

**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 and Class A Television Stations	)	MB Docket No. 24-148
	)	
	)	

**REPLY COMMENTS OF  
THE NATIONAL ASSOCIATION OF BROADCASTERS**

**I. INTRODUCTION AND SUMMARY**

The National Association of Broadcasters (NAB)<sup>1</sup> submits comments in reply to initial comments regarding the Commission’s Notice of Proposed Rulemaking (NPRM) in the above-captioned matters.<sup>2</sup> NAB appreciates the opportunity to comment further on the FCC’s proposed changes to extend online public inspection file (OPIF) requirements to LPTV stations and its technical policies and rules.

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<sup>1</sup> 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.

<sup>2</sup> *Political Programming and Online Public File Requirements for Low Power Television Stations*, 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).

## II. LPTV OPIF PROPOSAL

NAB made Freedom of Information Act (FOIA) requests on June 18, 2024 and June 28, 2024, requesting information about how often the public file was accessed and any studies about the utility of the public file. Responses to our FOIA requests were due on July 18, 2024 and July 29, 2024, respectively for both requests, but to date, the Commission has yet to provide responses to those requests. As noted in our initial comments, the NPRM does not provide any meaningful analysis of the potential benefits of the proposed rule to extend OPIF reporting requirements to LPTV stations.<sup>3</sup> NAB made these FOIA requests with the hope of obtaining the data needed to conduct our own analyses and fill the analytical gaps that the NPRM left open. But without those responses to our requests, we cannot do so.

## III. TECHNICAL POLICY AND RULE CHANGE PROPOSALS

### A. Relocation of Facilities

**Reference Location for Distance Calculations.** Although some commenters wish to retain the option to rely only on contour overlap when considering certain applications as “minor changes,” in the initial round of comments, only one commenter<sup>4</sup> directly opposed using a common reference point for distance calculations. An argument was raised that, for the purposes of retaining the option for displaced and channel share stations to use the geographic coordinates of the community of license for relocation analysis, there would be no potential for abuse if a relocating station continues to serve its community of license.<sup>5</sup> That

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<sup>3</sup> Comments of the National Association of Broadcasters, MB Docket Nos. 24-147 and 24-148, at 4-5 (July 29, 2024) (NAB Comments).

<sup>4</sup> Comments of LPTV Broadcasters Association, Inc., MB Docket Nos. 24-147 and 24-148 at 9-10 (July 29, 2024) (LPTVBA Comments).

<sup>5</sup> *Id.*

argument, however, seems unrelated to the choice of the reference point. The extent of the service contour from a television station is independent of the location of its community of license.

NAB continues to 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”).<sup>6</sup> The site geographic coordinates are specified on the station license and should form a reliable and easily identifiable reference point for such distance calculations. In contrast, the reference coordinates of the existing station’s community of license (if it has one) can be difficult to obtain, may not be authoritative, and can be subject to dispute.

**Numerical Precision and Administrative Rounding of Distances.** In the initial round of comments, no other commenters directly addressed the issue of administrative rounding of distances. NAB continues to suggest that distance calculations be rounded (upward or downward) to the nearest tenth of one kilometer, which would be 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 and would be consistent with other Commission rounding rules and policies, including the 0.5 percent “rounding allowance” for interference population in OET-69 calculations.<sup>7</sup>

**Maximum Relocation Distance.** Several commenters ask that the Commission revisit whether the present maximum relocation distance limits are appropriate.<sup>8</sup> A number of

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<sup>6</sup> NAB Comments at 10-11.

<sup>7</sup> *Id.* at 11-13.

<sup>8</sup> See, e.g., LPTVBA Comments at 10; Comments of Advanced Television Broadcasting Alliance, MB Docket Nos. 24-147 and 24-148 at 6-7 (July 28, 2024) (ATBA Comments);

commenters state that the Commission has offered no rationale for the present limit and has sought a reexamination of distance limits or whether there is a need for any limit at all.<sup>9</sup> NAB agrees with those commenters 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. We continue to urge the Commission to explicitly state that rule waivers will not be unreasonably withheld in such circumstances.<sup>10</sup> NAB would welcome a future inquiry into whether the relocation limits are appropriate, but at this time, NAB does not recommend expanding this NPRM to change to the proposed 48.3 kilometers limit.

#### **B. Community of License Designation and Minimum Service Requirements**

LPTV and TV Translator stations are meant to serve the small communities that full-power stations would not otherwise serve, and it would be contrary to that purpose to associate those stations with cities that they do not actually serve.<sup>11</sup> Some commenters state that the proposed requirement to actually serve a designated community offers only “marginal benefit,” and suggest that “identifying [LPTV and Translator] stations based on the major city of the DMA provides clarity for the audience.”<sup>12</sup> Others argue that there is no statutory basis for assigning communities of license to secondary stations.<sup>13</sup> NAB disagrees. The Communications Act of 1934, as amended, provides ample authority for the Commission

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Comments of National Religious Broadcasters, MB Docket Nos. 24-147 and 24-148 at 3 (July 29, 2024) (NRB Comments).

<sup>9</sup> ATBA comments at 7-8.

<sup>10</sup> NAB Comments at 13-15.

<sup>11</sup> NPRM ¶¶ 1, 3.

<sup>12</sup> NRB Comments at 4.

<sup>13</sup> ATBA Comments at 10.

to designate licenses to serve various communities to provide a fair, efficient, and equitable distribution to each.<sup>14</sup> As previously noted, improper association of a station to a particular market or community can cause errors in audience measurement and can create public confusion.<sup>15</sup> NAB agrees with REC Networks that there may be situations where a station serves a highly rural area without any designated communities.<sup>16</sup> In such situations, NAB again 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 continues to support 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 exceptions if the station is displaced or for other circumstances reasonably beyond a station’s control.<sup>17</sup> These exceptions would appear to satisfy most of the expressed concerns that a change in community of license may be necessary at any time by a LPTV or TV Translator station due to its secondary status.<sup>18</sup> NAB believes that broadcast television assignments, both primary and secondary, are fairly stable and that the risk of a large number of waiver requests for community of license changes due to “forced or voluntary migration as a result of subsequent primary application activity”<sup>19</sup> is low. A search of the FCC’s LMS database shows 10 LPTV or TV Translator “displacement” applications filed during calendar year 2023 and 14 applications filed this year (through

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<sup>14</sup> 47 USC §§ 303(b), (d), and (h), 307(a) and (b).

<sup>15</sup> NAB Comments at 15.

<sup>16</sup> Comments of REC Networks, MB Docket Nos. 24-147 and 24-148, ¶¶ 10-11 (July 29, 2024).

<sup>17</sup> See *id.* ¶ 43.

<sup>18</sup> See, e.g., LPTVBA Comments at 13.

<sup>19</sup> REC Networks ¶ 13.

August 14, 2024). Most of these displacement applications relate to the Broadcast Incentive Auction (Auctions 1001 and 1002), which concluded in 2017. So, few new “repack-related” displacement applications would be expected going forward.

### **C. Minimum Operating Hours**

NAB continues to generally support 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.<sup>20</sup> Some commenters oppose any minimum or object to a requirement that is proportional to the full-service requirement.<sup>21</sup> While NAB continues to believe that some minimum service requirement is appropriate, we appreciate how a lesser requirement from that proposed may be desirable and continue to believe that the calculation of average operating hours should be aggregated over a much longer period, such as one year.<sup>22</sup> Gray, for instance, raises several valid concerns with the burdens associated with the proposed reporting and record-keeping requirements and the fairness of imposing a greater reporting burden on secondary stations than on primary stations.<sup>23</sup> NAB urges the Commission to consider carefully the best approach to ensure that compliant LPTV stations are not saddled with unnecessary and burdensome reporting and record-keeping requirements. Indeed, stations that are silent for long periods without authorization are likely to be well known and could be the subject of a directed field investigation.

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<sup>20</sup> See *id.* ¶ 45; *accord* proposed 47 CFR § 73.763(a).

<sup>21</sup> NRB Comments at 5; ATBA comments at 12.

<sup>22</sup> NAB Comments at 16-17.

<sup>23</sup> Comments of Gray Television, MB Docket Nos. 24-147 and 24-148 at 7-8 (July 25, 2024) (Gray Comments).

#### **D. Minimum Programming Requirements**

NAB believes that television stations (including LPTV and TV Translator stations) should be expected to broadcast at least one stream of synchronized video and audio programming. This expectation is consistent with long-standing Commission policy, interpreted as recently as 2023.<sup>24</sup> While NAB does not advocate for content regulation, the continuous transmission of a static slide accompanied by “spoken words of affirmation”<sup>25</sup> or soothing music is a remarkable underutilization of broadcast spectrum and seems more appropriate for another medium than television. The occasional or seasonal transmission of static (EAS alerts) or pseudo-static (“Yule log” video) content should be permitted as it is distinguishable from the continuous transmission of such content.

#### **E. Distinct Classes of Service**

NAB continues to support the Commission’s efforts to more clearly distinguish between the LPTV and TV Translator services.<sup>26</sup> But forcing a station to maintain a particular class of service for at least one year seems unnecessary. Several commenters oppose any limit on the number of times a LPTV or TV Translator station can change service class.<sup>27</sup> NAB agrees that the justification for restricting changes in service class to a once per year seems thin.<sup>28</sup> NAB believes that the requirement to pay a fee to change service class would itself be adequate disincentive for licensees to make changes to avoid “regulatory burdens.”

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<sup>24</sup> *Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power Television and Television Translator Stations*, MB Docket No. 03-185, Fifth Report and Order, FCC 23-58 (Rel. July 20, 2023) ¶¶ 12, 40-42.

<sup>25</sup> LPTVBA Comments at 16.

<sup>26</sup> See *id.* ¶¶ 52–55.

<sup>27</sup> See, e.g., ATBA Comments at 14.

<sup>28</sup> NPRM ¶ 54.

The Commission has not expressed any particular concerns about stations switching from TV Translator to LPTV status, and there appears to be no justification for prohibiting a TV Translator station from shifting to LPTV status at any time. NAB agrees with ATBA that a TV Translator that suddenly decides to add news and other local programming (that is, to operate as an LPTV station) should not be prohibited from doing so at any time.<sup>29</sup> While NAB does not see a need to prohibit stations from changing class (in either direction) at any time, at a minimum the Commission should not prohibit TV Translators from “upgrading” from TV Translator to LPTV status at any time.

One commenter claims that flexibility to freely change service class is needed to allow for maintenance and equipment outages. NAB’s understanding, however, is that LPTV stations are free to operate effectively as translators so long as they originate at least some local programming.<sup>30</sup> Thus, we understand that an LPTV station that has lost the ability to do local origination can simply operate as a translator for days, weeks, or even months rather than going silent so long as the station can justify that its operation responsively serves its community. NAB seeks confirmation that an LPTV station may operate as a TV Translator most or all of the time, so long as the station meets its EAS and other requirements.

NAB disagrees with Engle Broadcasting that an -LD or -CD callsign suffix is “discriminatory” and opposes the suggestion that Class A and LPTV stations should be permitted to use the suffix -TV.<sup>31</sup> The conventions for the assignment of call signs for LPTV, TV Translator and Class A Television stations are codified in Section 74.791 of the Commission’s

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<sup>29</sup> Comments of ATBA at 15.

<sup>30</sup> NRB Comments at 5.

<sup>31</sup> See Comments of Engle Broadcasting, MB Docket Nos. 24-147 and 24-148 at 5-6 (July 25, 2024).



rules<sup>32</sup> and amendment of that rule is not part of this docket. The conventions for the assignment of call signs for television broadcast stations<sup>33</sup> (“full-power” television stations) are similarly codified in Section 73.3550 of the rules, amendment of which was the subject of a recent rulemaking.<sup>34</sup> <sup>35</sup> According to FCC records, a total of 794 full-power stations are assigned either five- or six-letter callsigns that include the suffix -TV. Thus, assignment of a -TV suffix to broadcast stations other than full-power television stations could create confusion in must-carry negotiations, audience measurement, and other matters.

NAB agrees with Gray Television<sup>36</sup> that there could be intellectual-property concerns and public confusion for some stations that have their callsign involuntarily changed because of a service change. These concerns appear to be limited to LPTV stations with a four-letter callsign (plus an -LD suffix) changing service to TV Translators. With respect to those stations, we support the Commission’s proposal to “grandfather” existing LPTV callsigns or alternatively adopt Gray’s proposal that stations changing from LPTV to TV Translator service be permitted to retain their four-letter callsign with only a change in suffix.

#### **F. OET-69 Calculation Grid Sizes**

NAB now understands that the Commission’s apparent proposal to limit OET-69 analysis to a grid size of 1 km<sup>2</sup> (nominally a square area with 1-kilometer sides)<sup>37</sup> is qualified

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<sup>32</sup> 47 CFR § 74.791.

<sup>33</sup> 17 USC § 122(j)(7).

<sup>34</sup> 47 CFR § 73.3550.

<sup>35</sup> *Amendment of Part 73 of the Commission’s Rules to Update Television and Class A Television Broadcast Station Rules, and Rules Applicable to All Broadcast Stations*, Report and Order, MB Docket No. 22-227, FCC 23-72 (rel. September 19, 2023).

<sup>36</sup> Gray Comments at 8-9.

<sup>37</sup> NPRM ¶ 69.

by permissive use, upon request, of a “*smaller* 0.5-kilometer grid resolution per side.”<sup>38</sup> As previously stated, 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. Good engineering practice and spectrum policy call for more granular calculations over coarse ones. NAB continues to support, 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.

#### **G. Increased Power**

Many commenters seek an increase in the maximum power levels for LPTV or Class A stations.<sup>39</sup> NAB is generally concerned that increased power can reduce the number of voices available in an area by effectively blocking access to spectrum over a larger area. Thus, arbitrary (interference-limited) power increases may conflict with the intent of establishing these services. That said, NAB believes that the present power levels for VHF stations, particularly “low band” VHF stations operating on Channels 2 through 6, may be too low even to provide their authorized service. NAB would welcome a Commission inquiry on this issue, both for full-power and other television stations, but this proceeding is not the place to begin that discussion.

#### **IV. CONCLUSION**

As noted in our original comments, NAB believes that more analysis is required to understand the benefits of extending OPIF filing requirements to LPTV stations. NAB, however,

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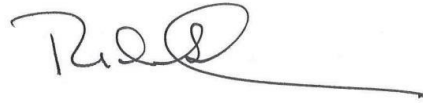
<sup>38</sup> NPRM at ¶ 69, n. 256.

<sup>39</sup> ATBA comments at 11; Comments of Columbus Broadcasting Corporation, MB Docket No. 24-148 at 2-3 (July 29, 2024).

appreciates the opportunity to comment on the Commission's efforts to update and streamline its rules.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Rick Kaplan", with a long horizontal line extending to the right from the end of the signature.

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Rick Kaplan  
Nandu Machiraju  
Robert Weller

August 26, 2024