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Special Advisory to Broadcasters
January 2008

Communications Broadcast Advisory

FCC Adopts New Station DTV Transition Readiness Report

Television Broadcast Stations Must File New FCC Form 387 by February 18, 2008.

On the last day of 2007, the FCC released its Report and Order in the Third Periodic Review of the Commission's rules and policies affecting the conversion to digital television. The Report and Order adopts a number of new filing requirements, build-out procedures and deadlines, and associated rule changes. As a result of this Report and Order, various stations will be required to comply with new construction deadlines, and file construction permit applications, construction permit extension applications, or tolling requests. In a follow-up Advisory, we will provide additional details about these matters to assist stations in determining which requirements apply to them given their unique circumstances.

The purpose of this Advisory is to alert licensees and permittees of full-power television stations (collectively, a "Filer"), regardless of their DTV build-out status, that the Commission has adopted a new DTV-related reporting form, namely FCC Form 387 entitled "DTV Transition Status Report." The completed form must be filed electronically by such Filers no later than February 18, 2008. The Report form requires the Filer to provide details as to (i) the current transition status of the Filer's station, (ii) any additional steps needed to commence full, digital station operations, and (iii) the timeline to meet the February 17, 2009, transition deadline.

Since the new FCC form is in the nature of a status report, a Filer will be under a continuing obligation to update the Report, as necessary, until the Filer reports that it has begun operating its full, authorized, post-transition DTV facility. Whenever information in the Report is not longer substantially accurate and complete in all significant respects, the Filer must file an updated Report as promptly as possible and in any event within 30 days to furnish such additional or corrected information as is appropriate. Examples of changes warranting the filing of an updated Report include changes in a station's (1) transition plans, (2) construction or operational status, or (3) existing service, e.g., reduction or termination of analog or pre-transition digital service. In addition, any Filer that has not reported completion of its full, authorized, post-transition facility on FCC Form 387 as well as applied for a covering license by October 20, 2008, must update their FCC Form 387 to report their current status as of that date.

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The Commission has stated that the new form will be posted on its websites at www.fcc.gov and www.dtv.gov. As of the date of this publication, a copy of FCC Form 387 is not available on either site. For your convenience a copy of the form, as contained in the Report and Order, is attached hereto. Of course the version that will be available online at the FCC should be viewed as the operative copy for purposes of filing by the February 18, 2008 deadline.

For assistance in completing the FCC Form 387, please contact any of the attorneys in the firm's Communications Practice Section.

Live Links

Federal Communications Commission

Federal Communications Commission, Countdown to DTV Transition

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This publication is issued periodically to keep Pillsbury Winthrop Shaw Pittman LLP clients and other interested parties informed of current legal developments that may affect or otherwise be of interest to them. The comments contained herein do not constitute legal opinion and should not be regarded as a substitute for legal advice.

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The Federal Communications Commission creates a new FCC Form – “FCC Form 387: DTV Transition Status Report” – as set forth below:

The new Form will contain the following data elements [bold used to show changes]:

NOTE: This Form must be filed by all full-power broadcast television stations (licensees and permittees) no later than February 18, 2008. Each Licensee/Permittee is responsible for the continuing accuracy and completeness of the information furnished in this Form. Each Licensee/Permittee must update this Form, as necessary, until such Licensee/Permittee reports the completion of its transition (i.e., that it has begun operating its full, authorized facility as defined in the post-transition DTV Table, 47 C.F.R. 73.622(i), and accompanying Appendix B). In addition, Each Licensee/Permittee that has not reported the completion of its full, authorized post-transition facility on this Form on or before October 20, 2008, must update this Form to report their current status as of that date.

SECTION I – GENERAL INFORMATION

Item 1. Licensee/Permittee Information: 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).

Item 2. Contact Information (if different from licensee/permittee): 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).

Item 3. Station/Facility Information: (a) FCC Registration Number; Call Sign; Facility ID Number; Community of License: City, State; Network Affiliation (if applicable); (b) Currently Assigned Channels: NTSC Channel; Post-Transition DTV Channel; Pre-Transition DTV Channel (if different from Post-Transition channel); (c) Relevant FCC File No. for Post-Transition Authorization, if on file with Commission (or indicate “Not Yet Filed”); (d) Post-Transition Construction Deadline: (i) February 17, 2009 if Pre-Transition DTV Channel is different from Post-Transition channel; (ii) Date 30 days after the effective date of the amendments to Section 73.624(d) of the rules adopted in the Report and Order in the Third DTV Periodic Review proceeding, MB Docket No. 07-91; (iii) February 17, 2009 if the station demonstrates that it faces a unique technical challenge (e.g., side-mounted antenna-related issue) preventing it from completing construction of its full, authorized post-transition facility; (iv) Expiration date of construction permit or pending application for an extension of time to construct a post-transition facility.

SECTION II – POST-TRANSITION FACILITY (Complete all items unless otherwise indicated.)

Item 1. Operational Status: Is the Licensee/Permittee now operating its fully authorized final, DTV (post-transition) facility? Yes or No (If YES, Licensee/Permittee is finished with this Form; If NO, go to Item 2.)

Item 2. If Item 1 is NO (i.e., not fully operational), then indicate operational status of final, DTV (post-transition) facility and indicate date Licensee/Permittee expects to begin full, authorized post-transition operations: (check one)

(i). Licensee/Permittee is operating its post-transition facility pursuant to program test authority; see 47 C.F.R. § 73.1620(a). If checked, indicate date Licensee/Permittee expects to file its license to cover (FCC Form 302) application.

(ii). Licensee/Permittee is operating its post-transition facility pursuant to special temporary authority (STA) or at a reduced facility. If checked, indicate power level and percentage of analog population covered by reduced facility.

(iii). Licensee/Permittee is not operating its post-transition facility.

Item 3. Construction Status: Has the Licensee/Permittee completed construction of its final, DTV (post-transition) facility? Yes or No (If YES, skip Items 4-5 and go to Item 6(a); If NO, go to Item 4.)

Item 4. If Item 3 is NO (i.e., not fully constructed), then indicate construction status of final, DTV (post-transition) facility and indicate date Licensee/Permittee expects to complete construction: (check all that apply)

(i). Licensee/Permittee has not begun construction of its post-transition facility.

(ii). Licensee/Permittee is now constructing its post-transition facility.

(iii). Licensee/Permittee has constructed a reduced post-transition facility and additional construction is needed to complete Licensee/Permittee's fully authorized facility.

Item 5. Construction Permit Status: Does the Licensee/Permittee hold a license or construction permit for its final, DTV (post-transition) facility? Yes or No (If YES, then indicate relevant FCC File No. and go to Item 6(a); If NO, skip Item 6(a) and go to Item 6(b).)

Item 6(a). Does the Licensee/Permittee need to modify its license or construction permit in order to match the post-transition facilities defined for the Licensee/Permittee in the new DTV Table of Allotments, 47 C.F.R. § 73.622(i), as adopted in the Seventh Report and Order in MB Docket No. 87-268? Yes or No (If YES, go to 6(b); If NO, skip Item 6(b).)

Item 6(b). Has the Licensee/Permittee filed an application for a new or modified construction permit for its final, DTV (post-transition) facility? Yes or No (If YES, then indicate date filed and relevant FCC File No.; If NO, then indicate date Licensee/Permittee expects to file such application.) (NOTE: To qualify for expedited processing, the Licensee/Permittee must file its application within 45 days of the effective date of Section 73.616 of the rules adopted in the Third DTV Periodic Review proceeding, MB Docket No. 07-91, as well as meet other criteria described in that proceeding.)

SECTION III – NEXT STEPS (For Licensee/Permittees that are not fully constructed or operational.)

At present, Licensee/Permittee has the following needs that must be addressed before it can fully construct and operate its final, DTV (post-transition) facility: (check all that apply and for all checked responses, describe issue and estimated date of resolution.)

- (i). Licensee/Permittee needs to obtain FCC action on a pending application. (If checked, indicate date filed and relevant FCC File No.)
- (ii). Licensee/Permittee needs to obtain international government clearance for its post-transition facility.
- (iii). Licensee/Permittee needs to obtain FAA approval for its post-transition facility.
- (iv). Licensee/Permittee needs to obtain state or local governmental approval (e.g., zoning) for post-transition facility.
- (v). Licensee/Permittee needs to obtain, adjust and/or install equipment for its post-transition facility. (If checked, specify need below and indicate when equipment was ordered and expected delivery date.)
 - (1). New antenna.
 - (2). Adjust or install antenna (except for side-mount issue).
 - (3). Switch side-mounted DTV antenna with top-mounted analog antenna.
 - (4). New transmitter.
 - (5). Adjust or install transmitter.
 - (6). General installation of equipment requiring hiring of a tower crew.
 - (7). Other equipment needs. (If checked, specify.)
- (vi). Licensee/Permittee needs to change its tower location or construct a new tower.
- (vii). Licensee/Permittee needs to coordinate its transition with other broadcast stations. (If checked, specify Call Signs of those other stations.)
- (viii). Licensee/Permittee has other needs that must be addressed before it can fully construct and operate its post-transition facility. (If checked, specify.)

SECTION IV –ANALOG SERVICE

Item 1. Status of Analog Service. (Check one.) Note: Full-power television broadcast stations must cease broadcasting in analog as of the transition date (i.e., February 17, 2009), as required by statute; see 47 U.S.C. § 309(j)(14).

- (i). Licensee/Permittee will continue to provide full, authorized analog service until the transition date.

(ii). Licensee/Permittee has obtained FCC approval to reduce its analog service prior to the transition date. If checked, indicate relevant FCC File No., date reduced service will begin, power level and percentage of population covered by Licensee/Permittee's analog service.

(iii). Licensee/Permittee has obtained FCC approval to terminate its analog service prior to the transition date. If checked, indicate relevant FCC File No. and date service will cease.

(iv). Licensee/Permittee has filed an application with the FCC requesting approval to reduce its analog service prior to the transition date. If checked, indicate relevant FCC File No., proposed date reduced service would begin, proposed power level and percentage of population that would be covered by Licensee/Permittee's proposed reduced analog service.

(v). Licensee/Permittee has filed an application with the FCC requesting approval to terminate its analog service prior to the transition date. If checked, indicate relevant FCC File No. and proposed date service will cease.

SECTION V – DTV TRANSITION PLAN (For Licensee/Permittees that are not fully constructed or operational.)

Licensee/Permittee must describe in detail its plans for ceasing analog broadcasting by the February 17, 2009 transition date and for completing construction of its post-transition facility by the deadline. For example, plan must include a detailed timeline of the Licensee/Permittee's plans to complete construction and any necessary testing of the Licensee/Permittee's full, authorized post-transition facility.

SECTION VI – Anti-Drug Abuse Act Certification and Licensee/Permittee's signature.

Note: this Form will be posted on www.fcc.gov and www.dtv.gov.