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FCC Announces Freeze on Filing of Most Applications in the Low Power Television Service

by Lauren Lynch Flick and Christine Reilly

The FCC's Media Bureau released a Public Notice today announcing an immediate freeze on the filing of applications for new digital low power television ("LPTV") and TV Translator stations, and major modifications to existing analog and digital LPTV and TV Translator stations in "rural areas." As the FCC previously suspended such filings in non-rural areas, today's action effectively stops all new station and major modification filing activity in the service.

After the completion of the nationwide transition to digital broadcasting by full-power television stations, the FCC announced that it would permit the filing of applications for new digital LPTV and TV Translator stations, and major modifications to existing stations, on a first-come, first-served basis. The FCC announced that the filings would commence in two phases, with the filing of applications in "rural areas" beginning on August 25, 2009, followed by "non-rural areas" on January 25, 2010. The January 25, 2010 filing date for non-rural areas was delayed until July 26, 2010, and then ultimately suspended indefinitely. "Rural" area stations are those with a transmitter site that is farther than 75 miles from the reference coordinates for the 100 largest cities listed in the Media Bureau's original Public Notice on this matter.

Today's Public Notice indicates that the FCC will continue to accept and process applications for minor changes in existing facilities, flash-cut applications, digital companion channel applications for existing analog stations, and displacement applications where the applicant can demonstrate actual interference from existing full-power television operations, or from stations still operating on channels 52 to 69.

As the basis for its action, the Media Bureau cited the recommendation in the National Broadband Plan to make an additional 500 MHz of spectrum available for broadband use over the next ten years. The Media Bureau stated that the freeze would allow the FCC "to evaluate its reallocation and repacking proposals and their impact on future licensing of low power television facilities." The Public Notice goes on to state that, after the FCC has completed its broadband rulemakings, the Media Bureau will determine when LPTV filings can be made again. Given the number of rulemaking proceedings the National Broadband Plan will generate, it is reasonable to assume that a lifting of the freeze will not occur anytime soon.

For assistance in analyzing a station's options in light of the Media Bureau's action, please contact any of the attorneys in the Communications Practice Section.

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