmission system (DTS) for its DTV facility.⁴⁴ Until the Commission acts on that request, the station continues operating a low power DTV facility pursuant to STA.

35. *Financial Problems.* At an earlier stage of the DTV build out in 2001, the *DTV MO&O* recognized that some stations may not be in the financial position to provide DTV service by the applicable construction deadlines.⁴⁵ We announced a policy of allowing a station to seek an extension of its DTV construction deadline based upon the fact that the cost to construct its facility may exceed the station's financial resources. To qualify under this standard, the applicant must provide (1) an itemized estimate of the cost of meeting the minimum build-out requirements (2) a detailed statement explaining why its financial condition precludes such an expenditure; (3) a detailed accounting of the applicant's good faith efforts to meet the deadline, including its good faith efforts to obtain the requisite financing, and explanation why those efforts were unsuccessful; and (4) an indication when the applicants

³⁶ See File No. BMPCDT-20060414AAR (granted June 26, 2006).

³⁷ See File No. BMPEDT-20060705ACF.

³⁸ See File No. BMPCDT-20060626ABK (granted July 25, 2006).

³⁹ See File No. BMPCDT-20060626ACO (granted July 19, 2006).

⁴⁰ See File No. BMPCDT-20060628ACE (granted July 25, 2006).

⁴¹ WTIC-DT is awaiting Canadian clearance on its modification application. See File No. BMPCDT-20040616AAM.

⁴² See File No. BMPCDT-20060705ABD (granted August 4, 2006).

⁴³ See File No. BMPCDT-20060630ADT (granted July 28, 2006).

⁴⁴ See File No. BDTSSA-20051230AFV.

⁴⁵ See *Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, Memorandum Opinion and Order, 16 FCC Rcd 20594, 20610-12 (2001) ("*DTV MO&O*").

reasonably expects to complete construction.⁴⁶ Although the circumstances that pertained when we adopted these criteria have changed, we will still consider extensions under this standard at this time.⁴⁷

36. Upon review of their applications and supporting documentation, we find that the following stations have met the standards for extension of their DTV construction deadlines based upon financial hardship. We note that a number of these stations have submitted their showings with requests that they be treated confidentially pursuant to Section 0.459 of the Commission's rules,⁴⁸ as they contain sensitive financial information that would "customarily be guarded from competitors" and not routinely available for public inspection.⁴⁹ We find that these stations have met the requirements under Section 0.459. As a result, we grant their requests for confidential treatment and limit our discussions below accordingly.

37. The Georgia Public Telecommunications Commission (GPTC) is the licensee of the following stations:

WABW-DT, Pelham, Georgia
WACS-DT, Dawson, Georgia
WCES-DT, Wrens, Georgia
WCLP-DT, Chatsworth, Georgia
WDCO-DT, Cochran, Georgia
WJSP-DT, Columbus, Georgia

38. GPTC states that it has experienced a delay in obtaining state funding for its DTV construction. GPTC states that it has been working with the state legislature to obtain authority to sell bonds for such construction. GPTC first obtained approval from the state to sell the bonds, but the approval was later rescinded. Since its last extension request, the Governor of Georgia has authorized the sale of revenue bonds to fund construction of the stations' DTV facilities, but the bond sale has been delayed by a final audit of the state's finances. Once the audit is complete and the bonds sold, GPTC states that the stations will be able to order their DTV equipment. According to GPTC, the stations have issued a request for equipment and are awaiting proposals.

39. The licensee of KTBY-DT, Anchorage, Alaska, continues to experience financial hardship. The station states that it intended to locate its DTV facilities on a tower with KTVA-DT. KTBY-DT was in the process of being sold to the owners of KTVA-DT and the station was planning to

⁴⁶ *Id.*

⁴⁷ We note that, in the *Third DTV Periodic Review NPRM*, the Commission is seeking comment on a stricter standard for reviewing DTV extension applications. See *Third DTV Periodic Review NPRM, supra* at ¶¶81-84. That stricter standard includes a modified standard for stations seeking extensions based upon financial hardship. The NPRM proposes that a station would only qualify under financial hardship if it is (1) the subject of a bankruptcy or receivership proceeding, or (2) experiencing severe financial hardship, as defined by negative cash flow for the past three years. *Id.*

⁴⁸ 47 C.F.R. § 0.459.

⁴⁹ See 47 C.F.R. § 0.457(d)(2).

collocate its DTV facilities with KTVA-DT. The sale of KTBY-DT was later terminated, as was the plan to collocate the stations' DTV facilities. KTBY-DT then found a new site for its DTV facilities. The station's application to modify its construction permit to specify this new site was granted in May 2006.⁵⁰

40. The principals of the licensee of WYLE-DT, Florence, Alabama, state that they have been "self-financing" the construction of the station's DTV facilities. The station states that it lost its source for programming in April 2005, drastically reducing its revenues. The station states that it was able to obtain financing from a credit union for the purchase of its DTV transmitter. According to the station, an unforeseen delay in the closing of the loan (due to previously undiscovered liens on the station owner's property) prevented the station from obtaining its financing. The station states that it has hired counsel to assist with the lien problems and it expects to be able to complete construction once the lien problem has been resolved.

41. WRJM-DT, Troy, Alabama, states that it was previously unable to complete construction because release of the final portion of its bank loan was delayed. The station now states that its cash flow does not support a bank or outside financing loan and it is now relying on receivables to finance construction. Since its last extension request, the station has purchased all of its DTV equipment except for its exciter. The station expects to purchase an exciter and complete construction shortly.

42. WCVI-DT, Christiansted, Virgin Island, states that it experienced interference on its analog channel and that it was forced to bear the expense of changing channels or "go out of business." Because of this unexpected expense, the station explains that it was left without sufficient funds to construct its DTV facilities. The station states that it then reestablished its DTV funds and proposed a new DTV construction schedule.

43. The parent company of the licensee of WFXU-DT, Live Oak, Florida, is currently in bankruptcy reorganization. The station states that this fact, combined with the poor financial performance of the station, has delayed a decision on the expenditure of funds for the station's DTV construction. The station states that the bankruptcy court is continuing to pursue a buyer for the station.

44. Mission Broadcasting, Inc., (Mission) is the licensee of the following stations for which it is seeking extensions:

KAMC-DT, Lubbock, Texas
KCIT-DT, Amarillo, Texas
KHMT-DT, Hardin, Montana
KJTL-DT, Wichita Falls, Texas
KODE-DT, Joplin, Missouri
KRBC-DT, Abilene, Texas
KSAN-DT, San Angelo, Texas
WFXP-DT, Erie, Pennsylvania
WFXW-DT, Terre Haute, Indiana

⁵⁰ See File No. BMPCDT-20060214AAK (granted May 18, 2006).

Mission has claimed financial hardship as the justification for extension of these stations' DTV construction permits. Mission has submitted a timetable for construction of their DTV facilities.

45. Nexstar Broadcasting, Inc., (Nexstar) is the licensee of the following stations for which it is seeking extensions:

KAMR-DT, Amarillo, Texas
KARD-DT, West Monroe, Louisiana
KBTB-DT, Port Arthur, Texas
KFDX-DT, Wichita Falls, Texas
KLBK-DT, Lubbock, Texas
KLST-DT, San Angelo, Texas
KMID-DT, Midland, Texas
KSNF-DT, Joplin, Missouri
KSVI-DT, Billings, Montana
KTAB-DT, Abilene, Texas
WDHN-DT, Dothan, Alabama
WFFT-DT, Fort Wayne, Indiana
WFXV-DT, Utica, New York
WQRF-DT, Rockford, Illinois
WTWO-DT, Terre Haute, Indiana

Nexstar has also claimed financial hardship as the justification for extension of these stations' DTV construction permits. Nexstar has submitted a timetable for construction of their DTV facilities.

46. KDMD-DT, Anchorage, Alaska, states that it has been unable to complete construction of its DTV facilities due to financial hardship. The station states that it has made good faith efforts to complete construction and has submitted its plan for completion of construction.

47. KEET-DT, Eureka, California, is a noncommercial station licensed to a public television entity. The station has been unable to complete construction of its permanent DTV facilities because of "severe financial constraints." The station states that it has been conducting pledge drives to raise money for construction and has been operating a low-power STA facility. The station states that it has applied for a Department of Agriculture grant and intends to use these funds, if obtained, to complete its upgrade.

48. The parent of the licensee of KHGI-DT, Kearney, Nebraska; KWNB-DT, Hayes Center, Nebraska; KSWT-DT, Yuma, Arizona; WWAZ-DT, Fond du Lac, Wisconsin, has been unable to complete construction of its DTV facilities because of financial hardship. The licensee has provided timetables for completion of its facilities.

49. KMCC-DT, Laughlin, Nevada, KTNL-DT, Sitka, Alaska, and KTVG-DT, Grand Island, Nebraska, also rely on financial hardship as the reason they have not completed construction of their DTV facilities. The stations have provided timetables for when they expect to complete construction.

50. KNLC-DT, St. Louis, Missouri, is licensed to a church entity that has been struggling to raise sufficient funds to complete construction of its full facility. The station states that it continues to raise money and has made substantial progress towards completing construction. The station explains

that it also suffered the loss of its analog transmitter that it replaced with a new dual analog/digital model. The station has filed its license application and is awaiting grant of program test authority which is not automatic because the station will be operating on Channel 14.

51. KSMQ-DT, Austin, Minnesota, is a noncommercial educational station that has experienced difficulties raising funds to complete construction of its full power facility. The station states that it is “seeking to raise grant funding for this project” and has provided a timetable for DTV construction.

52. The licensee of KTRG-DT, Del Rio, Texas, is in bankruptcy. The station is in the process of being sold to a new owner and an assignment application is pending.⁵¹

53. KSBN-DT, Springdale, Arkansas, is licensed to a non-profit entity that operates the station on a non-commercial basis. The station made a financial hardship showing. The station was recently sold and the new licensee has filed an application to modify the station’s construction permit.⁵²

54. KVTN-DT, Pine Bluff, Arkansas, is also licensed to a non-profit entity that relies on donations and fundraising to operate its station. The station states that it has experienced delays in raising money for DTV construction. The station has provided a timetable for completing construction and states that it is “committed” to completing this station’s DTV facilities.

55. KTWO-DT, Casper, Wyoming, was recently sold to new entity that took control of the station only a month before the construction deadline. The new entity states that it is researching sources of funding for the DTV construction.

56. KUBD-DT, Ketchikan, Alaska, sought an extension based on financial hardship. The station states that it is also working to resolve interference problems from radar on nearby cruise ships. The station has submitted a timetable for resolving the interference problems and to complete construction.

57. The licensee of WBKB-DT, Alpena, Michigan, and KXGN-DT, Glendive, Montana, also provided a financial hardship showing explaining its efforts to complete its DTV facilities for these stations. The licensee submitted timetables for completion of construction.

58. KVHP-DT, Lake Charles, Louisiana, has experienced financial difficulties following the heavy hurricane season of 2005. The station’s analog facility was damaged during hurricane Rita. In addition, the station has had difficulty finding a tower crew to complete its DTV construction.

59. The previous licensee of WFXB-DT, Myrtle Beach, South Carolina, explains that it experienced financial difficulties to the point that it was forced to sell the station. The new owner only recently acquired the station and has submitted a plan for construction of the station’s DTV facilities.

⁵¹ See File No. BAPLCT-20060120ABR.

⁵² See File No. BAPLCT-20060413ACJ (granted June 6, 2006) and File No. BMPCDT-20070207AAA.

60. The licensee of WSEE-DT, Erie, Pennsylvania, claims to not have sufficient cash flow to complete construction of its DTV facilities. The licensee states that it may not borrow any more under its current credit facility nor may it borrow from other sources. The licensee explains that it is making plans to refinance its credit facility with another entity in 2007 and believes it will be able to obtain the necessary financing at that time to complete construction.

61. The licensee of WTVE-DT, Reading, Pennsylvania, is currently in bankruptcy. The station states that the bankruptcy trustee is pursuing the construction of a distributed transmission system (DTS) facility for the station. Their application for STA DTS was granted on November 30, 2006⁵³ and the station states that it plans to move forward with construction of this system.

B. Stations Granted Construction Permit Extensions Until 30 Days After the Effective Date of the Amendments to Section 73.624(d) Adopted in the Report and Order in the Third DTV Periodic Review Proceeding

62. The *Third DTV Periodic Review NPRM* proposes to permit a station that has not constructed an operational pre-transition DTV facility to return its CP for that facility to the Commission and focus its efforts on construction of its post-transition facility.⁵⁴ The *Third DTV Periodic Review NPRM* also proposes options for stations with operational DTV facilities on a pre-transition channel, which could include discontinuation of further construction.⁵⁵ In light of these proposals for stations whose pre-transition DTV channel is different from their post-transition channel, and for the reasons set forth below, we find it appropriate to grant stations in that category (listed in Appendix B) an extension until 30 days after the effective date of the amendments to Section 73.624(d) adopted in the Report and Order in the Third DTV Periodic Review proceeding.

63. *Hurricane-Related Delays.* According to the station, construction of the DTV facilities of WGNO-DT, New Orleans, Louisiana, was delayed by hurricane Katrina. The station states that its analog facility was damaged as well. The station explains that it is working with its insurance carrier and evaluating several options for completing its DTV construction.

64. WSTE-DT, Ponce, Puerto Rico, states that it has experienced delays in obtaining local permits necessary to complete its DTV construction. Without the local permits, the station maintains that it could not begin construction. The permits were eventually obtained and the station began construction of its DTV facilities. However, the station states that construction was subsequently delayed due to tower crews being diverted to help repair towers that were damaged by Hurricane Katrina. The station recently reported that construction of the tower and transmitter building has been completed. The station states that it is now awaiting installation of electricity to its site and the grant of a local electrical use permit.

⁵³ See File No. BSDTS-20060407ACP (granted November 30, 2006).

⁵⁴ See *Third DTV Periodic Review NPRM*, *supra* at ¶65.

⁵⁵ *Id* at ¶66.

65. *September 11, 2001.* WABC-DT, New York, New York is one of the New York stations whose completed DTV facilities were destroyed during the September 11, 2001, terrorist attack on the World Trade Center. The station states that it plans to construct its permanent facilities at either one of its current temporary sites or the new Freedom Tower site. The station explains that construction at that site cannot be completed until recently released plans for rebuilding a broadcast tower there are finalized and the tower has been constructed.

66. *Construction Delays.* KCAL-DT, Los Angeles, California, did not receive a grant of its maximized construction permit until a little more than three months before its construction deadline. In that time, the station states that it has made progress in construction but needs an extension in order to complete construction.

67. According to the station, at the “eleventh hour,” the owner of the tower proposed by KCAU-DT, Sioux City, Iowa, for its DTV facilities changed its mind and decided to not permit the station access to the tower. The station states that it is now pursuing the prospect of using its existing analog tower site for collocating its DTV facilities. The station states that it is working with the tower owner to obtain its consent.

68. KRMA-DT, and KUSA-DT, both Denver, Colorado, are two of the Denver area stations embroiled in a long-standing local tower siting dispute.⁵⁶ That dispute was resolved recently by Congressional action and these stations may now proceed to complete construction of their DTV facilities expeditiously.

69. KTVZ-DT, Bend, Oregon, is operating a lower power DTV facility pursuant to an STA. Based on monitoring the quality of reception of its digital viewers, the station states that it is conducting field studies to determine whether to construct a full power facility pursuant to its outstanding DTV construction permit. The station states that it needs an additional six months to complete these field studies before it can determine whether to pursue the full power facility or modify its construction permit.

70. WVXF-DT, Charlotte Amalie, Virgin Islands, maintains that it was having problems with the electrical grid that serves the station’s tower site. The station explains that the grid is insufficient to support both the station’s analog and DTV operation. The station states that it is working with the local electric authorities, who estimated that an upgrade to the grid would be completed in January 2006. Because of numerous power outages since that time, the station maintains that it has determined that it does not make sense to replace the station’s analog transmitter with a more efficient model. The station states that such a step would not solve the problems of sporadic power outages at its tower site. The licensee, which acquired the station in September 2004, states that it has ordered its DTV equipment and is also working to finalize a modified lease for its proposed antenna location.

71. Despite having ordered its DTV equipment several months before its construction deadline, WGGS-DT, Greenville, South Carolina; states that they were unable to obtain its equipment in time for the station to complete construction. This station states that they will complete construction as soon as its equipment is delivered.

⁵⁶ See ¶18 *infra*.

72. *Financial Hardship.* The licensee of KFNB-DT, Casper, Wyoming, and KLWY-DT, Cheyenne, Wyoming, also claims financial hardship as the justification for having not completed construction of its DTV facilities. The licensee states that it has operated under a “severe financial strain” for years. The stations continue to operate STA facilities and have provided a timetable for DTV construction.

73. Mission is the licensee of KOLR-DT, Springfield, Missouri. Mission has claimed financial hardship as the justification for extension of this station’s DTV construction permit. Mission has submitted a timetable for construction of its DTV facilities.

74. Nexstar is the licensee of KQTV-DT, St. Joseph, Missouri, WCFN-DT, Springfield, Illinois, and WJET-DT, Erie, Pennsylvania. Nexstar has also claimed financial hardship as the justification for extension of these stations’ DTV construction permits. Nexstar has submitted a timetable for construction of their DTV facilities.

75. WFXI-DT, Morehead City, North Carolina, claimed financial hardship and has submitted a timetable for completion of the station’s DTV facilities.

76. GPTC is the licensee of WGTV-DT, Athens, Georgia, WVAN-DT, Savannah, Georgia, and WXGA-DT, Waycross, Georgia. As set forth infra, GPTC experienced a delay in obtaining state funding for DTV construction. GPTC has issued a request for equipment and is awaiting proposals.

77. The licensee of WICU-DT, Erie, Pennsylvania, claims to not have sufficient cash flow to complete construction of its DTV facilities. The licensee states that it may not borrow any more under its current credit facility nor may it borrow from other sources. The licensee explains that it is making plans to refinance its credit facility with another entity in 2007 and believes it will be able to obtain the necessary financing at that time to complete construction.

78. The parent of the WLGA-DT, Opelika, Alabama has been unable to complete construction of its DTV facilities because of financial hardship. The licensee has provided a timetable for completion of its facilities.

79. WMDT-DT, Salisbury, Maryland, claimed financial hardship as its reason for not completing construction of its full power DTV facility. The station was assigned an out-of-core DTV channel (53) and elected to return to its analog channel. The station has provided an estimate of its DTV construction costs and a timetable for completing construction.

80. *Stations with Pending Matters or Recently Granted Authorizations.* At the time KGWC-DT, Casper, Wyoming filed its extension application the station was in the process of being sold to a new entity and the assignment application was still pending.⁵⁷ That application was subsequently granted. The new licensee states that it has taken steps to put the station on the air including ordering equipment and expects to have the station on the air shortly.

⁵⁷ See File No. BALCT-20030826ALR (granted May 31, 2006).

81. At the time that it filed its extension application, the licensee of each of the following stations was awaiting action on a pending matter (request for special temporary authorization, application for construction permit or modification, or petition for rulemaking) or had only recently received an authorization for its DTV facility:

KJNP-DT, North Pole, Alaska⁵⁸
KVTV-DT, Laredo, Texas⁵⁹
WDIO-DT, Duluth, Minnesota⁶⁰
WIPR-DT, San Juan, Puerto Rico⁶¹
WYDC-DT, Corning, New York⁶²

C. Stations Granted Construction Permit Extensions Until February 17, 2009

82. We recognize the unique technical challenges faced by the stations listed in Appendix C. For the reasons set forth below, we grant each of these stations an extension of their CP until February 17, 2009 – i.e., the end of the DTV transition.⁶³

83. *Problems with Top-Mounted Antennas.* Some of the stations listed in Appendix C have proposed to collocate their DTV antenna on the top of the tower that houses their existing analog antenna. That each station's existing analog antenna is currently located on the top of the tower has complicated the station's ability to timely construct its DTV facility. In order to top-mount its DTV antenna, each would have to relocate its analog antenna to another position on its existing tower or to another location altogether. In addition, some of these stations have elected their respective existing analog channels as their post-transition DTV channels and have proposed using their existing analog structures as the structures for their DTV facilities. These stations maintain that, to require them to temporarily relocate their existing analog antenna from the top-mounted position until the end of the DTV transition would cause a loss of analog service, other technical problems, or the needless incurrence of extra engineering expenses. In order to resolve this problem, each such station has side-mounted its DTV antenna temporarily until the end of the DTV transition. At the end of the DTV transition, when analog operations have ceased, each station proposes moving its permanent DTV antenna to its permanent top-mounted position.

⁵⁸ See File No. BMPCDT-20060609ABY.

⁵⁹ KVTV-DT was awaiting the conclusion of a pending channel change rulemaking proceeding that was concluded shortly after the station filed its extension application. The station was granted its construction permit. See File No. BMPCDT-20060104AAJ (granted March 13, 2006).

⁶⁰ See File No. BMPCDT-20060703ACP (granted July 26, 2006).

⁶¹ See File No. BMPCDT-20061127AHG.

⁶² See File No. BMPCDT-20060707ADY.

⁶³ The stations in this category include those whose pre-transition DTV channel is the same as their post-transition channel and stations whose post-transition DTV channel is different than their pre-transition channel.

84. KUPT-DT, Hobbs, Nevada, states that building out its replication facilities would require it to move its existing top-mount antenna down resulting in a loss of service to its community of service. The station estimates that 355 persons would lose service if this move was made. The station is operating a temporary side-mounted facility that provides 90.5 percent coverage.

85. The analog antenna for WJZY-DT, Belmont, North Carolina, is top-mounted and the station's digital antenna is side-mounted. WJZY-DT states that it cannot achieve maximization of its DTV facilities without displacing its analog antenna and causing a severe disruption to analog viewers. The station is operating a temporary DTV facility that provides 96 percent coverage.

86. WMYT-DT, Rock Hill, South Carolina, also has a top-mounted analog antenna and side-mounted digital antenna. The station also states that requiring it to achieve its maximized DTV facilities would cause a severe disruption to its analog operation. The station is operating a temporary DTV facility that provides 99 percent coverage.

87. *Other Unique Technical Challenges.* Noncommercial educational station WMFE-DT, Orlando, Florida, uses a common antenna for its analog and digital operations. The station was forced to use this configuration because it is not permitted to install any additional antennas on its leased tower. The station is currently operating its DTV facility at reduced power and intends to increase to full power at the end of the DTV transition when it will no longer be operating its analog facility.

D. Stations Denied Extensions

88. KCET-DT, Los Angeles, California, currently operates a licensed DTV facility on DTV channel 59 that provides replication coverage. The station elected to return to its analog channel 28. It has an outstanding construction permit to maximize its DTV facilities. During the channel election process, the station was designated its analog channel (28) as its permanent DTV assignment but was required to resolve interference to KEYT-DT, Santa Barbara, California, in order to receive this channel assignment. The station resolved this interference by electing to amend its Conflict Resolution Form to specify its licensed replication facilities (currently operating on DTV channel 59) rather than its maximized facilities. The station requests that its construction permit for its maximized facilities be extended, however. The station states that KEYT-DT is not yet operating at its full power and until it is able to justify a waiver of its "use or lose" deadline, the Commission should permit KCET-DT to continue to pursue its maximized construction permit.

89. KCET-DT chose to amend its Conflict Resolution Form and to specify its licensed replication facilities. When it did so, it gave up its rights to pursue the construction permit for its maximized facilities. We will not permit KCET-DT to pursue a construction permit that conflicts with the allotted facilities of another station (KEYT-DT). We note that KEYT-DT has sought a waiver of the "use or lose" deadline and that waiver will be considered in a separate proceeding.

90. KICU-DT, San Jose, California, is licensed to operate a DTV facility on Channel 52 with 251 kW but has a permit for a maximized 1000 kW facility. The station has elected to return to its analog channel 36. The station certified that it would construct its maximized DTV facility. The station's lower power facility satisfies its "use or lose" requirements but it would like to be able to keep alive its maximized construction permit. The station provides no justification whatsoever as to why it has not constructed its maximized facilities.

91. We deny these stations' extension applications because they have not met the requirements for extension. These stations have not shown that they were unable to complete construction due to unforeseen circumstances, circumstances beyond their control, or financial hardship.⁶⁴ Unlike the other stations whose extension applications we deny herein, we shall not admonish these stations for seeking to extend their maximized DTV construction permits because they have met their DTV construction obligations albeit at a lower power and their extension requests were filed on a contingent basis. These stations shall be permitted to continue to operate their licensed facilities.

E. Stations Denied Extensions and Admonished For Failure to Timely Construct

92. In our *Remedial DTV R&O*, we announced a series of measures that we would employ whenever we determined that a television station had failed to timely complete construction of its DTV facilities and to adequately justify an extension of its DTV construction permit.⁶⁵ Upon examination of their extension applications, we have determined that the following stations have not submitted a showing justifying their failure to complete construction of their DTV facilities and warranting an extension of their construction deadline. These stations have not met their DTV construction obligations and we therefore admonish these stations and subject them to our remedial measures.⁶⁶

93. KECY-DT, El Centro, California, is licensed on analog channel 9 and currently operates a DTV facility on channel 48 pursuant to STA. The station has elected to return to its analog channel 9. The station began DTV operations on channel 48 in July 2004 and states that it has not had enough time to determine whether to complete construction of its full DTV facility. The station's only justification is that they haven't decided what to build. Such a decision is completely within the station's control and does not serve as justification for extension of a construction permit.⁶⁷

94. WTVA-DT, Tupelo, Mississippi, was initially assigned DTV channel 57 and has been assigned channel 8 as its post-transition DTV channel. When it filed its extension application, the station claimed that it was awaiting action on rulemaking to change its DTV channel. That petition was denied. The station also claimed financial hardship as its reason for not constructing on its paired DTV channel 57 but it did not include a timetable for when it expected to complete construction of this facility, one of the requisite parts of the financial hardship showing.

⁶⁴ See 47 C.F.R. § 73.624(d)(3).

⁶⁵ See *Remedial Measures For Failure to Comply with Digital Television Construction Schedule*, Report and Order, 18 FCC Rcd 7174 (2003) ("*Remedial DTV R&O*").

⁶⁶ Commission staff informally contacted those stations that made incomplete showings in an effort to provide them with a chance to supplement their submissions. Some stations provided us with additional information and, thus, were able to secure an additional CP extension.

⁶⁷ See "DTV Build-out - Requests for Extension of the Digital Television Construction Deadline," *Order*, 18 FCC Rcd 22705, 22716 (2003) (stations denied extensions for failing to show that events outside of their control had delayed construction).

95. KJUD-DT, Juneau, Alaska, has elected to remain on its DTV channel 11. Although it is not a satellite, the station relies on its programming from commonly owned KIMO-DT, Anchorage, Alaska. Because of this fact, KJUD-DT states that it cannot complete construction of its DTV facilities and begin operating until the DTV facilities of KIMO-DT, Anchorage, Alaska, are completed. According to a “use or lose” waiver filed in July 2006, KIMO-DT has completed construction and is operating with DTV facilities that provide almost full coverage. Despite this fact, KJUD-DT still has not begun operating its DTV facilities.

96. We find that these stations have not provided sufficient justification for extension of their DTV construction permits. These stations have not shown that they were unable to complete construction due to unforeseen circumstances, circumstances beyond their control, or financial hardship.⁶⁸ For the reasons set forth above, we deny these station’s extension applications and admonish them for their failure to comply with their DTV construction obligations.

97. Accordingly, the station denied and admonished that is constructing DTV facilities on its post-transition DTV channels (KJUD-DT) is provided six months from the release date of this Order to comply with the DTV construction rule. In addition, KJUD-TV must submit a report (in letter form with the Secretary’s office), within 30 days of the release date of this Order, outlining the steps it intends to take to complete construction and the approximate date by which it will reach each of these construction milestones. Sixty days after the initial report, the station must submit a report (in letter form with the Secretary’s office) detailing its progress on meeting its proposed construction milestones and justifying any delays it may have encountered. If, at any time during the relevant period, this station fails to comply with the reporting requirements or fails to demonstrate that it is taking all reasonable steps to complete construction, or we otherwise find that the station has acted in bad faith, we will consider the imposition of additional sanctions.⁶⁹

98. The station should also understand that, as a result of being placed in the remedial program, the burden will be greater to demonstrate the propriety of any further delay in completing their DTV construction. If, at the end of the relevant period, the station has not completed construction, we will issue a Notice of Apparent Liability unless it can demonstrate that its inability to have completed construction was due to extraordinary and compelling circumstances, such as a new, unanticipated, intervening event. It will be required to fully detail and document the delays it has experienced and must show that it took every reasonable step to prevent such delays.⁷⁰

99. In the *Third DTV Periodic Review NPRM*, the Commission recognized that its proposals deemphasize the requirement that stations construct DTV facilities that will not be used for post-transition operations.⁷¹ Given the Commission’s ongoing consideration of this matter in the *Third DTV Periodic Review NPRM*, the two stations denied and admonished that have elected to construct their post-transition DTV facility on a channel that is different than their pre-transition DTV channel (*i.e.*, KECY-

⁶⁸ See 47 C.F.R. § 73.624(d)(3).

⁶⁹ See *Remedial DTV R&O*, *supra*.

⁷⁰ *Id.*

⁷¹ See *Third DTV Periodic Review NPRM*, *supra* at ¶¶ 61, 77 and 78.

DT and WTVA-DT) are provided until 30 days after the effective date of the amendments to Section 73.624(d) adopted in the Report and Order in the Third DTV Periodic Review proceeding to comply with the DTV construction rule. In addition, given the Commission's ongoing consideration of this matter in the *Third DTV Periodic Review NPRM*, at this time KECY-DT and WTVA-DT will not be required to comply with the reporting and progress requirements described in paragraph 97.

IV. CONCLUSION

100. ACCORDINGLY, IT IS ORDERED That, pursuant to Section 73.624(d)(3)(iii) of the Commission's Rules, 47 C.F.R. § 73.624(d)(3)(iii), the applications of the licensees of the television stations set forth in Appendix A of this Order for extension of the digital television construction deadline ARE GRANTED and the digital television construction deadline for each such station IS EXTENDED six months from the release date of this Order.

101. IT IS FURTHER ORDERED That, pursuant to Section 73.624(d)(3)(iii) of the Commission's Rules, 47 C.F.R. § 73.624(d)(3)(iii), the applications of the licensees of the television stations set forth in Appendix B of this Order for extension of the digital television construction deadline ARE GRANTED and the digital television construction deadline for each such station IS EXTENDED until 30 days after the effective date of the amendments to Section 73.624(d) adopted in the Report and Order in the Third DTV Periodic Review proceeding.

102. IT IS FURTHER ORDERED That, pursuant to Section 73.624(d)(3)(iii) of the Commission's Rules, 47 C.F.R. § 73.624(d)(3)(iii), the applications of the licensees of the television stations set forth in Appendix C of this Order for extension of the digital television construction deadline ARE GRANTED and the digital television construction deadline for each such station IS EXTENDED until February 17, 2009.

103. IT IS FURTHER ORDERED That the applications of the licensees of the television stations set forth in Appendix D of this Order, ARE DENIED.

104. IT IS FURTHER ORDERED That the stations set forth in Appendix E of this Order, ARE ADMONISHED for their continuing failure to comply with their DTV construction obligation, that their applications for extension of its DTV construction deadline ARE DENIED, and that they ARE AFFORDED until the deadlines set forth in Appendix E to bring their stations into compliance with the Commission's DTV construction rule.

105. IT IS FURTHER ORDERED That KJUD-DT, Juneau, Alaska, must submit a report (in letter form with the Secretary's office), within 30 days of the release date of this Order, outlining the steps it intends to take to complete construction of its station and the approximate date by which it will reach each of these construction milestones. Sixty days after the initial report, this station must submit a report (once again in letter form with the Secretary's office), detailing its progress in meeting its proposed construction milestones and justifying any delays it has encountered.

106. IT IS FURTHER ORDERED That the applications for extension of DTV construction permit of KGFE-DT, Grand Forks, North Dakota (File No. BEPCDT-2005718ACP), KMEB-DT, Wailuku, Hawaii (File No. BEPCDT-20050718ACN) and WENY-DT, Elmira, New York (File No. BEPCDT-20050817ACT) ARE DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A

Stations Granted Additional Six-Month Construction Permit Extensions

CALL	FAC ID	FILE NUMBER	CITY	ST
KAUF-DT	8263	BEPCDT-20070118AED	ARCATA	CA
KAMC-DT	40820	BEPCDT-20060706AFI	LUBBOCK	TX
KAMR-DT	8523	BEPCDT-20060707ABA	AMARILLO	TX
KARD-DT	3658	BEPCDT-20060707AAP	WEST MONROE	LA
KATC-DT	33471	BEPCDT-22070129ANC	LAFAYETTE	LA
KATN-DT	13813	BEPCDT-20050715ACK	FAIRBANKS	AK
KAZH-DT	70492	BEPCDT-20060707AEN	BAYTOWN	TX
KBTW-DT	61214	BEPCDT-20060707AAN	PORT ARTHUR	TX
KCFG-DT	35104	BEPCDT-20060428ADM	FLAGSTAFF	AZ
KCIT-DT	33722	BEPCDT-20060706AFD	AMARILLO	TX
KCNC-DT	47903	BEPCDT-20040301AAW	DENVER	CO
KDMD-DT	25221	BEPCDT-20060707ADO	ANCHORAGE	AK
KEET-DT	55435	BEPEDT-20060707ACE	EUREKA	CA
KFDX-DT	65370	BEPCDT-20060707AAS	WITCHITA FALLS	TX
KGTF-DT	25511	BEPEDT-20050913ADE	AGANA	GU
KHGI-DT	21160	BEPCDT-20060707ADV	KEARNEY	NE
KHMT-DT	47670	BEPCDT-20060706AFK	HARDIN	MT
KJTL-DT	7675	BEPCDT-20060706AFE	WICHITA FALLS	TX
KLBK-DT	3660	BEPCDT-20060707ABB	LUBBOCK	TX
KLDO-DT	51479	BEPCDT-20060911AAR	LAREDO	TX
KLST-DT	31114	BEPCDT-20060707AAQ	SAN ANGELO	TX
KLTJ-DT	24436	BEPCDT-20060518ACP	GALVESTON	TX
KMCC-DT	41237	BEPCDT-20060630ACQ	LAUGHLIN	NV
KMEG-DT	39665	BEPCDT-20060707ABN	SIOUX CITY	IA
KMGH-DT	40875	BEPCDT-20040224ABT	DENVER	CO
KMID-DT	35131	BEPCDT-20060707AAG	MIDLAND	TX
KMTP-DT	43095	BEPEDT-20051021ACI	SAN FRANCISCO	CA
KNLC-DT	48525	BEPCDT-20060630AGF	ST. LOUIS	MO
KODE-DT	18283	BEPCDT-20060706AGF	JOPLIN	MO
KPAZ-DT	67868	BEPCDT-20060630AFY	PHOENIX	AZ
KRBC-DT	306	BEPCDT-20060706AFH	ABILENE	TX
KRCB-DT	57945	BEPCDT-20060703ABD	COTATI	CA
KSAN-DT	307	BEPCDT-20060706AFL	SAN ANGELO	TX
KSBN-DT	67347	BEPCDT-20060607AAI	SPRINGDALE	AR
KSMQ-DT	28510	BEPEDT-20060629AFK	AUSTIN	MN
KSNF-DT	67766	BEPCDT-20060707AAZ	JOPLIN	MO
KSVI-DT	5243	BEPCDT-20060707AAU	BILLINGS	MT
KSWT-DT	33639	BEPCDT-20060707ADR	YUMA	AZ
KTAB-DT	59988	BEPCDT-20060707ABE	ABILENE	TX
KTBY-DT	35655	BEPCDT-20050714AAO	ANCHORAGE	AK
KTDO-DT	36916	BEPCDT-20060707ABH	LAS CRUCES	NM

KTLN-DT	49153	BEP/CDT-20060707AEO	NOVATO	CA
KTNL-DT	60519	BEP/CDT-20060707ADS	SITKA	AK
KTRG-DT	55762	BEP/CDT-20061003ABK	DEL RIO	TX
KTWO-DT	18286	BEP/CDT-20060706ACG	CASPER	WY
KTTW-DT	28521	BEP/CDT-20060622AAT	SIOUX FALLS	SD
KTVD-DT	68581	BEP/CDT-20040224ABX	DENVER	CO
KTVG-DT	27220	BEP/CDT-20060707ADX	GRAND ISLAND	NE
KUBD-DT	60520	BEP/CDT-20060707ADZ	KETCHIKAN	AK
KVHP-DT	35852	BEP/CDT-20060629AAI	LAKE CHARLES	LA
KVLY-DT	61961	BEP/CDT-20041012AHY	FARGO	ND
KVOS-DT	35862	BEP/CDT-20061013ABP	BELLINGHAM	WA
KVRR-DT	55372	BEP/CDT-20060707ADU	FARGO	ND
KVTN-DT	607	BEP/CT-20060703ACN	PINE BLUFF	AR
KWKB-DT	35096	BEP/CDT-20060428ACZ	IOWA CITY	IA
KWNB-DT	21162	BEP/CDT-20060707ADW	HAYES CENTER	NE
KXGN-DT	24287	BEP/CDT-20061208ABA	GLENDIVE	MT
WABW-DT	23917	BEP/EDT-20050713AAL	PELHAM	GA
WACS-DT	23930	BEP/EDT-20050713AAM	DAWSON	GA
WAOE-DT	52280	BEP/CDT-20061211ABA	PEORIA	IL
WATC-DT	13206	BEP/EDT-20070321ADK	ATLANTA	GA
WBKB-DT	67048	BEP/CDT-20060707ADK	ALPENA	MI
WCES-DT	23937	BEP/EDT-20050713AAK	WRENS	GA
WCJB-DT	16993	BEP/CDT-20060707AFK	GAINESVILLE	FL
WCLP-DT	23942	BEP/EDT-20050713AAJ	CHATSWORTH	GA
WCVI-DT	83304	BEP/CDT-20050816AAO	CHRISTIANSTED	VI
WDHN-DT	43846	BEP/CDT-20060707AAV	DOTHAN	AL
WDTI-DT	7908	BEP/CDT-20060627ACW	INDIANAPOLIS	IN
WMUM-DT	23935	BEP/EDT-20050713AAI	COCHRAN	GA
WELU-DT	26602	BEP/EDT-20050915ACW	AGUADILLA	PR
WFFF-DT	10132	BEP/CDT-20070112AHD	BURLINGTON	VT
WFFT-DT	25040	BEP/CDT-20060707AAW	FORT WAYNE	IN
WFXB-DT	9054	BEP/CDT-20060629AAF	MYRTLE BEACH	SC
WFXP-DT	19707	BEP/CDT-20060706AFC	ERIE	PA
WFXU-DT	22245	BEP/CDT-20050915ACI	LIVE OAK	FL
WFXV-DT	43424	BEP/CDT-20060707ABC	UTICA	NY
WFXW-DT	65247	BEP/CDT-20060706AFM	TERRE HAUTE	IN
WHUT-DT	27772	BEP/EDT-20040712AAT	WASHINGTON	DC
WHTV-DT	29706	BEP/CDT-20070125ACF	JACKSON	MI
WJSP-DT	23918	BEP/EDT-20050713AAG	COLUMBUS	GA
WFLG-DT	37808	BEP/CDT-20060629AAB	GRUNDY	VA
WLLA-DT	11033	BEP/CDT-20061211AAX	KALAMAZOO	MI
WMTJ-DT	2174	BEP/EDT-20050912ACB	FAJARDO	PR
WNBC-DT	47535	BEP/CDT-20040927AJV	NEW YORK	NY
WNJU-DT	73333	BEP/CDT-20060707ACN	LINDEN	NJ
WNYE-DT	6048	BEP/EDT-20061218ACU	NEW YORK	NY
WNMU-DT	4318	BEP/EDT-20070126ADJ	MARQUETTE	MI

WORA-DT	64865	BEPEDT-20061221AAP	MAYAGUEZ	PR
WPAN-DT	31570	BEPEDT-20060619ABJ	FORT WALTON BEACH	FL
WPPB-DT	51349	BEPEDT-20050909AAC	BOCA RATON	FL
WPXS-DT	40861	BEPEDT-20061115AAI	MOUNT VERNON	IL
WQRF-DT	52408	BEPEDT-20060707ABD	ROCKFORD	IL
WRFB-DT	54443	BEPEDT-20070109ABB	CAROLINA	PR
WRJM-DT	62207	BEPEDT-20050815AAB	TROY	AL
WSEE-DT	49711	BEPEDT-20060830AAB	ERIE	PA
WSJU-DT	4077	BEPEDT-20060630AIJ	SAN JUAN	PR
WTCE-DT	29715	BEPEDT-20060810AJS	FORT PIERCE	FL
WTIC-DT	147	BEPEDT-20041124AAK	HARTFORD	CT
WTSF-DT	67798	BEPEDT-20060627ACI	ASHLAND	KY
WTVE-DT	55035	BEPEDT-20060630ABN	READING	PA
WTWB-DT	35385	BEPEDT-20060707AEL	LEXINGTON	NC
WTWO-DT	20426	BEPEDT-20060707AAY	TERRE HAUTE	IN
WVIZ-DT	18753	BEPEDT-20060629AAW	CLEVELAND	OH
WVEO-DT	61573	BEPEDT-20070201BSN	AGUADILLA	PR
WWAZ-DT	60571	BEPEDT-20060707ADP	FOND DU LAC	WI
WYLE-DT	6816	BEPEDT-20050714ACE	FLORENCE	AL
WZMY-DT	14682	BEPEDT-20060630ADX	DERRY	NH

APPENDIX B

**Stations Granted Construction Permit Extensions Until 30 Days After the Effective Date of
the Amendments of Section 73.624(d) Adopted in the Report and Order in the Third DTV
Periodic Review Proceeding**

CALL	FAC ID	FILE NUMBER	CITY	ST
KCAL-DT	21422	BEPEDT-20060926ALW	LOS ANGELES	CA
KCAU-DT	11265	BEPEDT-20060630ACC	SIOUX CITY	IA
KFNB-DT	74256	BEPEDT-20060707AFO	CASPER	WY
KGWC-DT	63177	BEPEDT-20060518ACG	CASPER	WY
KJNP-DT	20015	BEPEDT-20060809AHN	NORTH POLE	AK
KLWY-DT	40250	BEPEDT-20060707AFN	CHEYENNE	WY
KOLR-DT	28496	BEPEDT-20060706AFJ	SPRINGFIELD	MO
KQTV-DT	20427	BEPEDT-20060707AAO	ST. JOSEPH	MO
KRMA-DT	14040	BEPEDT-20061206AAJ	DENVER	CO
KTVZ-DT	55907	BEPEDT-20060628ACC	BEND	OR
KUSA-DT	23074	BEPEDT-20040223AOP	DENVER	CO
KVTV-DT	33078	BEPEDT-20060908ACK	LAREDO	TX
WABC-DT	1328	BEPEDT-20041119ACV	NEW YORK	NY
WCFN-DT	42116	BEPEDT-20060707AAT	SPRINGFIELD	IL
WDIO-DT	71338	BEPEDT-20060707AEV	DULUTH	MN
WFXI-DT	37982	BEPEDT-20060706ADW	MOREHEAD CITY	NC
WGGS-DT	9064	BEPEDT-20070321ADL	GREENVILLE	SC
WGNO-DT	72119	BEPEDT-20060123AHD	NEW ORLEANS	LA
WGTV-DT	23948	BEPEDT-20050713AAH	ATHENS	GA
WICU-DT	24970	BEPEDT-20060630ADO	ERIE	PA
WIPR-DT	53859	BEPEDT-20060628ABF	SAN JUAN	PR
WJET-DT	65749	BEPEDT-20060707AAX	ERIE	PA
WLGA-DT	1113	BEPEDT-20060707ADQ	OPELIKA	AL
WMDT-DT	16455	BEPEDT-20060706AAA	SALISBURY	MD
WSTE-DT	60341	BEPEDT-20061115ADJ	PONCE	PR
WVAN-DT	23947	BEPEDT-20050713AAF	SAVANNAH	GA
WVXF-DT	3113	BEPEDT-20050825AAO	CHARLOTTE AMALIE	VI
WXGA-DT	23929	BEPEDT-20050713AAN	WAYCROSS	GA
WYDC-DT	62219	BEPEDT-20060707AEB	CORNING	NY

APPENDIX C

Stations Granted Construction Permit Extensions Until February 17, 2009

CALL	FAC ID	FILE NUMBER	CITY	ST
KUPT-DT	27431	BEPCDT-20060707ACW	HOBBS	NM
WJZY-DT	73152	BEPCDT-20060707AEJ	BELMONT	NC
WMFE-DT	12855	BEPCDT-20060629AGF	ORLANDO	FL
WMYT-DT	20624	BEPCDT-20060707AEW	ROCK HILL	SC

APPENDIX D

Stations Denied Extensions

CALL	FAC ID	FILE NUMBER	CITY	ST
KCET-DT	13058	BEPEDT-20060123AFG	LOS ANGELES	CA
KICU-DT	34564	BEPCDT-20060630ADP	SAN JOSE	CA

APPENDIX E

Stations Denied Extensions, Admonished for Failure to Timely Construct and Afforded Until 30 Days After the Effective Date of the Amendments of Section 73.624(d) Adopted in the Report and Order in the Third DTV Periodic Review Proceeding To Comply with the DTV Construction Rule

CALL	FAC ID	FILE NUMBER	CITY	ST
KEYY-DT	51208	BEPCDT-20060628AAB	EL CENTRO	CA
WTVA-DT	74148	BEPCDT-20050913ABK	TUPELO	MS

Station Denied Extension, Admonished for Failure to Timely Construct and Afforded Six Months To Comply with the DTV Construction Rule

CALL	FAC ID	FILE NUMBER	CITY	ST
KJUD-DT	13814	BEPCDT-20050715ACL	JUNEAU	AK