

RECEIVED

MAR 18 1998

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Advanced Television Systems and  
Their Impact upon the Existing  
Television Broadcast Service

)  
)  
)  
)  
)

RM No. 97-\_\_\_\_\_

COPY

To: The Commission - Mail Stop 1170



**AMENDMENT TO PETITION FOR RULE MAKING**

1. On September 30, 1997, the Community Broadcasters Association ("CBA") hereby petitions the Commission to adopt rules promptly to create a new "Class A" television station class, under Part 73 of the Commission's Rules and Regulations. Class A status would be made available to qualified low power television ("LPTV") stations providing substantial local programming service and would avoid the unnecessary displacement of such stations and loss of their local programming by affording them primary spectrum user status as against all but full power television stations authorized as of the date of this petition.

2. CBA's petition included an Appendix with the text of its proposed rules. Since the filing of the petition, CBA has discussed its proposal with interested parties and now wishes to offer the attached substitute Appendix A in place of the Appendix A submitted with the original petition.

3. The process of construction of digital facilities by full power stations has begun, and one low power station has already been displaced.<sup>1/</sup> Thus the need for rule making to assure

---

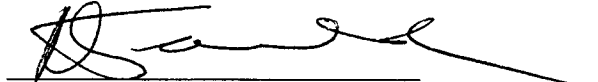
<sup>1/</sup> W35BA, Cincinnati, Ohio, has been displaced from Channel 35 by WLWT-DT, Cincinnati, and is being forced to move to Channel 39.

the long-term future of qualifying low power television stations is becoming critically urgent.

CBA urges the Commission to invite comment on its proposals at the earliest possible date.

Sherwin Grossman, President  
Michael Sullivan, Executive Director  
Community Broadcasters Assn.  
1600 Aspen Lane  
St. Cloud, MN 56303  
Tel. 320-656-5942  
Fax 320-255-5276

Respectfully submitted,

  
\_\_\_\_\_  
Peter Tannenwald  
Elizabeth A. Sims

Irwin, Campbell & Tannenwald, P.C.  
1730 Rhode Island Ave., N.W., Suite 200  
Washington, DC 20036-3101  
Tel. 202-728-0400  
Fax 202-728-0354

March 18, 1998

Counsel for the Community  
Broadcasters Association

A new Section 73.627 is added to read as follows:

**73.627. Class A Television Stations**

(a) Licensees of low power television and television translator stations under subpart G of part 74 of this chapter may apply to convert their licenses to Class A television station licenses under this section. Applications for Class A television licenses must be filed by *[one year after effective date of rules]*.

(b) A separate application must be filed for each channel on which Class A operation is proposed. Each application must contain a showing of the following for a continuous period of 3 months immediately preceding submission of the application:

(i) Compliance with the minimum operating schedule required for television broadcast stations under section 73.1740.

(ii) The broadcast of not less than 3 hours in each calendar week of programming produced within the principal city contour (as defined in section 73.683(a) for NTSC service and section 73.625(a)(1) for digital service) of the station, or produced within the principal city contour of any of a group of commonly controlled stations that carry common local or specialized programming not otherwise available to their communities.

(c) An Application for a Class A television license must be filed on Form 301, including all information and exhibits required by that form, except for Section III (financial qualifications), and must include the following supplemental material.

(i) A statement of the file number and date of issuance of the station's initial license under part 74.

(ii) A certification that from and after the date of the application, the station is operating and will continue to operate in compliance with all requirements of subparts E and H of part 73, except for sections 73.606(b), 73.607, 73.609, 73.610, 73.614, 73.622, 73.623 (except subsection (c)), and 73.3555, which sections shall not apply to Class A television stations, and compliance with subsection (d) of this section.

(iii) All Class A stations shall request and be assigned call signs pursuant to section 73.3550 of this part.

(iv) A showing that the Class A station will not cause interference within the Grade B contour of any television station that is operating on a channel specified in sections 73.606(b) or 73.622(b) as of the date of filing of the Class A application, or within the protected

contour of any low power television or television translator station authorized by construction permit or license prior to the date of filing of the Class A application.

(d) An application for a Class A television may not propose a change in channel or an extension of the station's principal city coverage area as defined in section 73.685(a) of this part. However, separate applications for Class A status and for facilities changes will not be considered inconsistent and may be pursued at the same time. Applications proposing no change in channel or increase in coverage area will not be subject to mutually exclusive applications.

(e) A Class A television station licensee may apply for a construction permit to modify its facilities to operate with any combination of effective radiated power and antenna height that will not cause interference within the Grade B contour of any television station that is operating on a channel specified in sections 73.606(b) or 73.622(b) as of the date of filing of the Class A application, or within the protected contour of any low power television or television translator station authorized by construction permit or license prior to the date of filing of the Class A application, under the interference standards applicable to full power television stations under this part. Class A stations shall be limited to the following maximums:

- (i) NTSC effective radiated power:
  - Channels 2-6: 10 kW
  - Channels 7-13: 31.6 kW
  - Channels 14 and above: 500 kW

Digital effective radiated power:  
Limits in sections 73.622(e)(4), (5), and (6)

(ii) The effective radiated power in any horizontal or vertical direction may not exceed the maximum values permitted by this section.

(iii) The effective radiated power at any angle above the horizontal shall be as low as the state of the art permits, and in the same vertical plane may not exceed the effective radiated power in either the horizontal direction or below the horizontal, whichever is greater.

(iv) If antenna height above average terrain exceeds 2,300 meters, effective radiated shall be reduced to produce predicted coverage no greater than the equivalent of the maximum effective radiated power at 2,300 meters height above average terrain.

(f) An ownership report, as required by section 73.3615, and copies of contracts, as required by section 73.3613, shall be filed within 30 days after grant of a Class A license.

(g) A Class A television station shall be protected from interference within its principal city grade contour, except from stations (including low power television and television translator stations) with facilities that were authorized on or prior to the date of filing of the Class A application and stations authorized in conformance with section 73.622(f). If a station authorized

on or prior to the date of the filing of a Class A application will receive interference from the Class A television station, the Class A television licensee may apply for a change of channel. Such applications may be filed at any time and will be processed on a first-come, first-served basis, not subject to mutually exclusive applications. An application for a change of channel filed by a Class A television station to avoid interference that would be caused to or received from a full power digital television station based on the Class A station's authorized facilities shall be given priority over an application for a change of channel by a low power television or television translator station.

A new Section 73.622(i) is added to read as follows:

(i) Class A television licensees may apply for digital facilities as follows:

(1) A Class A television licensee may apply for an additional channel for digital operation, without regard to section 73.622(b), provided that the proposal would comply with Section 73.623(c) and (f) with respect to stations authorized prior to the date of the application. Such applications will be processed on a first-come, first-served basis.

(ii) A Class A television licensee may apply at any time to convert from NTSC to digital operation on its existing channel, provided that such conversion complies with interference standards applicable to full power digital stations or would not cause any more interference to any other station authorized under part 73 prior to the date of the conversion application than was caused by NTSC operation.

(iii) Class A television licensees may apply for any digital channel listed in section 73.622(b) at any time if the television licensee eligible for such channel under section 73.622(c) has not filed an application for construction permit by the deadline specified in section 73.624(e).

A new Section 73.624(g) is added to read as follows:

(g) Any application for digital operation by a Class A television station filed pursuant to section 73.622(i)(1) will require completion of construction and commencement of operation within 18 months. Class A television stations that provide digital service on a separate channel from NTSC service will also be subject to the deadlines specified in sections 73.624(d)(1)(iii) and 73.624(f).

Section 73.625(a)(1) is amended to read as follows:

(a) Transmitter location.

(1) The DTV transmitter shall be chosen so that, on the basis of the effective radiated power and antenna height above average terrain employed, the following minimum F(50,90) field strength in dB above one uV/m will be provided over the entire principal community to be served:

Channels 2-6	28 dBu
Channels 7-13	36 dBu
Channels 14-69	41 dBu

For Class A television stations, the required minimum values shall be as follows and shall be placed over 75 % of the community of license:

Channels 2-6	22 dBu
Channels 7-13	31 dBu
Channels 14-69	36 dBu

Section 73.683(a) is amended to read as follows:

(a) The transmitter location shall be chosen so that, on the basis of the effective radiated power and antenna height above average terrain employed, the following minimum field strength in decibels above one microvolt per meter (dBu) will be provided over the entire principal community to be served:

Channels 2-6	Channels 7-13	Channels 14-69
74 dBu	77 dBu	80 dBu

The following minimum field strength must be provided over at least 75 % of the community of license of a Class A television station:

Channels 2-6	Channels 7-13	Channels 14-69
62 dBu	68 dBu	74 dBu

Section 1.1104 is amended to read as follows:

1. Commercial TV Stations:

- a. New and Major Change Construction Permits and Applications for Class A Licenses.....

## CERTIFICATE OF SERVICE

I, Laura Ann Campbell, do hereby certify that I have, this 18th day of March, 1998, caused copies of the foregoing "Petition for Rule Making" to be hand-delivered to the following:

Chairman William E. Kennard  
Room 814, 1919 M St., N.W.  
Federal Communications Commission  
Washington, DC 20554

Commissioner Susan Ness  
Room 832, 1919 M St., N.W.  
Federal Communications Commission  
Washington, DC 20554

Commissioner Harold Furchtgott-Roth  
Room 802, 1919 M St., N.W.  
Federal Communications Commission  
Washington, DC 20554

Commissioner Gloria Tristani  
Room 826, 1919 M St., N.W.  
Federal Communications Commission  
Washington, DC 20554

Commissioner Michael Powell  
Room 844, 1919 M St., N.W.  
Federal Communications Commission  
Washington, DC 20554

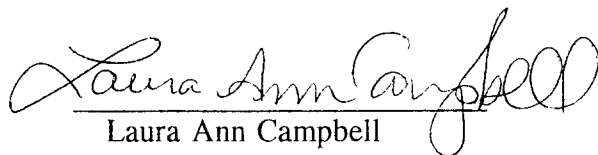
Mr. Hossein Hashemzadeh  
LPTV Branch  
Room 718, 1919 M St., N.W.  
Federal Communications Commission  
Washington, DC 20554

Roy J. Stewart, Chief  
Mass Media Bureau  
Room 314, 1919 M St., N.W.  
Federal Communications Commission  
Washington, DC 20554

Mr. Bruce Franca  
Office of Engineering & Technology  
Room 416, 2000 M St., N.W.  
Federal Communications Commission  
Washington, DC 20554

Keith Larson, Asst. Bureau Chief  
Mass Media Bureau  
Room 314, 1919 M St., N.W.  
Federal Communications Commission  
Washington, DC 20554

Barbara A. Kreisman, Chief  
Video Services Div., Mass Media Bur.  
Room 702, 1919 M St., N.W.  
Federal Communications Commission  
Washington, DC 20554

  
Laura Ann Campbell

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of

Advanced Television Systems and  
Their Impact upon the Existing  
Television Broadcast Service

)  
)  
)  
)  
)

RM No. 97-\_\_\_\_\_

To: The Commission - Mail Stop 1170

COPY

**PETITION FOR RULE MAKING**

1. The Community Broadcasters Association ("CBA") hereby petitions the Commission to adopt rules promptly to create a new "Class A" television station class, under Part 73 of the Commission's Rules and Regulations. Class A status would be made available to qualified low power television ("LPTV") stations providing substantial local programming service and would avoid the unnecessary displacement of such stations and loss of their local programming by affording them primary spectrum user status as against all but full power television stations authorized as of the date of this petition.

2. Throughout the proceedings in MM Docket No. 87-268,<sup>1/</sup> CBA has urged the Commission to establish a primary class of license for certain low power television (LPTV) stations that originate programming and provide unique programming sources to their communities. In the *Sixth Report and Order* in this proceeding, the Commission stated its intention to address this issue.<sup>2/</sup> CBA respectfully submits that the need to adopt primary licensing rules is immediate, as full power television stations are rapidly making plans to

---

<sup>1/</sup> *Advanced Television Stations and Their Effect on the Existing Television Broadcast Service*

<sup>2/</sup> *Id.*, 7 CR 994, 1033-34 (1996).



implement digital broadcasting, and the threat of displacement and silencing of LPTV stations is becoming increasingly real and imminent. It is important to define now what the rules will be, as well as to find out how many stations will actually apply and qualify for primary status.

3. To that end, CBA requests the Commission to fulfill its commitment and to initiate a rule making proceeding at an early date to address the LPTV issue. Attached hereto (Appendix A) is a draft of suggested rule amendments to provide for Class A television stations. These amendments provide for Class A television stations to be regulated under Part 73 rather than Part 74 of the Commission's Rules<sup>3/</sup> and to be subject to all sections of Part 73 except those that clearly cannot apply because of the way in which channels have been assigned to LPTV in the past.<sup>4/</sup> A substantial filing fee is provided for to discourage applications by those who are not seriously prepared to meet the obligations imposed on the new class of station.<sup>5/</sup>

4. CBA urges the Commission to adopt the rules proposed herein at the earliest possible date. The threat of losing local community programming service that is not otherwise available is too near in time, given the short digital conversion and spectrum auction timetables announced in MM Docket No. 87-268. If remedial action is not taken soon, dozens, if not hundreds, of

---

<sup>3/</sup> LPTV stations are currently regulated under Part 74. The only sections of Part 73 that apply to LPTV stations are those specified in Sec. 74.780.

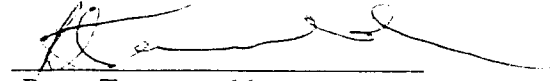

<sup>4/</sup> Those rule sections are 73.606, 73.607, 73.609, 73.610, 73.614, 73.622, and 73.623 (except subsection (c)), involving the NTSC and digital tables of allotments, mileage separations, and minimum power and height requirements. CBA also proposes different principal city coverage requirements for Class A stations and believes that the multiple ownership restrictions of Section 73.3555 should not apply to Class A stations. The coverage area of Class A stations will be substantially less than full power stations, so cross-ownership and multiple ownership raise far fewer adverse implications for the diversity of ideas.

<sup>5/</sup> The filing fee for conversion by an LPTV station to Class A status would be the same as the filing fee for an application for construction permit for a new full power television station.

communities will lose unique and irreplaceable local programming services they now receive from LPTV stations whose operators have invested significant amounts of toil and money in providing the kind of local service that is the bedrock of American broadcasting.

Sherwin Grossman, President  
Michael Sullivan, Executive Director  
Community Broadcasters Assn.  
1600 Aspen Lane  
St. Cloud, MN 56303  
Tel. 320-656-5942  
Fax 320-255-5276

Respectfully submitted,

  
\_\_\_\_\_  
Peter Tannenwald  
\_\_\_\_\_  
Elizabeth A. Sims

Irwin, Campbell & Tannenwald, P.C.  
1730 Rhode Island Ave., N.W., Suite 200  
Washington, DC 20036-3101  
Tel. 202-728-0400  
Fax 202-728-0354

September 30, 1997

Counsel for the Community  
Broadcasters Association

A new Section 73.627 is added to read as follows:

**73.627. Class A Television Stations**

(a) Licensees of low power television and television translator stations under subpart G of part 74 of this chapter may apply to convert their licenses to Class A television station licenses under this section. Applications for Class A television licenses must be filed by *[two years after effective date of rules]*, or two years after the initial license is granted to the low power or translator station, whichever is later.

(b) A separate application must be filed for each channel on which Class A operation is proposed. Each application must contain a showing of the following for a continuous period of six months immediately preceding submission of the application:

(i) Compliance with the minimum operating schedule required for television broadcast stations under section 73.1740.

(ii) The broadcast of not less than 3 hours in each calendar week of programming produced within the market area served by such station, or produced within a market area served by a group of stations that carry common local or specialized programming not otherwise available to their communities.

(c) An Application for a Class A television license must be filed on Form 301, including all information and exhibits required by that form, except for Section III (financial qualifications), and must include the following supplemental material.

(i) A statement of the file number and date of issuance of the station's initial license under part 74.

(ii) A certification that from and after the date of the application, the station is operating and will continue to operate in compliance with all requirements of subparts E and H of part 73, except for sections 73.606(b), 73.607, 73.609, 73.610, 73.614, 73.622, 73.623 (except subsection (c)), and 73.3555, which sections shall not apply to Class A television stations, and compliance with subsection (d) of this section.

(iii) All Class A stations shall be assigned call signs pursuant to section 73.3550 of this part.

(d) An application for a Class A television license will not be accepted for filing if it proposes a change in channel or an extension of the station's principal city coverage area specified in section 73.685(a) of this part. Applications proposing no change in channel or increase in coverage area will be processed on a first-come, first-served basis and shall not be subject to mutually exclusive applications.

(e) A Class A television station licensee may apply for a construction permit to modify its facilities to operate with any combination of effective radiated power and antenna height that will not cause interference within the Grade B contour of any television station that is operating on a channel specified in sections 73.606(b) or 73.622(b) as of the date of filing of the Class A application, but subject to the following maximums:

- (i) NTSC effective radiated power:
  - Channels 2-6: 10 kW
  - Channels 7-13: 31.6 kW
  - Channels 14 and above: 500 kW

Digital effective radiated power:  
Limits in sections 73.622(e)(4), (5), and (6)

(ii) The effective radiated power in any horizontal or vertical direction may not exceed the maximum values permitted by this section.

(iii) The effective radiated power at any angle above the horizontal shall be as low as the state of the art permits, and in the same vertical plane may not exceed the effective radiated power in either the horizontal direction or below the horizontal, whichever is greater.

(iv) If antenna height above average terrain exceeds 2,300 meters, effective radiated shall be reduced to produce predicted coverage no greater than the equivalent of the maximum effective radiated power at 2,300 meters height above average terrain.

(f) An ownership report, as required by section 73.3615, and copies of contracts, as required by section 73.3613, shall be filed within 30 days after grant of a Class A license.

(g) A Class A television station shall be protected from interference within its Grade B service contour, except from stations authorized on or prior to the date of filing of the Class A application and stations authorized in conformance with section 73.622(f). If a station, other than another Class A television station, authorized on or prior to the date of the filing of a Class A application will receive interference from the Class A television station, then at any time after the protected station has been authorized by grant of a construction permit, license, or other authorization, the Class A television licensee may apply for a change of channel. Such applications may be filed at any time and will be processed on a first-come, first-served basis, not subject to mutually exclusive applications.

A new Section 73.622(i) is added to read as follows:

(i) Class A television licensees may apply for digital facilities as follows:

(1) A Class A television licensee may apply for an additional channel for digital operation, without regard to section 73.622(b), provided that the proposal would comply with Section 73.623(c) and (f) with respect to stations authorized prior to the date of the application. Such applications will be processed on a first-come, first-served basis.

(ii) A Class A television licensee may apply at any time to convert from NTSC to digital operation on its existing channel, provided that such conversion would not cause any more interference to any other station authorized under part 73 prior to the date of the conversion application than was caused by NTSC operation.

(iii) Class A television licensees may apply for any digital channel listed in section 73.622(b) at any time if the television licensee eligible for such channel under section 73.622(c) has not filed an application for construction permit by the deadline specified in section 73.624(e).

A new Section 73.624(g) is added to read as follows:

(g) Any application for digital operation by a Class A television station filed pursuant to section 73.622(i)(1) will require completion of construction and commencement of operation within 18 months. Class A television stations that provide digital service on a separate channel from NTSC service will also be subject to the deadlines specified in sections 73.624(d)(1)(iii) and 73.624(f).

Section 73.625(a)(1) is amended to read as follows:

(a) Transmitter location.

(1) The DTV transmitter shall be chosen so that, on the basis of the effective radiated power and antenna height above average terrain employed, the following minimum F(50,90) field strength in dB above one uV/m will be provided over the entire principal community to be served:

Channels 2-6	28 dBu
Channels 7-13	36 dBu
Channels 14-69	41 dBu

For Class A television stations, the required minimum values shall be as follows:

Channels 2-6	22 dBu
Channels 7-13	31 dBu
Channels 14-69	36 dBu

Section 73.683(a) is amended to read as follows:

(a) The transmitter location shall be chosen so that, on the basis of the effective radiated power and antenna height above average terrain employed, the following minimum field strength in decibels above one microvolt per meter (dBu) will be provided over the entire principal community to be served:

Channels 2-6	Channels 7-13	Channels 14-69
74 dBu	77 dBu	80 dBu

The following minimum field strength must be provided over the entire principal community to be served by a Class A television station:

Channels 2-6	Channels 7-13	Channels 14-69
62 dBu	68 dBu	74 dBu

Section 1.1104 is amended to read as follows:

1. Commercial TV Stations:
  - a. New and Major Change Construction Permits and Applications for Class A Licenses.....

## CERTIFICATE OF SERVICE

I, Laura Ann Campbell, do hereby certify that I have, this 30th day of September, 1997, caused copies of the foregoing "Petition for Rule Making" to be hand-delivered to the following:

Chairman Reed E. Hundt  
Room 814, 1919 M St., N.W.  
Federal Communications Commission  
Washington, DC 20554

Commissioner Susan Ness  
Room 832, 1919 M St., N.W.  
Federal Communications Commission  
Washington, DC 20554

Commissioner James H. Quello  
Room 802, 1919 M St., N.W.  
Federal Communications Commission  
Washington, DC 20554

Commissioner Rachelle Chong  
Room 844, 1919 M St., N.W.  
Federal Communications Commission  
Washington, DC 20554

Roy J. Stewart, Chief  
Mass Media Bureau  
Room 314, 1919 M St., N.W.  
Federal Communications Commission  
Washington, DC 20554

Mr. Bruce Franca  
Office of Engineering & Technology  
Room 416, 2000 M St., N.W.  
Federal Communications Commission  
Washington, DC 20554

Keith Larson, Asst. Bureau Chief  
Mass Media Bureau  
Room 314, 1919 M St., N.W.  
Federal Communications Commission  
Washington, DC 20554

Barbara A. Kreisman, Chief  
Video Services Div., Mass Media Bur.  
Room 702, 1919 M St., N.W.  
Federal Communications Commission  
Washington, DC 20554

Mr. Hossein Hashemzadeh  
LPTV Branch  
Room 718, 1919 M St., N.W.  
Federal Communications Commission  
Washington, DC 20554



Laura Ann Campbell