

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

In the Matter of )  
 )  
DTV Build-out )  
 )  
Requests for Extension of the )  
Digital Television Construction Deadline )  
 )  
Commercial Television Stations )  
With May 1, 2002 Deadline )

**ORDER**

**Adopted: October 16, 2003**

**Released: October 23, 2003**

By the Commission:

1. The Commission has before it 141 applications submitted by commercial television stations seeking extensions of the May 1, 2002, deadline for construction of their digital television (DTV) facilities pursuant to Section 73.624(d)(3)(iii) of the Rules.<sup>1</sup> The applications are unopposed. For the reasons set forth below, we grant the applications and extend the DTV construction deadline for 104 stations to six months from the release date of this Order. We admonish 7 stations for their continuing failure to timely construct, deny their applications, and afford them six months from the release date of this Order to comply with the DTV construction rule. The 7 stations will also be subject to the remedial measures for DTV construction we have previously adopted.<sup>2</sup> The DTV construction deadline for the remaining 30 “satellite” stations is deferred pending the outcome of the DTV periodic review proceeding.<sup>3</sup>

**I. Background**

2. To further the rapid implementation of a nationwide system of DTV, we adopted in 1997 an aggressive DTV construction schedule.<sup>4</sup> We determined that television stations

<sup>1</sup> 47 C.F.R. § 73.624(d)(iii).

<sup>2</sup> See Remedial Measures For Failure to Comply with Digital Television Construction Schedule, *Report and Order*, 18 FCC Rcd 7174 (2003) (*Remedial R&O*).

<sup>3</sup> A complete list of all stations granted six months extensions and the satellite stations is included in Appendix A to this Order. Those stations receiving admonishments are included in Appendix B.

<sup>4</sup> See Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, 12 FCC Rcd 12809 (1997) (*Fifth Report and Order*).

affiliated with the ABC, CBS, Fox, and NBC television networks would be required to build DTV facilities in the ten largest television markets by May 1, 1999. Stations affiliated with these networks in television markets eleven through thirty were required to construct their DTV facilities by November 1, 1999. All other commercial stations were required to construct their DTV facilities by May 1, 2002, and all noncommercial stations were to have constructed their stations by May 1, 2003.

3. As of October 3, 2003, a total of 1,605 television stations in all markets (representing approximately 95% of all stations) have been granted a DTV construction permit or license. There are a total of 1,258 stations now on the air broadcasting a digital signal, 563 with licensed facilities or program test authority and 695 operating pursuant to special temporary authority (“STA”) or experimental DTV authority (representing approximately 75% of all stations).

4. In the top thirty television markets, 115 of the 119 network-affiliated television stations are on the air in digital, 110 with licensed DTV facilities or program test authority and 5 with STAs. In markets 1-10, of the 40 network affiliates due to be on the air by May 1, 1999, 38 are on the air with a digital signal. The remaining two were licensed and on the air prior to September 11, 2001, but are now off the air due to the attack on the World Trade Center. In markets 11-30, 72 of 79 network affiliate stations required to be on the air by November 1, 1999, have constructed their licensed DTV facilities. Seventy-seven of these stations now are on the air. Three stations have been granted additional time to complete construction of their digital facilities.

5. There were 1,196 commercial television stations due to commence digital broadcasts by May 1, 2002. As of October 3, 2003, 946 of these stations are broadcasting a digital signal. In addition, 199 of 373 noncommercial educational television stations, who were due on the air May 1, 2003, are now airing digital broadcasts.

6. The commercial stations in this proceeding were required to construct their DTV facilities by May 1, 2002, and have been granted two previous extensions by the staff. Because these are the third extension requests by these stations, they must be considered by the Commission.<sup>5</sup>

## II. Discussion

### A. Extensions Based On Satellite Status

7. There are 30 stations seeking an extension that are “satellites.” Satellites are full power terrestrial broadcast stations authorized under Part 73 of the Rules to retransmit all or part of the programming of a parent station that typically is commonly owned. In the *DTV Periodic NPRM*, we requested comment on whether the public interest would be served by allowing such

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<sup>5</sup> See 47 C.F.R. § 73.624(d)(iii).

stations to turn in their digital authorization and “flash cut” to DTV transmission at the end of the transition period.<sup>6</sup> In effect, this would relieve satellite stations of the requirement that they meet an earlier DTV construction deadline.

8. Given the pendency of the issue of DTV construction requirements for satellite stations, we defer the construction deadlines of the 30 satellite stations pending the outcome of the DTV periodic review proceeding.<sup>7</sup>

## **B. Stations Granted Six Month Extensions**

9. *Stations Affected By the September 11<sup>th</sup> Attack in New York City.* A number of television stations were directly or indirectly affected by the September 11, 2001, terrorist attack in New York City. WWOR-DT, Secaucus, New Jersey had completed construction and begun operating its DTV facilities on the World Trade Center before those facilities were destroyed.<sup>8</sup> WPXN-DT, New York, New York, had intended to construct facilities on the World Trade Center. WXTV-DT, Patterson, New Jersey, planned to construct its facilities on the Empire State Building. Following the September 11<sup>th</sup> attack, the owner of the Empire State Building informed WXTV-DT that it would not engage in further negotiations until it had completed plans to reconfigure the building’s transmission mast to accommodate former users of the World Trade Center. WXTV-DT has made progress on installation of its antenna on the Empire State Building but has met with some delays due to the large number of stations trying to install antennas on the building.

10. The September 11<sup>th</sup> terrorist attack constitutes an uncontrollable and unforeseeable event warranting extension of DTV construction deadlines for the affected stations. We find that the stations affected by the September 11<sup>th</sup> attack have taken reasonable steps to recover from that disaster and to complete construction of their DTV facilities.

11. *Stations with Other Uncontrollable or Unforeseeable Delays.* A number of stations have encountered unforeseen or uncontrollable delays concerning the construction of their DTV facilities including late delivery of equipment, unexpected equipment failures, natural disasters, and weather related delays.

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<sup>6</sup> See Second Periodic Review of Commission’s Rules and Policies Affecting the Conversion to Digital Television, 18 FCC Red 1279, 1326 (2003) (*DTV Periodic NPRM*).

<sup>7</sup> The satellite stations are denoted in Appendix A.

<sup>8</sup> In addition, WWOR-DT has joined the Metropolitan Television Alliance, a group of stations that formerly had facilities on the World Trade Center and which now is seeking to construct a new multi-user tower. That proposal has met with a number of obstacles such as local zoning, environmental and air hazard concerns. The group continues to pursue suitable locations.

12. WLNE-DT, New Bedford, Massachusetts, has experienced construction delays outside of its control. Its proposed tower site will be a collocated tower that will be home to the DTV facilities of other stations in the market. The tower upgrade process is in the control of the tower owner who has experienced delays in the upgrade process. WLUC-DT, Marquette, Michigan, was ready to begin DTV operation at the end of July 2003 when its DTV transmitter failed. The station is in the process of making repairs so it may commence DTV broadcasts.

13. A number of stations were expecting to be on the air with their DTV facilities prior to their current deadline, but experienced unforeseeable and uncontrollable delays in the delivery or installation of their remaining DTV equipment. WJFB-DT, Lebanon, Tennessee, demonstrated that it had purchased its DTV transmitter and that its equipment supplier had confirmed its delivery. The equipment supplier subsequently did not deliver the transmitter and filed for bankruptcy. The station recently purchased a second transmitter from a new manufacturer and installation is underway.

14. A lightning strike delayed construction for KLWY-DT, Cheyenne, Wyoming. Two devastating typhoons have caused significant damage to the analog facilities of KUAM(TV), Hagatna, Guam. This, in turn, has delayed construction of the station's DTV facilities. KBZK-DT, Bozeman, Montana, was unable to complete construction of its facilities because of snowfall at its mountain tower site. KSGW-DT, Sheridan, Wyoming; and WNYT-DT, Albany, New York also experienced winter weather related delays in construction. KDLH-DT, Duluth, Minnesota, was unable to complete construction because erratic weather patterns in Northern Minnesota delayed the scheduled delivery and installation of its DTV antenna. Construction of the DTV facilities for KGUN-DT, Tucson, Arizona, was delayed by a wildfire in the vicinity of its tower location. We find that, in each case, final construction of these stations' DTV facilities was delayed due to circumstances beyond their control. Extension of their DTV construction deadlines is therefore warranted.

15. *Stations with Local Construction or Siting Delays.* A number of stations have experienced delays in the siting of their DTV facilities. KFVE-DT, Honolulu, Hawaii; KHNL-DT, Honolulu, Hawaii; KMAU-DT, Wailuku, Hawaii; and KOGG-DT, Wailuku, Hawaii; all cite to the fact that local ordinances have restricted their ability to construct a new tower structure. These stations have also faced "intense community opposition" to building a DTV tower at otherwise viable locations. As a result, these stations have been working with other local broadcasters in an attempt to build a single tower. The group has identified a possible site, but this location is limited by the nearby FCC monitoring station at Waipahu, Hawaii, inadequate electrical service, and environmental concerns. Despite this fact, the group is continuing to work on a final tower siting agreement for this proposed site. Once an agreement is finalized, they will prepare an environmental impact study to obtain the necessary approvals for the site.

16. KWGN-DT, Denver, Colorado is one of a number of Colorado television stations that have experienced delays siting new towers on Lookout Mountain near Denver due to local

opposition and zoning delays. KWGN-DT is currently awaiting Commission approval on a modification application that is opposed by a local citizens group.

17. KPXE-DT, Kansas City, Missouri; KMCC-DT, Laughlin, Nevada; WCAX-DT, Burlington, Vermont; and WTCV-DT, San Juan, Puerto; have experienced delays obtaining the necessary Federal or State approvals for their tower locations. WFGC-DT, Palm Beach, Florida, has been engaged in legal proceedings with a tower owner over the terms of its lease agreement. The station also experienced a delay due to unexpected wind loading problems. Lack of construction progress by the owner of the tower that was to be the location of the DTV facilities of WPXC-DT, Brunswick, Georgia, have caused the station to seek to construct a low power facility on its existing tower.

18. KDOC-DT, Anaheim, California, is a member of a consortium of stations seeking to construct a multi-user tower and antenna to be located on Mount Wilson, California. The consortium experienced an unforeseen technical problem with the proposed antenna that had to be reconfigured to increase replication. This required modifying the stations' DTV construction permits. The consortium is working to resolve certain technical and legal issues surrounding the proposed modification.

19. KAPP-DT, Yakima, Washington, has completed construction but, as required by a condition on its construction permit, it must notify local land mobile operators and obtain Commission approval prior to commencing program test authority. The station has identified the land mobile operators in question and is conducting further tests to determine if actual interference will result from its operation on DTV Channel 14.

20. WVAG-DT, Valdosta, Georgia, has been unable to complete construction of its facilities due to local litigation that has created a cloud on its ownership. The station's owner is continuing to litigate the matter so that it can resume construction of its facilities.

21. We recognize that the siting of DTV facilities remains a challenge for many broadcasters. Tower siting delays of the type outlined above qualify as uncontrollable and unforeseeable delays that warrant extension of these stations' DTV construction deadlines.

22. *Stations Awaiting Commission Action.* A number of stations cite to ongoing matters before the Commission that have delayed their DTV construction plans. This includes pending (1) engineering modification applications and requests for Special Temporary Authority (STA), (2) channel change rulemaking proceedings, or (3) assignment applications. In each case, the station maintains that it cannot complete construction of its DTV facilities until the pending Commission matter is resolved.

23. The following stations are or were involved in rulemakings to change their DTV channel:

KFTR-DT, Ontario, California

KJRR-DT, Jamestown, North Dakota  
KLTV-DT, Tyler, Texas  
KOLO-DT, Reno, Nevada  
KREM-DT, Spokane, Washington  
KSKN-DT, Spokane, Washington  
KSWO-DT, Lawton, Oklahoma  
KTRE-DT, Lufkin, Texas  
KTVQ-DT, Billings, Montana  
KUPN-DT, Sterling, Colorado  
KVTV-DT, Laredo, Texas  
KWES-DT, Odessa, Texas  
KXLF-DT, Butte, Montana  
WANE-DT, Fort Wayne, Indiana  
WBPH-DT, Bethlehem, Pennsylvania  
WECT-DT, Wilmington, North Carolina  
WFGX-DT, Fort Walton Beach, Florida  
WJSU-DT, Anniston, Alabama  
WTOM-DT, Cheboygan, Wisconsin  
WTVA-DT, Tupelo, Mississippi

Although some of these proceedings remain pending, some were recently completed and the stations are awaiting the grant of their post-rulemaking modification applications.

24. The following stations are either awaiting final processing on modification applications or requests for STA, or they only recently received a grant of a modification application and the station has had insufficient time to complete construction:

KETY-DT, Santa Barbara, California  
KFTL-DT, Stockton, California  
KGWC-DT, Casper, Wyoming  
KLUZ-DT, Santa Monica, California  
KPXN-DT, San Bernardino, California  
KTAQ-DT, Greenville, Texas  
KTTU-DT, Tucson, Arizona  
KPXB-DT, Conroe, Texas  
WCFT-DT, Tuscaloosa, Alabama  
WCTV-DT, Thomasville, Georgia  
WGPX-DT, Burlington, North Carolina  
WGSA-DT, Baxley, Georgia  
WHTV-DT, Jackson, Michigan  
WKTV-DT, Utica, New York  
WLAJ-DT, Lansing, Michigan

WNTZ-DT, Natchez, Mississippi  
WPXL-DT, New Orleans, Louisiana  
WSFA-DT, Montgomery, Alabama  
WTAP-DT, Parkersburg, West Virginia  
WVIB-DT, Key West, Florida  
WVNS-DT, Lewisburg, West Virginia

In some cases, applications were filed recently because the station discovered that changes need to be made to its proposed DTV facilities after it began construction.

25. Certain stations in Alaska (KFXF-DT, Fairbanks, Alaska; KJUD-DT, Juneau, Alaska; KATN-DT, Fairbanks, KIMO-DT, Anchorage, KTBY-DT, Anchorage, KTUU-DT, Anchorage and KTVA-DT, Anchorage) were members of a coalition that sought Commission approval for a comprehensive Master Plan that involved a complicated series of interrelated digital and analog channel changes. The coalition requested that the plan be dismissed in February 2003. The members have subsequently sought separate DTV channel changes in a rulemaking initiated on February 20, 2003.

26. KXGR-DT, Green Valley, Arizona, only recently received a grant of the license for its analog station. Until that action, the station claims that it was financially unable to commence construction of its DTV facilities. Furthermore, the station is awaiting action on an application to assign the station to another party.<sup>9</sup> The owner of WBAK-DT, Terre Haute, Indiana, states that it was forced to sell its station because of financial difficulties and that it is awaiting the grant of a pending assignment application.<sup>10</sup>

27. The pendency of Commission proceedings is the type of matter outside of the control of a station that warrants allowing additional time for the construction of DTV facilities. The Commission staff has given priority processing to rulemakings and applications involving DTV stations, however, many of the above proceedings involve complicated technical issues (such as interference and international coordination) that must be resolved before they can be approved. We find that in each of the above cases the stations took the necessary steps to complete the Commission proceeding, but were unable to do so prior to their DTV construction deadline.

28. *Financial Problems.* In our *DTV MO&O*, we recognized that some stations may not be in the financial position to provide DTV service by the May 1, 2002, deadline.<sup>11</sup> We announced a policy of allowing stations to seek an extension to their DTV construction deadline

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<sup>9</sup> See File No. BAPCT-20020109AAR.

<sup>10</sup> See File No. BALCT-20030522AFE.

<sup>11</sup> See Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, 16 FCC Rcd 20594, 20610-12 (2001) (*DTV MO&O*).

based upon the fact that the cost to construct their facility may exceed the station's financial resources. A number of stations have sought extensions based upon their financial difficulties.

29. The owner of WBKP-DT, Calumet, Michigan, and WGTU-DT, Traverse City, Michigan, has continued to experience financial difficulties during the term of its last extensions. The owner has sold these stations to a new owner and the sale of WGTU-DT was recently approved by the Commission. The new owner is committed to completing construction of these stations' DTV facilities.

30. Due to continued operating losses, KMTF-DT, Helena, Montana, was only able to order one-third of its equipment this year. KPVI-DT, Pocatello, Idaho; KXTF-DT, Twin Falls, Idaho; and KYUS-DT, Miles City, Montana, also experienced operating losses earlier this year that delayed their purchase of equipment. The stations have either ordered all or most of their DTV equipment and represent that they will complete construction as soon as the equipment is delivered. Because of a limited revenue stream, KTVH-DT, Helena, Montana, was only able to make an initial down payment on its DTV equipment this year. KXJB-DT, Valley City, North Dakota, only recently obtained financing and is moving forward to order equipment.

31. Due to financing documented restrictions imposed by its lender, the owner of WABG-DT, Greenwood, Mississippi; WAKA-DT, Selma, Alabama; WBAK-DT, Terre Haute, Indiana; WBBJ-DT, Jackson, Tennessee; and WRSP-DT, Springfield, Illinois, is allowed to spend only limited amounts each year for DTV construction. The owner is moving forward on the sale of WBAK-DT and with the construction of the other stations on a staggered timetable.

32. WRJM-DT, Troy, Alabama, was unable to complete construction because release of the final portion of its bank loan was delayed. Bank examiners prevented the bank from releasing the funds because of a problem with the bank's lending limit. The station is continuing to take steps necessary to complete construction.

33. The owner of KSPR-DT, Springfield, Missouri; WJCL-DT, Savannah, Georgia; WFXI-DT, Morehead City, North Carolina; and WGXA-DT, Macon, Georgia, has also experienced financial difficulties that have prevented construction of the DTV facilities of these stations. The owner has previously proposed to complete construction of its DTV facilities on a staggered timetable. Since its last extension request, the owner has purchased the DTV transmitters for all its stations, completed construction of one of its DTV facilities and has slightly modified its construction schedule to propose construction of WJCL-DT at an earlier date.

34. WTLW-DT, Lima, Ohio, is a non-profit broadcaster that relies on viewer contributions for seventy percent of its annual funding. The station was unable to raise enough money to purchase its DTV antenna and is working to secure funds to purchase its DTV transmitter. WBUW-DT, Janesville, Wisconsin, and WHDF-DT, Florence, Alabama, are currently the subject of bankruptcy proceedings that severely restrict their ability to expend resources for DTV construction.

35. Because of the continued poor financial performance of the station, WENY, Elmira, New York, has had difficulty securing a lending source for its DTV construction. During the term of its last extension, the station finally secured a commitment from a lending source to consider its loan proposal. The station expects to receive approval on its construction loan in the fall of 2003 at which time it will be able to order its DTV equipment and begin construction.

36. We find that these stations have met the requirements for further extension of the DTV construction deadline as stations experiencing financial hardships. The stations have provided documentary evidence to establish that the “costs of meeting the minimum build-out requirements exceed the station’s financial resources.”<sup>12</sup> Despite these setbacks, the stations have taken steps to further their DTV construction.

37. *Band-Clearing Proposals.* Paxson Communications Corporation (Paxson) filed extension applications for two of its stations – WIPX-DT, Bloomington, Indiana; and WQPX-DT, Scranton, Pennsylvania. These stations have analog channels in the 60-69 band which has been reallocated for use with new wireless services.<sup>13</sup> The Commission has adopted voluntary “band-clearing” mechanisms to facilitate the clearing of these channels.<sup>14</sup> The Commission has concluded that the public interest would be served by permitting incumbent broadcast licensees to move out of their “out of core” channel prior to the conclusion of the DTV transition period if the broadcaster’s proposal would not have an undue adverse effect on the public’s overall receipt of broadcast service.<sup>15</sup>

38. Paxson has based its extension requests for these two stations on its band-clearing efforts. Paxson has a pending band-clearing application for WQPX-DT. Extension of the WQPX-DT construction permit is therefore justified. Paxson has not, however, filed a band-clearing application for WIPX-DT. In its extension request for WIPX-DT, Paxson states that it is continuing to rely on the Commission's band-clearing policies as justification for delaying construction of the station’s DTV facilities. We agree that it was reasonable for Paxson to rely on our band-clearing policies to this point. We will, therefore, grant Paxson a six-month

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<sup>12</sup> *Id.*

<sup>13</sup> The DTV channels for these stations are all within the “core” of channels 2-51.

<sup>14</sup> The Balanced Budget Act of 1997, 47 U.S.C. § 337(a), mandates that the Commission reallocate the 746-806 MHz band for new wireless services. However, Congress also protected incumbent broadcast use in the band until the close of the DTV transition, 47 U.S.C. § 337(d). See Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission’s Rules; Carriage of the Transmissions of Digital Television Broadcast Stations; Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television; 15 FCC Rcd 20845 (2000); *Third Report and Order*, 16 FCC Rcd 2703 (2001); and *Order on Reconsideration of the Third Report and Order*, 16 FCC Rcd 21633 (2001), *petition for reconsideration pending*.

<sup>15</sup> *Id.* In 2002, Congress passed the Auction Reform Act of 2002 (Auction Reform Act), which limits band-clearing proposals in certain circumstances. Stations must now meet the requirements of the ARA before the Commission may waive its rules to allow a band-clearing proposal.

extension for WIPX-DT. We caution, however, that further extension requests for WIPX-DT may not be based on the band-clearing justification unless a band-clearing application is filed that meets the requirements of our band clearing policy and the Auction Reform Act.

39. In conclusion, we find that each of these 104 stations seeking sixth-month extensions made reasonable and diligent efforts to construct their authorized DTV facilities, but that each encountered delays that were unforeseeable or beyond their control, thus preventing timely construction. Therefore, we grant these 104 stations an extension to six months from the release date of this Order to complete their DTV facilities.

40. Although we grant these extension requests, we take this opportunity to remind television stations that timely implementation of DTV is the key to the success of a nationwide DTV system. We have found that expedited construction promotes DTV's competitive strength internationally, as well as domestically. We have also determined that rapid build-out ensures that the recovery of broadcast spectrum for future uses occurs as quickly as possible. We continue to expect stations seeking extensions to submit detailed justifications as to why they have been unable to complete construction of their facilities. As before, each station will be required to demonstrate that its failure to construct has been due to financial hardship, or circumstances that were either unforeseeable or beyond its control and that the station has taken all reasonable steps to resolve the problem expeditiously. We continue to expect such requests to be supported by documentation, and for stations to be able to demonstrate each step that was taken to complete construction or to outline each unforeseeable or uncontrollable delay or event. Only when we receive a fully supported request, will we allow an additional extension of the construction period.

### C. Stations Admonished For Failure To Timely Construct

41. In our *Remedial DTV R&O* we announced a series of measures that we would employ whenever we determined that a television station had failed to complete construction of its DTV facilities and had failed to adequately justify an extension of its DTV construction permit.<sup>16</sup> Upon examination of their extension applications, we have determined that 7 stations have not justified their failure to complete construction of their DTV facilities.

42. WSJU-DT, San Juan, Puerto Rico, provided two reasons for not completing construction. The first reason cited by the station was its discovery that it would not be able to use the same antenna for both its analog and DTV operation. This reason, however, is exactly the same as the one provided in its previous extension application filed in September 2002. No new information is provided. The second reason advanced by the station is that its antenna did not arrive until one month before it filed its extension application. However, no other information was provided concerning the station's construction efforts or whether the delays were unforeseeable or outside of its control.

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<sup>16</sup> See *DTV Remedial R&O*, *supra*.

43. WVUE-DT, New Orleans, Louisiana, noted in its extension application that it had previously planned to collocate its facilities on a tower with an FM station to resolve a blanketing interference problem caused by the FM station. The station later determined that modifications necessary to upgrade its current tower to accommodate the FM station's antenna "would be neither practical nor economical." The station chose to pursue another location for its DTV facilities and stated that it would be filing a modification application. Several months later, however, no such application has been filed. We do not find that WVUE-DT has taken all necessary steps to complete construction of its DTV facilities.

44. WDWL-DT, Bayamon, Puerto Rico, has made no attempt to construct its DTV facilities on Channel 59. The station cites to the fact that television channels 52-59 were reallocated for new wireless uses and that an auction was recently conducted for Channel 59 in Puerto Rico. The station, however, erroneously claims that, even if it had built a DTV facility on Channel 59, it would "likely be displaced" by the auction winner. This is incorrect. The Rules provide that the allotted facilities of WDWL-DT on Channel 59 are protected from interference from the auction winner's wireless operations. Furthermore, the station claims that it has considered filing a petition for rulemaking for a new channel but no such rulemaking has been filed. Although the station claims to be committed to the digital conversion, it has done nothing to support this statement.

45. KMVU-DT, Medford, Oregon; WKBW-DT, Buffalo, New York, WICZ-DT, Binghamton, New York; and WJAR-DT, Providence, Rhode Island; provided little support for their third extension requests. Little explanation was given by these stations for their inability to place their stations into operation since the grant of their last extension request. Although these stations claim that there were delays in construction, they provided little or no support for their contentions nor did they explain what steps they had taken to reduce the delays. Stations may not rely on unsupported delays to justify an extension.

46. These stations have failed to adequately demonstrate that their inability to complete construction of their DTV facilities in a timely fashion was due to circumstances that were unforeseeable or beyond their control. The stations also did not adequately address whether they had taken all necessary steps to further their DTV construction. We, therefore, deny these stations' requests for an unqualified extension and admonish them for their continuing failure to comply with their DTV construction obligation. Each station is provided six months to comply with the DTV construction rule. Each station must submit a report (in letter form with the Secretary's office) within thirty days of the release date of this Order outlining the steps it intends to take to complete construction and the approximate date that it expects to reach each of these construction milestones. Sixty days after the initial report, the stations must submit reports (once again in letter form with the Secretary's office) detailing their progress on meeting their proposed construction milestones and justifying any delays they have encountered. If at any time during this six-month period, the stations fail to comply with the reporting requirements or fail to demonstrate that they are taking all reasonable steps to complete construction, or we

otherwise find that the stations have acted in bad faith, we will consider the imposition of additional sanctions.

47. These stations should understand that, as a result of being placed in the remedial program, the burden will be greater to demonstrate the propriety of any failure to complete their DTV construction. If at the end of the six-month period, the station has not completed construction, we will issue a Notice of Apparent Liability unless the station can demonstrate that its inability to complete construction was due to extraordinary and compelling circumstances, such as a new, unanticipated, intervening event. Stations will be required to fully detail and document the delays they have experienced and must show that they took every reasonable step to prevent such delays.

### III. Conclusion

48. ACCORDINGLY, IT IS ORDERED That, pursuant to Section 73.624(d)(3)(iii) of the Commission's Rules, 47 C.F.R. § 73.624(d)(3)(iii), the applications of the television stations set forth in Appendix A of this Order (except for the stations denoted as satellite stations) for extension of the digital television construction deadline ARE GRANTED and the digital television construction deadline IS EXTENDED to six months from the release date of this Order. The digital television construction deadline for those stations denoted as satellite stations in Appendix A of this Order IS DEFERRED pending the outcome of the Commission's rulemaking proceeding in MB Docket No. 03-15.

49. IT IS FURTHER ORDERED, That the television stations set forth in Appendix B of this Order ARE ADMONISHED for their continuing failure to comply with their DTV construction obligations, that their applications for extension of their DTV construction deadline ARE DENIED, and that these television stations ARE AFFORDED until six months from the release date of this Order to come into compliance with the Commission's DTV construction rule. Each station must submit a report (in letter form with the Secretary's office) within thirty days of the release date of this Order outlining the steps it intends to take to complete construction and the approximate date that it expects to reach each of these construction milestones. Sixty days after the initial report, the stations must submit reports (once again in letter form with the Secretary's office) detailing their progress on meeting their proposed construction milestones and justifying any delays they have encountered.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

**APPENDIX A**  
**Stations Granted Sixth-Month Extension**

(\*): Indicates Satellite Station

CALL	FIN	PREFIX	ARN	CH	CITY	ST
KAIL-DT(*)	4145	BEPCDT	20030724ACK	36	WAILUKU	HI
KAPP-DT	2506	BEPCDT	20030707ADB	14	YAKIMA	WA
KATN-DT	13813	BEPCDT	20030616ABA	18	FAIRBANKS	AK
KBSD-DT(*)	66414	BEPCDT	20030417AAW	5	ENSIGN	KS
KBSH-DT(*)	66415	BEPCDT	20030417AAX	20	HAYS	KS
KBSL-DT(*)	66416	BEPCDT	20030417AAY	14	GOODLAND	KS
KBZK-DT	33756	BEPCDT	20030605ADY	13	BOZEMAN	MT
KDLH-DT	4691	BEPCDT	20030522AAW	33	DULUTH	MN
KDLO-DT(*)	41975	BEPCDT	20030423ABJ	25	FLORENCE	SD
KDOC-DT	24518	BEPCDT	20030618ABZ	32	ANAHEIM	CA
KENV-DT(*)	63845	BEPCDT	20030711ABJ	8	ELKO	NV
KEYT-DT	60637	BEPCDT	20030306AAZ	27	SANTA BARBARA	CA
KFAA-DT(*)	29557	BEPCDT	20030512ADY	50	ROGERS	AR
KFNR-DT (*)	21612	BEPCDT	20030701BAA	9	RAWLINS	WY
KFTL-DT	20871	BEPCDT	20030613AAD	62	STOCKTON	CA
KFTR-DT	60549	BEPCDT	20030303ACE	47	ONTARIO	CA
KFVE-DT	34445	BEPCDT	20030613AOK	23	HONOLULU	HI
KFXF-DT	64597	BEPCDT	20030811AGW	22	FAIRBANKS	AK
KFYR-DT(*)	41427	BEPCDT	20030303ADF	31	BISMARCK	ND
KGMD-DT(*)	36914	BEPCDT	20030724AFX	8	HILO	HI
KGMV-DT(*)	36920	BEPCDT	20030724AFS	24	WAILUKU	HI
KGUN-DT	36918	BEPCDT	20030326AHV	35	TUCSON	AZ
KGWC-DT	63177	BEPCDT	20030522AGD	15	CASPER	WY
KGWL-DT(*)	63162	BEPCDT	20030522AGK	7	LANDER	WY

KGWR-DT(*)	63170	BEPCDT	20030522AGE	21	ROCK SPRINGS	WY
KHAW-DT(*)	4146	BEPCDT	20030724AFU	21	HILO	HI
KHNL-DT	34867	BEPCDT	20030613AOJ	35	HONOLULU	HI
KIMO-DT	13815	BEPCDT	20030616AAZ	30	ANCHORAGE	AK
KJRR-DT	55364	BEPCDT	20030418AAT	14	JAMESTOWN	ND
KJWY-DT(*)	1283	BEPCDT	20030711ABE	14	JACKSON	WY
KJUD-DT	13814	BEPCDT	20030616ABB	11	JUNEAU	AK
KLTV-DT	68540	BEPCDT	20030227ABL	38	TYLER	TX
KLUZ-DT	35084	BEPCDT	20030328APK	42	SANTA MONICA	CA
KLWY-DT	40250	BEPCDT	20030723AIL	28	CHEYENNE	WY
KMAU-DT	64551	BEPCDT	20030812ADH	29	WAILUKU	HI
KMCC-DT	41237	BEPCDT	20030716ADP	32	LAUGHLIN	NV
KMOT-DT(*)	41425	BEPCDT	20030303ADG	58	MINOT	ND
KMTF-DT	68717	BEPCDT	20030716ACT	29	HELENA	MT
KOGG-DT	34859	BEPCDT	20030613AOI	16	WAILUKU	HI
KOLO-DT	63331	BEPCDT	20030403ACI	9	RENO	NV
KPVI-DT	1270	BEPCDT	20030711ABR	23	POCATELLO	ID
KPXB-DT	58835	BEPCDT	20030320AAD	5	CONROE	TX
KPXE-DT	33337	BEPCDT	20030421AAJ	51	KANSAS CITY	MO
KPXN-DT	58978	BEPCDT	20030801BTH	38	SAN BERNARDINO	CA
KQCD-DT(*)	41430	BEPCDT	20030303ADH	18	DICKINSON	ND
KREM-DT	34868	BEPCDT	20030530ARX	20	SPOKANE	WA
KSGW-DT	17680	BEPCDT	20030421ABU	13	SHERIDAN	WY
KSPR-DT	35630	BEPCDT	20030725ADO	19	SPRINGFIELD	MO
KSKN-DT	35606	BEPCDT	20030327ADX	36	SPOKANE	WA
KSWO-DT	35645	BEPCDT	20030303ACI	23	LAWTON	OK
KTAQ-DT	42359	BEPCDT	20030515ADA	46	GREENVILLE	TX

KTBY-DT	35655	BEPCDT	20030612ADI	20	ANCHORAGE	AK
KTRE-DT	68541	BEPCDT	20030227ABM	43	LUFKIN	TX
KTTU-DT	11908	BEPCDT	20030620AAS	19	TUCSON	AZ
KTUU-DT	10173	BEPCDT	20030611ABC	18	ANCHORAGE	AK
KTVA-DT	49632	BEPCDT	20030718AFN	28	ANCHORAGE	AK
KTVH-DT	5290	BEPCDT	20030711ABO	14	HELENA	MT
KTVQ-DT	35694	BEPCDT	20030227ACV	17	BILLINGS	MT
KUAM-DT	51233	BEPCDT	20030508AAD	2	HAGATNA	GU
KUMV-DT	41429	BEPCDT	20030303ADI	52	WILLISTON	ND
KUPN-DT	63158	BEPCDT	20030528ADA	23	STERLING	CO
KWNV-DT(*)	63846	BEPCDT	20030711ABC	12	WINNEMUCCA	NV
KVLY-DT(*)	61961	BEPCDT	20030303ADD	58	FARGO	ND
KVTH-DT(*)	608	BEPCDT	20030728ABP	14	HOT SPRINGS	AR
KVTJ-DT(*)	2784	BEPCDT	20030728ABQ	49	JONESBORO	AR
KVTV-DT	33078	BEPCDT	20030703ACG	14	LAREDO	TX
KWAB-DT(*)	42008	BEPCDT	20030303ACG	33	BIG SPRING	TX
KWES-DT	42007	BEPCDT	20030303ACD	15	ODESSA	TX
KWGN-DT	35883	BEPCDT	20030609ACO	34	DENVER	CO
KWHH-DT	37103	BEPCDT	20030612ALZ	23	HILO	HI

KWHM-DT (*)	37105	BEPCDT	20030612ALX	20	WAILUKU	HI
KXGR-DT	63927	BEPCDT	20030507ABS	47	GREEN VALLEY	AZ
KXJB-DT	49134	BEPCDT	20030519ADT	38	VALLEY CITY	ND
KXLF-DT	35959	BEPCDT	20030228ALJ	15	BUTTE	MT
KXMA-DT(*)	55684	BEPCDT	20030507ACB	19	DICKINSON	ND
KXMD-DT(*)	55683	BEPCDT	20030507ACC	14	WILLISTON	ND
KXTF-DT	1255	BEPCDT	20030711ABK	34	TWIN FALLS	ID
KYUS-DT	5237	BEPCDT	20030707ACD	13	MILES CITY	MT
KZTV-DT	33079	BEPCDT	20030703ACF	18	CORPUS CHRISTI	TX
WABG-DT	43203	BEPCDT	20030716ACN	54	GREENWOOD	MS
WAKA-DT	701	BEPCDT	20030716ACM	55	SELMA	AL
WANE-DT	39270	BEPCDT	20030505ABN	4	FORT WAYNE	IN
WBAK-DT	65247	BEPCDT	20030716ACL	39	TERRE HAUTE	IN
WBBJ-DT	65204	BEPCDT	20030716ACP	43	JACKSON	TN
WBKP-DT	76001	BEPCDT	20030818ABK	11	CALUMET	MI
WBPH-DT	60850	BEPCDT	20030522AEW	59	BETHLEHAM	PA
WBUW-DT	26025	BEPCDT	20030430ABS	32	JANESVILLE	WI
WCAX-DT	46728	BEPCDT	20030527ABQ	53	BURLINGTON	VT
WCCU-DT(*)	69544	BEPCDT	20030716ACE	26	URBANA	IL
WCFT-DT	21258	BEPCDT	20030428AAW	5	TUSCALOOSA	AL
WCTV-DT	31590	BEPCDT	20030521ADO	46	THOMASVILLE	GA
WECT-DT	48666	BEPCDT	20030530ATE	54	WILMINGTON	NC
WENY-DT	71508	BEPCDT	20030822AFR	55	ELMIRA	NY

WFGC-DT	11123	BEPCDT	20030618ABE	49	PALM BEACH	FL
WFGX-DT	6554	BEPCDT	20030227ABJ	25	FORT WALTON BEACH	FL
WFXI-DT	37982	BEPCDT	20030725ADJ	24	MOREHEAD CITY	NC
WGPX-DT	65074	BEPCDT	20030509ABF	14	BURLINGTON	NC
WGSA-DT	69446	BEPCDT	20030401CJC	35	BAXLEY	GA
WGTQ-DT(*)	59279	BEPCDT	20030818ABB	56	SAULT STE. MARIE	MI
WGTU-DT	59280	BEPCDT	20030818ABC	31	TRAVERSE CITY	MI
WGXA-DT	58262	BEPCDT	20030725ADP	16	MACON	GA
WHDF-DT	65128	BEPCDT	20030508AAR	14	FLORENCE	AL
WHLT-DT(*)	48668	BEPCDT	20030425AAA	58	HATTIESBURG	MS
WHTV-DT	29706	BEPCDT	20030327AFN	34	JACKSON	MI
WIPX-DT	10253	BEPCDT	20030606ACI	27	BLOOMINGTON	IN
WJCL-DT	37174	BEPCDT	20030725ADD	23	SAVANNAH	GA
WJFB-DT	7651	BEPCDT	20030224ADO	44	LEBANON	TN
WJSU-DT	56642	BEPCDT	20030428ABA	58	ANNISTON	AL
WKTV-DT	60654	BEPCDT	20030306AAW	29	UTICA	NY
WLAJ-DT	36533	BEPCDT	20030227ABG	51	LANSING	MI
WLNE-DT	22591	BEPCDT	20030605ADX	49	NEW BEDFORD	MA
WLUC-DT	21259	BEPCDT	20030730AXW	35	MARQUETTE	MI
WNEG-DT(*)	63329	BEPCDT	20030521ADR	24	TOCCOA	GA
WNTZ-DT	16539	BEPCDT	20030520AAI	49	NATCHEZ	MS
WNYT-DT	73363	BEPCDT	20030321AAS	12	ALBANY	NY
WPXC-DT	71236	BEPCDT	20030801BTN	24	BRUNSWICK	GA
WPXL-DT	21729	BEPCDT	20030528AEV	50	NEW ORLEANS	LA
WPXN-DT	73356	BEPCDT	20030228AEV	30	NEW YORK	NY
WQPX-DT	64690	BEPCDT	20030606ACJ	32	SCRANTON	PA
WRJM-DT	62207	BEPCDT	20030822AFJ	48	TROY	AL
WRSP-DT	62009	BEPCDT	20030716ACO	44	SPRINGFIELD	IL

WSFA-DT	13993	BEPCDT	20030227ABK	57	MONTGOMERY	AL
WTAP-DT	4685	BEPCDT	20030530BPV	49	PARKERSBURG	WV
WTCV-DT	28954	BEPCDT	20030327AFG	32	SAN JUAN	PR
WTLW-DT	1222	BEPCDT	20030529ABP	47	LIMA	OH
WTOM-DT	21254	BEPCDT	20030521ACD	14	CHEBOYGAN	WI
WTVA-DT	74148	BEPCDT	20030319ACU	8	TUPELO	MS
WVAG-DT	28155	BEPCDT	20030602BQM	43	VALDOSTA	GA
WVIB-DT	27387	BEPCDT	20030509AAZ	12	KEY WEST	FL
WVNS-DT	74169	BEPCDT	20030515AAO	48	LEWISBURG	WV
WWOR-DT	74197	BEPCDT	20030529AAP	38	SECAUCUS	NJ
WXTV-DT	74215	BEPCDT	20030314BFK	40	PATERSON	NJ
WYDO-DT(*)	35582	BEPCDT	20030725ADK	21	GREENVILLE	NC
WYPX-DT	13933	BEPCDT	20030529ARA	50	AMSTERDAM	NY

**APPENDIX B**  
**Stations Admonished For Failure To Timely Construct**

<b>CALL</b>	<b>FIN</b>	<b>PREFIX</b>	<b>ARN</b>	<b>CH</b>	<b>CITY</b>	<b>ST</b>
KMVU-DT	32958	BEPCDT	20030703ACB	27	MEDFORD	OR
WDWL-DT	4110	BEPCDT	20030805AAA	59	BAYAMON	PR
WICZ-DT	62210	BEPCDT	20030703ACE	8	BINGHAMTON	NY
WJAR-DT	50780	BEPCDT	20030604AAV	51	PROVIDENCE	RI
WKBW-DT	54176	BEPCDT	20030411ABX	38	BUFFALO	NY
WSJU-DT	4077	BEPCDT	20030527AEL	31	SAN JUAN	PR
WVUE-DT	4149	BEPCDT	20030326AHU	29	NEW ORLEANS	LA