



PUBLIC NOTICE

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**MASS MEDIA BUREAU ANNOUNCES WINDOW FILING OPPORTUNITY FOR
CERTAIN PENDING REQUESTS FOR NEW NTSC TELEVISION STATIONS ON
CHANNELS 52-59**

By this Public Notice we announce a window filing opportunity to allow applicants with certain pending requests for new analog (NTSC) television stations on channels 52-59 to modify their requests. **The window opened January 22, 2002 and will close March 8, 2002.**

In its Report and Order in GN Docket No. 01-74, the Commission adopted the reallocation of the 698-746 MHz Spectrum Band (television channels 52-59) from use by television broadcasters to new uses on a flexible basis.¹ In that Report and Order, the Commission dismissed all pending petitions for rule making proposing new NTSC television allotments on channels 52-59.² As for pending NTSC applications, the Commission stated that it would not license new NTSC facilities on channels 52-59. Rather, it would provide those parties with pending NTSC applications on channels 52-59, and those and other parties with pending applications for NTSC facilities on other channels that previously filed a petition for rule making for a replacement channel on channels 52-59, a 45-day opportunity to request a change in channel for their pending applications or petitions for rule making.

We note that, because of the adjacent channel interference that new stations on channel 59 could cause to new licensees in the adjacent Upper 700 MHz Band (television channels 60-69), the Commission also stated that it will no longer accept or grant any application for new NTSC stations on channel 59, and parties with outstanding applications that specify channel 59 and who have not

¹ See Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59), GN Docket No. 01-74, *Report and Order*, FCC 01-364, released January 18, 2002 (*Report and Order*).

² *Id.* at ¶ 44. However, the Commission did not dismiss petitions for rulemaking proposing new NTSC television allotments on channels 52-59 that had been amended to specify a core channel (between 2 and 51).

yet filed a channel allotment rulemaking petition to specify another channel must do so within the 45-day period.

The purpose of this Public Notice is to set forth the filing procedures for this window opportunity. This window opportunity is available for applicants having applications pending for new NTSC stations on channels 52-59. It is also available for these and other parties with pending applications for new NTSC stations on other channels that have previously filed petitions for rule making for a replacement channel on channels 52-59. These proposals can be modified in one of two ways: (1) to provide analog or digital television (DTV) service in the core television spectrum, *i.e.*, channels 2-51 or (2) to provide DTV service on any available channel in the 698-740 MHz band, *i.e.*, channels 52-58.³ For these applicants, as applicable, all application amendments, petitions for rule making and amendments to petitions for rule making seeking a new channel must be filed during this window. Pursuant to the Commission's directive, we will thereafter dismiss all remaining applications for new NTSC stations on channels 52-59 and petitions from applicants that continue to request replacement NTSC allotments on channels 52-59.

Petitions for Rule Making to Specify a New Channel or Amendments of Petitions

Parties with applications for new NTSC stations on channels 52-59 or with pending applications on these and other channels that have pending petitions for rule making proposing a NTSC replacement channel on channels 52-59, may choose to file a petition for rulemaking or amendment to their pending petition to specify a new NTSC or DTV channel on channels 2-51 or to propose a new DTV allotment on any available channel between 52-58. All such channel changes must be requested by filing a petition for rule making or an amendment to a pending petition.⁴ A channel change may *not* be requested through an amendment to a pending application. Rulemaking petitions or amendments to pending petitions must retain the community of license specified in the pending television application or rulemaking petition. Where multiple applications have been filed for a single NTSC channel allotment, a petition for rule making must propose a single replacement channel to which all applicants agree to modify their applications. If the conflicting applicants cannot jointly agree on whether to submit a petition for rule making for the same replacement channel, then any rulemaking petition filed by a member of such group will be dismissed.

New and amended rulemaking petitions submitted during this window filing opportunity will be subject to our normal notice and comment procedures. However, new proposals for additional NTSC channel allotments will not be accepted. Therefore, new parties may not counterpropose a new NTSC allotment in the same or nearby communities. The opportunity for filing counterproposals is limited to those parties with existing petitions and applications that are the subject of this filing window. When a rule making proceeding has been started by a Notice of Proposed Rule Making, conflicting proposals must be filed in initial comments, pursuant to the procedures for consideration of counterproposals.

Associated applications will remain pending as long as there is pending a petition for rule making seeking an alternate channel. An allotment Report and Order changing a channel allotment will

³ We remind new digital television licensees on Channels 52 to 59 that they will be required to move to the core by the end of the digital transition.

⁴ See Sections 1.401 (c) and (d) and Section 1.420 of the Commission's Rules regarding channel allotment matters.

specify a period of time for the filing of amendments to pending applications (using FCC Form 301), for the modified channel allotment. Such amendments to pending applications will be considered minor and the applications will retain their original file numbers.

Amendments to Applications to Specify DTV Operation on Their Current Channel

As noted above, parties with applications pending for new NTSC stations on channels 52-58 may submit an amendment to their application to specify DTV operation. Applicants that have filed applications for the same allotment must decide as a group whether to pursue a channel change through the petition for rule making process or whether to remain on their existing channel on channels 52-58 and propose DTV operation. A party that is part of a group of conflicting applications and which chooses to remain on its allotted channel must file a separate corrective amendment to its application to propose DTV operation (or, if it has filed a settlement agreement, the proposed survivor must file a single corrective amendment to propose DTV operation for the proposed surviving application).

Interference Protection Requirements

Amendments and petitions for rule making filed during this window opportunity must conform with all pertinent legal and technical requirements, including criteria for interference protection to both NTSC and DTV stations.⁵ They may include changes in the ERP, directional antenna pattern, antenna height or site location requested in the pending application or rule making petition. Proposals to convert to DTV operation will be evaluated under the criteria for changing an initial DTV allotment set forth in Section 73.622(a) of the rules. Specifically, the channel must be in the range from 2 to 58, and DTV and NTSC stations must be protected by meeting the engineering criteria of Section 73.623(c) of the rules.⁶ NTSC allotment proposals made pursuant to this public notice must meet the minimum distance separations between NTSC stations (47 C.F.R. Section 73.610) and must protect DTV stations as provided in Section 73.623(c), but without any allowance to create de minimis interference as defined in Section 73.623(c)(2). Proposals pursuant to this window filing opportunity also must protect Class A television stations in accordance with the pertinent NTSC or DTV requirements.⁷ In developing proposed amendments to the allotment table, petitioners are advised that they should consider, to the extent possible, authorized LPTV and TV translator stations.

For further information, contact Shaun Maher of the Mass Media Bureau, Video Services Division at 202-418-2324 or Gordon Godfrey of the Policy and Rules Division at 202-418-2193.

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⁵ As used herein, the term “DTV stations” here includes DTV allotments, authorized or requested increases in DTV allotment facilities and proposals for new or modified DTV allotments.

⁶ Applying these criteria is consistent with the Commission action in the *Memorandum Opinion and Order on Reconsideration of the Fifth Report and Order* that allows these stations to be converted to DTV operation, even if their channel is outside the core range of 2 – 51. *See Memorandum Opinion and Order on Reconsideration of the Fifth Report and Order* in MM Docket No. 87-268, 13 FCC Rcd 6860 at 6865 (1998).

⁷ *See Establishment of Class A Television Service*, MM Docket No. 00-10, *Report and Order*, 15 FCC Rcd 6355 (2000); *see also* 47 C.F.R. §§ 73.613 and 73.623(c)(5).