

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

In the Matter of
)
)
Authorizing Permissive Use of the "Next
) GN Docket No. 16-142
Generation" Broadcast Television Standard
)
)

ORDER

Adopted: March 3 2023

Released: March 6, 2023

By the Commission:

I. INTRODUCTION

1. By this order the Commission temporarily stays the March 6, 2023 sunset of the requirement for broadcaster primary streams to comply with the ATSC A/322 standard.

II. BACKGROUND

2. In 2017, the Commission authorized television broadcasters to use the Next Gen TV transmission standard, also called "ATSC 3.0" or "3.0," on a voluntary, market-driven basis. Under Commission rules, the requirement for broadcaster primary streams to comply with the ATSC A/322 standard, defining the waveforms that ATSC 3.0 signals may take, is currently scheduled to sunset on March 6, 2023. Last June, we issued the Sunsets FNPRM seeking comment on, among other things, the expiration of this rule, whether to retain the requirement and, if so, for how long. That proceeding remains pending.

III. DISCUSSION

3. For the reasons set forth herein, we find good cause to stay, on our own motion, the expiration of this rule pending a Commission resolution of this issue in the above-referenced proceeding. In considering a stay, the Commission considers the four criteria set forth in Virginia Petroleum Jobbers Association.

1 47 CFR § 73.682(f).

2 Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard, GN Docket No. 16-142, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 9930, 9931, para. 1 (2017) (Next Gen TV First Report and Order).

3 47 CFR § 73.682(f) (requiring that, until March 6, 2023, the transmission of at least one free over the air primary video programming stream comply with the ATSC A/322).

4 Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard, GN Docket No. 16-142, Third Further Notice of Proposed Rulemaking, FCC 22-47, 2022 WL 2290237 paras. 30-32 (rel. June 22, 2022) (Sunsets FNPRM).

5 Virginia Petroleum Jobbers Ass'n v. Federal Power Commission, 259 F.2d 921, 925 (D.C. Cir. 1958). See also Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended, Order, 18 FCC Rcd 25491, 25494, para. 6 (2003) (PLMR Narrowband Stay Order). As described in the PLMR Narrowband Stay Order, these criteria are (1) a likelihood of success on the merits; (2) the threat of irreparable harm absent the grant of preliminary relief; (3) the degree of injury to other parties if relief is granted; and (4) the issuance of the order will further the public interest.

4. We conclude that an interim stay of the A/322 “sunset” is appropriate under the circumstances. Virtually all commenters addressing this question made arguments in favor of at least a temporary extension of the requirement to comply with A/322.⁶ It is unclear whether any consumer receive equipment could display 3.0 signals that were noncompliant with A/322, meaning the viewing public could lose all 3.0 service during any period of noncompliance by broadcasters. Furthermore, there is no information in the record indicating that any party will be harmed by the grant of an interim stay.⁷ In light of the arguments offered by commenters for at least a temporary extension, the possibility of harm to the viewing public from the disruption of eliminating and then potentially resuming the requirement, and the lack of any reasonable expectation of sunset by those currently deploying 3.0 service in light of the pendency of this proceeding, we find the public interest is best served by preserving the status quo during this brief period of time in order to consider this open question.

5. We therefore stay the sunset of the A/322 rule, pending resolution of the *Sunsets FNPRM*.

IV. ORDERING CLAUSES

6. **ACCORDINGLY, IT IS ORDERED**, that, pursuant to sections 1, 4(i), 4(j), and 303 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 303 and section 1.103 of the Commission’s rules, 47 CFR §1.103, the March 6, 2023 sunset date in section 73.682(f)(2) of the Commission’s rules, 47 CFR §73.682(f)(2), **IS STAYED** effective immediately. The stay will remain in effect until resolution of this issue in the Third Further Notice of Proposed Rulemaking in this proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁶ See, e.g., CTA Sunsets Comments at 2; LG Sunsets Comments at 1; NAB Sunsets Comments at 12-13; NCTA Sunsets Comments at 5-6; Pearl Sunsets Reply at 4-5; Qualcomm Sunsets Comments at 1-2; Scripps Sunsets Reply at 7; WNET Sunsets Reply at 5; Rohde & Schwarz Sunsets Reply at 3. *But see* ONE Media Sunsets Comments at 16.

⁷ The only commenter in the record supporting an immediate sunset of this requirement identified no harms associated with this specific rule. ONE Media Sunsets Comments at 16.