

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

In the Matter of:)	
)	
Political Programming and Online Public File)	
Requirements for Low Power Television Stations)	MB Docket No. 24-147
)	
Amendment of the Commission’s Rules to)	
Advance the Low Power Television, TV Translator)	MB Docket No. 24-148
and Class A Television Stations)	
)	

**COMMENTS OF
THE NATIONAL ASSOCIATION OF BROADCASTERS**

I. INTRODUCTION AND SUMMARY

The National Association of Broadcasters (NAB)¹ submits comments in response to the Commission’s Notice of Proposed Rulemaking (NPRM) in the above-captioned matters.² NAB appreciates the opportunity to comment on the FCC’s proposal to extend the online public inspection file (OPIF) filing requirements to certain low-power television (LPTV) stations. In particular, the NPRM asks whether certain LPTV stations that are affiliated with the Big 4 networks, LPTV stations that are among the top four stations in a Designated Market Area (DMA), or LPTV stations that meet some other undefined metric should have to comply with

¹ The National Association of Broadcasters (NAB) is the nonprofit trade association that advocates on behalf of free local radio and television stations and broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

² *Political Programming and Online Public File Requirements for Low Power Television Stations*, Notice of Proposed Rulemaking, MB Docket No. 24-147 and *Amendment of the Commission’s Rules to Advance the Low Power Television, TV Translator and Class A Television Stations*, MB Docket No. 24-148, FCC 24-65 (rel. June 10, 2024) (NPRM).

OPIF requirements. The NPRM queries whether such additional regulatory burdens would enable LPTV stations “to flourish and serve the public interest.”³ NAB believes that extending the OPIF filing requirements to LPTV stations is not in the public interest.

In the following comments, NAB details the following concerns with the FCC’s proposed extension of the OPIF reporting requirement to certain LPTV stations. *First*, we note that there is scant evidence that the OPIF requirement provides the proffered corresponding benefit to the public of encouraging participation in licensing proceedings. *Second*, as the FCC continues to impose significant penalties for minor regulatory infractions, NAB is concerned that adding yet another broadcasting-specific regulatory requirement unnecessarily increases broadcasters’ regulatory risks. *Third*, we caution that, to the extent OPIF requirements are going to be extended to LPTV stations, relying on a ratings-based methodology is infeasible. *Finally*, as written, the proposed rule is overbroad as it even sweeps in LPTV stations that are primarily simulcasting programming within a DMA to enable the station to provide programming to a larger audience.

NAB also provides comments on the technical portions of the Commission’s proposal. Regarding the proposal to limit the “grid resolution” of OET-69 interference studies, NAB notes that many LPTV and TV translator stations have been authorized under current interference policies and believes that, as a matter of good spectrum policy, a more detailed analysis should always take precedence over a coarse analysis selected only for the sake of administrative convenience.

³*Id.* at ¶ 1.

II. LPTV OPIF PROPOSAL

A. The Commission Has Not Shown that Extending the OPIF Filing Requirements Would Materially Improve the Utility to the Public of the Public File.

When the FCC originally promulgated its requirement that broadcast stations make the public file available for inspection, the Commission intended for the public file to be available to those in a station's service area who wanted the information necessary to participate in that station's license renewal proceeding.⁴ As the Commission explained, it wanted to "make [its] pre-grant and hearing procedures more effective, and to effectuate the mandate of Congress to permit greater public participation in such proceedings."⁵

In 2012, the Commission promulgated a rule that began the process of stations moving their physical public files online.⁶ The Commission opined that while the paper public inspection file was available to the public, it was not costless to access. The Commission noted that the time and effort of traveling to the station and the cost of requesting a copy of the file were enough to deter members of the public from accessing it.⁷ As a result, the

⁴ *In the Matter of New Section 0.417 and Amendment of Sections 1.526 (Formerly in 0.406), and 1.594 (Formerly in 1.362) of the Commission's Rules Relating to Inspection of Records, to Pre-grant Procedures, and to Local Notice of Filing or of Designation for Hearing of Broadcast Applications*, Report & Order, Dkt. No. 14864, FCC 65-273 at ¶ 2 (1965) ("The purpose of this proposal is to enable local inspection to be made of broadcast applications, reports, and related documents that are filed with the Commission by applicants, permittees, and licensees and that are already available for public inspection at the Commission's offices in Washington, D.C."); *id.* at ¶ 3 ("It is our desire to make our pre-grant and hearing procedures more effective, and to effectuate the mandate of Congress to permit greater public participation in such proceedings, and we were of the opinion that such a proposal would implement effectively attainment of this goal.").

⁵ *Id.* ¶ 3.

⁶ *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations; Extension of the Filing Requirement for Children's Television Programming Report (FCC Form 398)*, MM Docket No. 00-168, FCC 12-44 (May 12, 2012).

⁷ *Id.* ¶¶ 10, 13.

Commission prognosticated that posting the public file online would ease the burden of accessing the file and thus further facilitate public access to the file.⁸ The Commission has since then expanded the rule to various classes of stations.

Today, we have over a decade's worth of experience with the online public file. The Commission has at its disposal access to sophisticated Google Analytics about engagement with the public file. But in the NPRM, the Commission mainly provides two pieces of evidence to justify expanding the file. First, the Commission notes that since the OPIF was launched in 2012, over 19,875,413 documents had been successfully uploaded into the online file.⁹ This data point, however, says nothing about whether members of the public are actually using the OPIF. Second, the Commission observes that the site has received 108,583 unique visitors every two weeks.¹⁰ The second data point, however, provides no explanation on how this number was derived and whether it includes any member of the public. The Commission only states, "These figures were derived by Commission staff analysis of the OPIF database."¹¹ That statement provides no information about how the "unique visitors" number was reached, or why that time period was chosen or over what larger time period the "two week" cycles were selected. Without even the most minimal amount of information, it is unclear, for instance, what percentage of actual views were station employees checking to see if their files have posted correctly. Lawyers or FCC officials access the public file with no interest in participating in license renewal proceedings for the licensee's application. Nor does the statistic look specifically at how many viewers are looking at the public file for *broadcast*

⁸ *Id.* at ¶¶ 10, 12; see also NPRM ¶¶ 10, 14.

⁹ NPRM ¶ 14.

¹⁰ *Id.*

¹¹ *Id.* ¶ 14 n.69.

stations as opposed to Cable Operators, DBS Providers, and Satellite Radio Licensees. In short, while we appreciate there may be limits to what the Commission may be able to study, these statistics do not even represent the bare minimum to address what should be the central question for this NPRM: Would the public benefit from – i.e., use –an OPIF for LPTV stations?

NAB made Freedom of Information Act (FOIA) requests on June 18, 2024 and June 24, 2024 requesting information about how often the public file was accessed and any studies about the utility of the public file. Although responses were due on July 18, 2024 and July 29, 2024 respectively, we await responses to these requests. But in 2022, NAB made a FOIA Request, which revealed that only 0.60 percent of the estimated U.S. population viewed broadcast stations' online public files (which includes views broadcasters and related personnel).¹² As it stands, the Commission's proposed rule assumes there is material benefit to extending OPIF filing requirements without really engaging in the appropriate, rigorous study of the core question of whether the OPIF is serving its purpose or even explain why the information that it possesses is unsuitable to meaningfully study OPIF's utility.

The Commission also appears to assume that complying with OPIF filing requirements are straightforward, and they point to a previous NAB comment for support. In particular, the NPRM averred that: "Despite initial concerns, NAB characterized the initial implementation of

¹² According to the FCC's response to a 2022 NAB FOIA request, in 2021, the FCC Public Inspection File website as a whole had only 199,431 unique views (and just 248,032 total views). Letter from Sima Nilsson, Media Bureau, FCC to Patrick McFadden, NAB, FOIA Control No. 2022-000374 (Apr. 28, 2022). That averages 11.38 unique views per station in an entire year. See FCC, Broadcast Station Totals as of Dec. 31, 2021, Public Notice, DA 22-2 (Jan. 4, 2022) (reporting a total of 17,529 full power AM, FM and TV commercial and noncommercial stations and Class A TV stations, which are the types of stations required to maintain online public files).

the online file as ‘uneventful.’”¹³ But that cite mischaracterizes NAB’s previous submission.

The cited NAB submission explained that the “*posting of political files*” is uneventful – adding that “[p]osting glitches occurred that were worked out with FCC staff.”¹⁴ More specifically, NAB was referring to the technical process of getting the files initially online. NAB did not address the time and effort it took to prepare the files themselves. Thus, that comment is inapposite. To be clear, compliance with the OPIF filing requirement is no simple, ministerial act. Broadcast stations must compile and upload many categories of information including:

- FCC authorizations;
- Applications and related materials;
- Contour maps;
- Ownership reports and related materials;
- Equal Employment Opportunity file;
- The Public and Broadcasting Manual;
- Children’s television programming reports;
- DTV transition education reports;
- Citizen agreements;
- Political file;
- Letters and emails from the public;
- Material relating to FCC investigations and complaints;

¹³ NPRM ¶ 14.

¹⁴ Comments of the National Association of Broadcasters, In the Matter of Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, MM Docket No. 00-168 at 3-4 (Aug. 26, 2013), [7520939835.pdf \(fcc.gov\)](#). (emphasis added).

- Issues/Programs list;
- Donor lists for non-commercial education channels;
- Records concerning children’s programming commercial limits;
- Time brokerage agreements;
- Must-carry or retransmission consent elections;
- Joint sales agreements;
- Class A TV continuing eligibility documentation; and
- Sponsorship identification.¹⁵

For a small-market station, gathering and posting this extensive laundry-list of items would almost certainly be anything but ministerial.

Facilitating the public’s engagement in license renewal proceedings may be a laudable endpoint to the Commission’s iterative expansion of OPIF filing requirements. But if the public is not accessing the files to further participate in license renewal hearings, the rule’s impact on the public is about the same as a tree falling in the forest: The only party there to hear the thud is the broadcast station who must file in its OPIF.

Of course, if the only burden flowing from the rule was the added regulatory obligation, that would be one thing. But with the Commission’s recent verve for enforcement of even minor technical violations (typically with no established harm), the expansion of the OPIF filing requirement presents yet another opportunity to punish broadcast stations for victimless foot faults.

¹⁵ FCC, *About Public Inspection Files* (accessed July 25, 2024), <https://publicfiles.fcc.gov/about>.

B. With the Commission’s Overly Aggressive Enforcement of Minor Infractions, this Proposed Rule Significantly Increases the Regulatory Risk Facing LPTV Stations

With its creation in 1999, the FCC’s Enforcement Bureau has dramatically increased the number of enforcement matters taken by the Commission. Just looking at recent changes at the Bureau of Enforcement, the Commission is investing significantly more resources into enforcement. From FY 2022 to FY 2023, Enforcement Bureau staff increased from 180 full time equivalent employees (FTEs) to 212 FTEs.¹⁶ The Enforcement Bureau is growing its collection of fines and forfeiture orders significantly over time. In a recent Annual Performance Report, the Commission celebrated the Enforcement Bureau’s significant uptick in collections by pointing to having taken 1,300 enforcement actions, obtaining \$310 million in forfeiture orders, and seeking another \$840 million in fines through Notice of Apparent Liability.¹⁷

If the fined parties were serial offenders or egregious violators, the growth in the number or significance of fines and forfeitures would be warranted. But the Enforcement Bureau has trained its sights on entities that engage in what are essentially harmless and often unintentional (and non-negligent) errors. Apparently, the Commission discounts as much as 95 percent of its annual Enforcement Bureau-related fines and orders because the Commission views those fines to be uncollectable.¹⁸ That suggests, at least in part, that a disproportionate burden of the fines are paid by companies who routinely appear before the Commission and want to stay in compliance with their legal obligations to the Commission. For a more tangible example, consider the FCC’s \$26,000 fine of Cumulus Licensing LLC. The

¹⁶ Thomas M. Johnson, Jr., *White Paper on FCC Enforcement Bureau Reform* at 7 (Jan. 29, 2024).

¹⁷ *Id.* at 7; accord FCC, Remarks of Rosemary Harold, Bureau Chief, *FCC Open Meeting: Enforcement Bureau Accomplishments* at 1 (Jan. 13, 2021), <https://docs.fcc.gov/public/attachments/DOC-369318A1.pdf>.

¹⁸ Johnson, Jr., *White Paper on FCC Enforcement Bureau Reform* at 7.

FCC prosecuted Cumulus for failing to upload its annual EEO public file report in certain stations' online public inspection files and for allegedly failing to analyze its EEO program (as a result of the very act of not uploading it).¹⁹ In electing to go after Cumulus, the Commission relied upon previous unrelated violations *decades before* where there was even an intervening transfer of control.²⁰ Where a company experiences personnel turnover over the course of a decade and where Cumulus essentially acquired the previous violations through a license transfer, it is unreasonable to brand the company as a serial violator.

Whether extending the OPIF filing requirement to certain LPTV stations imposes a material burden or not, the Commission's unforgiving posture towards enforcement actions creates an outsized regulatory risk for LPTV stations having to comply with OPIF filing requirements that have little demonstrated – as opposed to hypothetical – value to the public. When balanced against the minute, unsubstantiated benefit to the public of extending the OPIF requirements, this proposed rule appears to do more harm than good.

C. If the Commission Does Extend OPIF Filing Requirements to LPTV Stations, Relying on Ratings-Based Methodology to Identify Stations Would be Intractable.

To the extent the Commission is considering alternative methods to deciding which LPTV stations should be obligated to file, relying upon ratings-based methods would be unworkable. First, the Commission would have to choose a ratings agency for consistency. Whether it is Nielsen, Comscore, or some other rating agency, it would be unwieldy to rely upon multiple ratings agencies to decide which LPTV stations should be obliged to report. Second, given the fluctuation in ratings, it would be difficult to rely on ratings as a basis for

¹⁹ Forfeiture Order, *In the Matter of Cumulus Licensing LLC*, File No. EB-IHD-20-00031223 (rel. Jan. 16, 2024); see also Comments of National Association of Broadcasters, File No. EB-IHD-20-00031223 (Mar. 28, 2022) (hereinafter “NAB Cumulus Licensing Comments”).

²⁰ NAB Cumulus Licensing Comments at 2.

deciding which stations must comply with OPIF filing requirements. For example, what if a network-affiliate broadcasts a popular live sporting event that significantly increases ratings for a part of the year? What if the network loses broadcast rights to that sporting event the next year, which correspondingly leads to a ratings decline? Finally, and perhaps most notably, many LPTV stations do not subscribe to any ratings agency, and often, Nielsen or Comscore may elect not to rate an LPTV station if the station doesn't subscribe to the ratings service.

D. As Written, the Rule is Overbroad as it Obligates LPTV Stations that Act More as Translators to Comply with the Rule.

As noted above, the FCC proposes to extend the OPIF rules to LPTV stations that are affiliated with "Big 4" network stations. According to the NPRM, many of those stations are among the leading stations in their respective DMAs with significant resources. But not all such Big 4-affiliated stations fall into that category. Indeed, many Big 4 affiliates merely repeat the stream from other Big 4 stations in the same DMA. For example, a Big 4-affiliate station may be in a city. In such a situation, the main Big 4-affiliate station may repeat its content on proximately located LPTV stations. In such a situation, the retransmitting LPTV station may be acting more akin to a translator station. While the Big 4 affiliate station may have meaningful submissions to make under the new rule, asking the affiliated "translator" stations to comply with the OPIF filing requirements would be duplicative and would not provide meaningfully new or helpful information to the public. As a result, we urge the Commission to consider an exemption for LPTV stations that act as a translator for another station affiliated with a Big 4 network.

III. TECHNICAL POLICY AND RULE CHANGE PROPOSALS

A. Relocation of Facilities

Reference Location for Distance Calculations. The Commission observes that there exists an apparent inconsistency in calculating the distance a displaced or channel-sharing

station may relocate its facilities versus the distance a station may relocate its transmission facilities as a “minor change.”²¹ While NAB believes that policies relating to unavoidable interference-related displacement are separable from rules concerning voluntary minor change applications, we support the Commission’s proposal to reference all LPTV and TV Translator relocations to a station’s existing transmitter site geographic coordinates (that is, a station’s “antenna location”). The site geographic coordinates are specified on the station license and should form a reliable and easily identified reference point for such distance calculations. In contrast, the reference coordinates of the existing station’s community of license can be difficult to obtain, may not be authoritative, and can be subject to dispute.

Numerical Precision and Administrative Rounding of Distances. As the Commission notes, some stations currently are authorized pursuant to distance calculations that have been rounded down, and as a general matter, NAB has no objection to the Commission’s proposal to prohibit arbitrary rounding of distance calculations.²² However, NAB objects to the Commission’s proposal to prohibit all rounding of calculated distances as excessive and unnecessary. First, it cannot be assumed that all rounding is “arbitrary” given that various other sections of the rules that remain unchanged by this NPRM continue to permit stations to round calculated distances. For example, Sections 73.208(c)(8) and 73.211(b)(1)(i) specify rounding to the nearest kilometer, while Section 1.958 specifies rounding to the nearest tenth of a kilometer for certain purposes. Second, there are good reasons to continue to allow distance rounding, especially where rounding is consistent with precedent and does not introduce significant uncertainty. In particular, geographic coordinates are often not known

²¹ See NPRM ¶¶ 37–39.

²² NPRM ¶ 40.

with a precision greater than the nearest second of latitude and longitude.²³ The Commission also does not say how precisely many variables must be specified or to what precision intermediate calculation results must be stored, which means stations may not have collected these data consistent with a need to determine distances accurate to some specified degree precision. As a result, many distances are determined at varying levels of precision and accuracy. Because stations have been rounding distance calculations for minor modification applications and displacement applications, stations should not be penalized or prohibited from modifying their operation consistent with the policy in effect at the time of the authorization.

As an alternative to the NPRM's proposal to limit facility relocations to precisely 48.3 kilometers, NAB suggests that distance calculations be rounded (upward or downward) to the nearest tenth of one kilometer. This would effectively allow a relocation of up to 48.34999 kilometers (rounded downward to 48.3 kilometers) – an excess distance of less than 50 meters. Allowing for numerical rounding of less than 50 meters amounts to a difference of perhaps two seconds of latitude or longitude in the contiguous United States and allows for the reasonable and expected uncertainty of one second at each of the existing and proposed (relocation) sites. Such rounding is consistent with the practice that the desired precision (in this case one-tenth of a kilometer) can be obtained by rounding the next smaller magnitude decimal place.²⁴ A rounding allowance of less than 50 meters over 48.3 kilometers amounts to just 0.1 percent of that distance, which would be consistent with

²³ See, e.g., 47 CFR § 1.923(c).

²⁴ See, e.g., Rounding Decimal Numbers, LibreText Mathematics (accessed July 25, 2024), [https://math.libretexts.org/Bookshelves/PreAlgebra/Fundamentals_of_Mathematics_\(Burzynski_and_Ellis\)/06%3A_Decimals/6.03%3A_Rounding_Decimals](https://math.libretexts.org/Bookshelves/PreAlgebra/Fundamentals_of_Mathematics_(Burzynski_and_Ellis)/06%3A_Decimals/6.03%3A_Rounding_Decimals).

other Commission rounding rules and policies, including the 0.5 percent “rounding allowance” for interference population in OET-69 calculations.²⁵ If the Commission settles on a different distance from 48.3 kilometers, NAB would continue to suggest specifying the distance to a precision of one-tenth of a kilometer and rounding to the nearest tenth of one kilometer is appropriate.

Maximum Relocation Distance. At this time, NAB takes no position on the various suggestions to enlarge the NPRM to consider proposals²⁶ to allow relocation of LPTV and TV Translator stations at distances greater than 48.3 kilometers (except that there should be a 50-meter rounding allowance as discussed above). We, however, offer some objective information to help inform the Commission’s choice of a distance limit for station relocations should it decide to consider alternatives. NAB considered the universe of licensed UHF LPTV and TV Translator stations and determined the median HAAT (antenna height above average terrain) and ERP (effective radiated power) values for all such stations. The median HAAT is 149.1 meters, and the median ERP is 0.796 kilowatts. From these values, the protected service contour²⁷ distance of a “typical” LPTV/TV Translator station was calculated to be 31.6 kilometers. The present displacement policy²⁸ (limited to 30 miles [48.3 kilometers] from the reference coordinates of the existing station’s community of license) would appear to allow for relocation to a different transmitter site up to perhaps 63.2 kilometers (twice

²⁵ See, e.g., “Overview of OET-69 and TVStudy Software,” (Aug. 22, 2013) (available at https://wireless.fcc.gov/learn/Learn_slides_20130822.pdf); *Establishment of a Class A Television Service*, MM Docket 00-10, Report and Order, ¶ 78 (rel. April 4, 2000).

²⁶ See, e.g., Comments of One Ministries, Inc., MM Dockets 24-147 and 24-148 (May 17, 2024).

²⁷ 51 dBµV/m F(50,90).

²⁸ 47 CFR § 74.787(a)(4).

31.6 kilometers) for a typical UHF LPTV or TV Translator station.²⁹ As shown in Figure 1, this distance is obviously greater than what would be permitted under the present minor change rule (30 miles between transmitter sites).³⁰

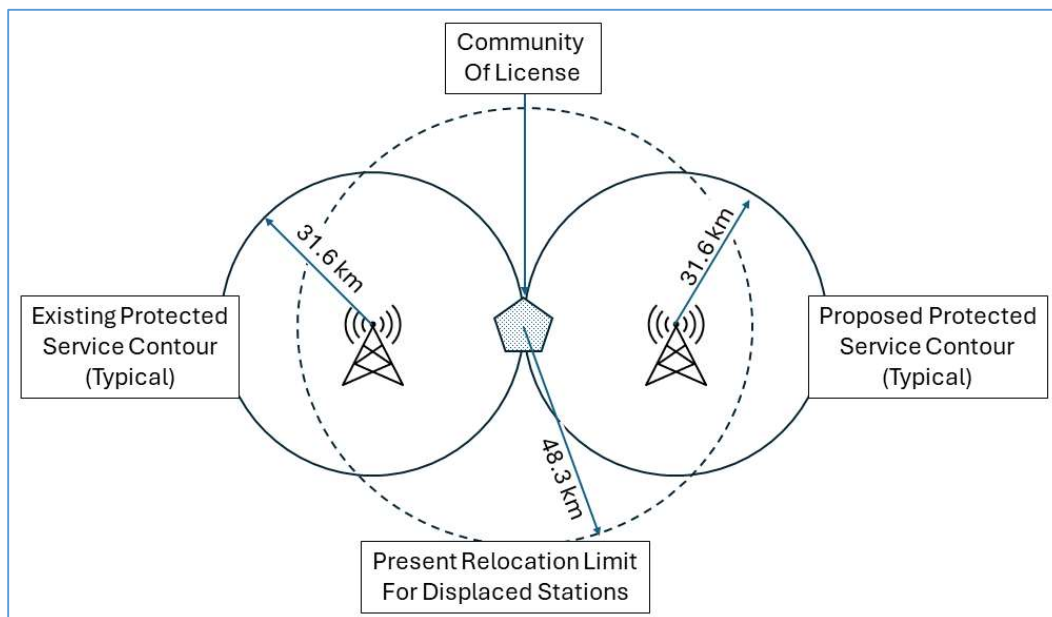


Figure 1. Example of a relocation presently permitted for a displaced station under Section 74.787(a)(4) but not as a “minor change” under Section 74.787(b)(1)(iii). Relocation of displaced stations is permitted up to 30 miles [48.3 kilometers] from the reference coordinates of the existing station’s community of license. Relocation as a minor change (not shown in this figure) is limited to 30 miles [48.3 kilometers] from the existing transmitter site.

The “largest” protected service contour for any UHF LPTV or TV Translator station appears to be 81.7 kilometers, associated with a station having a HAAT of 1266.2 m and an ERP of 15 kW. Thus, some LPTV or TV Translator stations could presumably relocate a distance much greater than 48.3 kilometers while continuing to serve much of the same area.

²⁹ Assuming the community of license is located at the service contour distance and assuming both the existing and proposed sites have identical HAAT, identical facilities located at the two transmitter sites would have coverage contours that just touch over the community of license.

³⁰ 47 CFR § 74.787(b)(1)(iii).

Obviously, there are also stations with large negative HAAT values and ERP values as low as 0.001 kW, which would presumably yield very small service areas.

Based on this straightforward analysis, NAB expects that there will be situations where a station may need to relocate more than 48.3 kilometers while continuing to serve its community of license, for example, because no suitable alternative sites are available within that distance. While NAB does not recommend any change to the proposed 48.3 kilometers limit at this time, we urge the Commission to explicitly state that rule waivers will not be unreasonably withheld in such circumstances.³¹

B. Community of License Designation and Minimum Service Requirements

NAB generally agrees with the Commission's proposal to require LPTV and TV Translator stations to specify a community of license that at least partially overlaps with the station's protected service contour.³² NAB has observed instances where the community specified on a station's license is not and cannot be served by the station under the terms of its authorization. Such situations can result in improper association of a station to a particular market for audience measurement purposes and can generally create confusion. We do believe, however, that there may be situations where a station serves a highly rural area without any designated communities. In such situations, NAB suggests that a station should be permitted to specify its community of license as "rural XX county, state" or a similar less-distinct area. NAB observes that there are many LPTV and TV Translator stations presently licensed to serve such "rural" areas.³³ NAB supports the Commission's proposal that a period

³¹ See NPRM ¶ 40.

³² See *id.* ¶¶ 41–44.

³³ Examples include K07ZE-D and K13OG-D, Rural Juab, etc., and K14QY-D, Rural Sevier County.

of at least six months be provided for all existing LPTV and TV Translator stations to designate a community of license that is compliant with this proposal and also supports the Commission's proposal to waive any application fee during this period for applications solely seeking to designate a compliant community of license.³⁴

NAB supports the Commission's proposal for LPTV and TV Translator stations to serve its designated community of license for at least one year before a change in that community is permitted, with specific exceptions if the station is displaced or for other circumstances beyond a station's control.³⁵

C. Minimum Operating Hours

NAB generally supports the Commission's proposal requiring LPTV stations to operate for some minimum period and agrees that stations licensed as TV Translators should not be subject to this requirement.³⁶ A minimum of 14 hours per calendar week³⁷ on average appears to be a reasonable requirement for LPTV stations, but NAB recommends that the Commission adopt the same exceptions applicable to LPFM stations licensed to educational institutions, namely:

[S]tations licensed to educational institutions are not required to operate on Saturday or Sunday or to observe the minimum operating requirements during those days designated on the official school calendar as vacation or recess periods.³⁸

³⁴ See *id.* ¶ 44.

³⁵ See *id.* ¶ 43.

³⁶ See *id.* ¶ 45; *accord* proposed 47 CFR § 73.763(a).

³⁷ "Calendar week" is a week beginning with Sunday and ending with Saturday. Merriam-Webster.com Dictionary, "Calendar Week," (accessed July 25, 2024), <https://www.merriam-webster.com/dictionary/calendar%20week>.

³⁸ NPRM at 30, n. 193.

Additionally, NAB believes that the calculation of average operating hours should be aggregated over a much longer period, such as one year. Stations that are silent for less than ten days, such as seven days, are not required to notify the FCC but would fail the minimum operating hours proposal. Thus, stations would have to maintain careful records of silent periods for an entire license renewal period to ensure that no calendar week fell short of the 14-hour minimum. A simple solution to these challenges could be to aggregate the average calculation over a longer period, such as 728 (or 672) hours per year or 56 hours per month.

NAB suggests that program logs and electric utility records, among other things, should be sufficient to support a licensee's operational certification, if challenged.³⁹

D. Minimum Programming Requirements

NAB believes that television stations (including LPTV and TV Translator stations) should be expected to broadcast video programming to comply with the proposed minimum operating hours requirement. But in times of emergency, for EAS tests, or for other exceptional circumstances, transmission of static content (slides) may be warranted and should reasonably be considered programming in this context. Such transmissions are expected to involve exceptional circumstances or will be brief and hence inconsequential for determining compliance with the proposed requirement. Transmission of test patterns should be confined to equipment testing and should not be considered programming as such transmissions would have no obvious public interest.

³⁹ See *id.* ¶ 50.

E. Distinct Classes of Service

NAB supports the Commission's proposals to more clearly distinguish between the LPTV and TV Translator services.⁴⁰ At present, it can be difficult to distinguish between the two services because LPTV stations are, essentially, permitted to operate as standalone stations (originating considerable amounts of local programming), as TV Translators (rebroadcasting programming of another station with no local origination of programming), or as a combination of the two. NAB believes that stations rebroadcasting another station full-time (apart from the permissible 30 seconds per hour) should be licensed as TV Translator stations, while stations that do some local origination (more than 30 seconds per hour) should be licensed as LPTV stations and supports the Commission's proposal to require that stations be licensed accordingly.

The present system of callsign assignments has similarly blurred the distinction between LPTV and TV Translator stations. NAB supports the Commission's proposal to assign alphanumeric callsigns only to TV Translator stations and four-letter callsigns only to LPTV stations.⁴¹ NAB is concerned, however, that equipment modifications may be needed to change the callsign of some existing stations, and such modifications may not be practical or possible within 30 days of any Report and Order in this proceeding, as is presently proposed. Additional time may be needed either to secure the necessary technical expertise to modify the equipment or to access the transmitter site, which may be remote. Inasmuch as the existing mix of callsigns has existed for many years, NAB believes that the Commission should consider a longer transitional period for stations converting station class to modify the callsign

⁴⁰ See *id.* ¶¶ 52–55.

⁴¹ See *id.* ¶ 56.

being transmitted. NAB believes that a one-year period would be sufficient to allow stations to change their transmitted callsign to conform to the modified licensed.

F. Emission Masks for TV Channel 14 and for DTS Transmitters

NAB supports the Commission’s proposal to require new and modified LPTV and TV Translator stations operating on TV Channel 14 to use a “full service” or “stringent” emission mask.⁴² Existing LPTV and TV Translator stations should not be required to modify their present equipment. NAB is aware of complaints by the public safety community of interference to land-mobile operations below 470 MHz from television stations (including LPTV and TV Translator stations) operating on Channel 14.⁴³ While NAB does not believe that such interference is wholly due to out-of-band emissions by television stations, the proposed requirement will help provide the land mobile industry with greater confidence that broadcasters are doing all they can to mitigate potential interference to operations below 470 MHz.

NAB also agrees with the proposed requirement that all transmitters in a LPTV or TV Translator DTS network should use the same emission mask, and that all three emission masks are permissible, except on Channel 14.⁴⁴

G. Operations Above TV Channel 36

Inasmuch as there are apparently no LPTV or TV Translator stations operating above TV Channel 36, NAB has no objection prohibiting such operation.⁴⁵ NAB is concerned,

⁴² *Id.* ¶¶ 59–61.

⁴³ See, e.g., Letter from Klaus Bender to Michelle M. Carey, Lisa Fowlkes, Rosemary Harold, Donald Stockdale, and Ron Repasi (Aug. 28, 2020).

⁴⁴ See NPRM ¶ 65.

⁴⁵ See *id.* ¶ 63.

however, that some stations presently are authorized to operate above Channel 36 but are silent because they have not identified any alternative channel at Channel 36 or below.⁴⁶ Thus, some stations presently authorized above Channel 36 may not be silent by their own choice.⁴⁷ NAB requests that the Commission continue to toll cancellation of any license of a station authorized above Channel 36 that demonstrates that no alternative “in-band” channel is available, and delay automatic cancellation of all such licenses to allow a reasonable amount of time for such stations to make such demonstrations.

H. Interference Agreements

NAB supports the Commission’s proposal to carry over any agreement whereby an LPTV or TV Translator station has unilaterally agreed to accept interference above the 2 percent threshold to have the higher interference percentage used when considering applications to modify the facilities involved.⁴⁸

I. OET-69 Calculation Grid Sizes

Although we have no objection to continuing to use 1 km² as a *default* value when analyzing Class A and LPTV/TV Translator facilities, NAB strongly opposes the Commission’s proposal to limit OET-69 analysis to a grid size of 1 km² (nominally a square area with 1-kilometer sides). Presently, full-power stations may use calculation grid sizes (tiles) as small as 0.25 km² (nominally a square area with 0.5-kilometer sides).⁴⁹ Because LPTV and TV Translator stations generally serve much smaller areas than full-power stations those stations must be able to accurately calculate coverage and interference at finer resolution. And as a

⁴⁶ See *id.* at 38, n. 237.

⁴⁷ See *id.* ¶¶ 62–63.

⁴⁸ See *id.* ¶¶ 66–68

⁴⁹ 47 CFR § 73.616(d)(1).

matter of good engineering practice and spectrum policy, the Commission should always encourage and defer to more granular calculations over coarse ones. The Commission's recent policy on interference and spectrum efficiency⁵⁰ encourages the use of the most robust data and analysis techniques, which would support the most detailed analysis reasonably possible. The Commission's proposal to limit the calculation gride to 1 km², however, promulgates an arbitrary, coarse, and inflexible administrative mandate.

To fully appreciate why the Commission's proposed change to a coarser grid-size standard likely will seriously degrade the evaluation of coverage and interference, it is crucial to understand how the underlying software works. The Irregular Terrain Model, upon which OET-69 (and its implementing software, TVStudy) is built, produces more accurate results when given a more detailed path to study.⁵¹ The use of higher resolution terrain models, a larger number of spot elevations along each studied path, and a larger number of studied paths (equivalent to use of a smaller grid size) all contribute toward achieving more accurate evaluations of coverage and interference. Notably, OET has consistently incorporated higher resolution terrain models into its TVStudy software as those models become available.⁵² These actions are intended to improve the accuracy of the analysis software. Reverting to a lower resolution terrain model — or a lower resolution grid as proposed — would *degrade* the accuracy of that software.

⁵⁰ FCC Policy Statement, *Principles for Promoting Efficient Use of Spectrum and Opportunities for New Services*, Docket ET 23-122 (Mar. 30, 2023).

⁵¹ Alakananda Paul, Paul McKenna, and Frederick Najmy, "Evaluation of Two Site-Specific Radio Propagation Models," Proc. ISART (Mar. 2003); Paul McKenna, NTIA/ITS, personal communication.

⁵² See, e.g., "TVStudy Installation and Upgrade Guide," (Jan. 22, 2014).

Finally, NAB believes that there are many LPTV and TV Translator stations that have been authorized based on OET-69 studies that use grid sizes smaller than 1 km². The proposed policy change could cause those stations to fail the Commission's interference criteria if restudied using larger tiles as proposed in the NPRM. Those existing operations must not be adversely affected, or the stations penalized because of any policy or rule change – a change that, as just described, likely will also lead to degraded accuracy. NAB recommends, consistent with the corresponding rule for full-power stations, that Class A, LPTV, and Translator stations continue to be able to specify tiles with nominal 0.5-kilometer sides as an alternative to routine processing using 1-kilometer tiles.

IV. DISPLACEMENT RULE REVISIONS

NAB supports the Commission's proposals to eliminate the 30-day public notice period for displacement applications, to clarify that displacement applications filed by LPTV and TV Translator stations that may be affected by full-power channel substitutions cannot be filed until after the release of the Order granting the channel substitution, and to allow displacement applications based on predicted or actual interference to TV Translator input channels.⁵³

V. AUTOMATIC PROGRAM TEST AUTHORITY AND MINISTERIAL CORRECTIONS

NAB supports the Commission's proposals to permit LPTV and TV Translator stations to commence operation under automatic program test authority as soon as facilities are constructed, so long as an application for license to cover is filed within ten days. NAB has no

⁵³ See NPRM ¶¶ 70–78.

objection to the proposed ministerial corrections to various rules and to the proposed reorganization of Section 74.780.⁵⁴

VI. CONCLUSION

NAB appreciates the Commission's efforts to update and streamline its rules. That process should not, however, harm broadcasters or their viewers through ministerial updates that are unsupported or inconsistent with current recommended practices and have unintended consequences. We urge the Commission to consider whether additional regulatory filings requirements on LPTV stations are warranted and to adopt its proposed changes with the modifications described above.

Respectfully submitted,

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⁵⁴ NPRM ¶¶ 79-83.