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LoPo Licenses Likely To Be Lopped

700 MHz auxiliaries to terminate on DTV Transition deadline

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As part of its effort to completely clear all broadcast operations out of the 700 MHz band following the February 17, 2009, DTV transition, the Commission has imposed a freeze on any new authorizations for low power auxiliary equipment in that band. (Actually, the precise frequency block at issue runs from 698-806 MHz, but that chunk of spectrum is commonly referred to as the 700 MHz band.) Perhaps more importantly, the Commission has also proposed to modify all outstanding licenses which provide for such operation – the proposed modification being that authority to operate in the 700 MHz band will terminate as of February 17, 2009.

Generally, the equipment affected by this sweeping order and related proposal serves auxiliary functions, such as cue and control communications, TV camera synchronization and the like – but it appears that the most prevalent, or at least most controversial, low power 700 MHz equipment consists of wireless microphones.

While the Commission has made crystal clear for years that full-service broadcast service would be removed from the 700 MHz band as of the DTV Transition date, the Commission has not previously been as clear about low power auxiliary operations that have also been permitted in that band. The FCC now says that everyone engaging in such operations should have (and may have) figured out their days were numbered, but it does not appear that the FCC has previously taken a position, directly or otherwise, on the subject.

Whether or not the FCC's silence to date has been the result of conscious planning or inadvertent oversight, the agency has now snapped into action with a vengeance. As a result, effective August 21, the Commission will not accept or grant applications for further licenses for low power services in the 700 MHz band, nor will it process any requests for equipment authorization which would involve such services.

Looking ahead, the Commission has proposed to modify all outstanding low power 700 MHz licenses to specify that, to the extent that those licenses permit operation in the 700 MHz band, they will expire as of February 17, 2009. According to the Commission, a wide range of alternate frequencies are available for use for such services, so roping off that particular band should have only “minimal impact” on such operations.

The Commission has also proposed a blanket prohibition against the marketing of any devices that operate as low power auxiliary stations in the 700 MHz band. That would include the manufacture, import, sale, offer for sale or shipment of such devices. The prohibition would take effect as soon as the proposal is adopted. Since this proceeding appears to be on a fast track, it’s possible that the prohibition could be in effect before the end of the year.

Besides the upcoming DTV Transition deadline, a major impetus for the FCC’s sudden concern about low power 700 MHz operation was pressure from the “Public Interest Spectrum Coalition” (PISC), which filed a complaint against a number of wireless microphone manufacturers and a petition proposing, among other things, the creation of a “General Wireless Microphone Service” to utilize, on a secondary basis, vacant UHF channels below Channel 52. The Commission has requested comments on all of the PISC proposals. The context of the FCC’s request, however, suggests that it is largely *pro forma* in nature, and that the Commission’s real interest lies with the proposals, described above, which the agency specifically addresses elsewhere in its order.

The FCC’s decision does not address precisely how the agency would enforce a blanket prohibition against everyone who currently owns and operates a 700 MHz wireless mike. Many such mikes are used by organizations – churches, theaters, corporate event venues, among many others – who presumably are not especially *au courant* about the technical details of their gear, much less the FCC’s pronouncements. If the FCC thinks that it can wave its magic rulemaking wand and make all low power 700 MHz operation vanish in the blink of an eye, it probably has at least one more think coming.

The deadline for comments on the FCC’s (and PISC’s) proposals has not yet been established. Check the FCC blog (www.CommLawBlog.com) for updates.