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## **FCC Opening Door for New LPTV and TV Translator Applications**

**First-come, first-served filing opportunity for rural facilities begins August 25,  
Nationwide opportunity slated to start January 25, 2010**

*Matthew McCormick*  
*mccormick@fhhlaw.com*  
*703-812-0438*

Ever want to own your own television station? Your chance is just around the corner, as long as you're willing to start small with a Low Power Television or TV translator station. The FCC has announced that the welcome mat for applications for new LPTV/translator stations (and major changes to existing stations) will be out as of August 25, if you want a rural station; if you're looking for Bright Lights/Big City action, though, you'll have to wait until next January.

In a Public Notice released June 29, the FCC announced a two-phase plan for the filing of applications for new digital-only LPTV and TV translator stations (we'll call them LPTVs collectively) and for major changes of existing LPTVs. Also, any analog LPTVs that didn't pick up a digital companion channel in the last go-round back in 2006 will now get another chance.

Phase 1 begins August 25, 2009, when the FCC will begin accepting, on a first-come, first-served basis, applications for new digital-only LPTV stations, major changes in existing LPTVs and digital companion channels *in rural areas only*.

What's a "rural" area? To meet that condition, you must specify a transmitter site at least 75 miles (121 kilometers) from the reference points for any of the top 100 markets. (In an Appendix to the Public Notice, the Commission has helpfully listed not only all of the top 100 markets, but also their respective reference points.)

The geographical "rural only" restriction goes away when Phase 2 begins on January 25, 2010. From that date on, applications for new LPTVs, major changes and companion channels may be filed regardless of the proximity of the transmitter site to a major market.

In both phases, applications will be accepted first-come, first-served, and will be “cut-off” on a daily basis. That means that if you file your application one day *after* a conflicting application, you're out of luck (unless, of course, the earlier-filed conflicting application gets dismissed, in which case you would get a second chance). If two conflicting applications happen to be filed on the same day, they will be deemed to be “mutually exclusive”, which will entitle them to go through the FCC's auction process.

Applications for new LPTVs and replacement translators must specify an in-core channel (*i.e.*, Channels 2 through 51). Incumbent analog LPTVs looking for digital companion channels should also try to specify an in-core channel, but if nothing suitable is available, a channel between 52 and 59 may be used *if* the applicant goes through a whole circus full of hoops outlined in the FCC's Public Notice.

(Our colleague Peter Tannenwald raises an interesting question: why would an existing LPTV analog station with an in-core channel apply for a second in-core channel as a digital companion facility, rather than simply applying for a new station on that second channel? The problem with companion channels is that, at some point, that licensee will have to choose between its original channel and its companion channel – that is, in the end the licensee would have only one station on one channel. On the other hand, if the LPTV licensee got an in-core channel as a *new stand-alone* station – *i.e.*, not a companion channel – and eventually did a flash-cut switch to digital on its original channel, it would end up with two channels, both of which it could keep.)

And on the topic of flash-cuts, the FCC reminds LPTV and Class A licensees currently operating in analog that they can file on-channel digital conversion (*i.e.*, flash-cut) applications at any time – like right now, if they want. The Commission encourages analog LPTV stations that are planning on filing flash-cut applications to do so *before* the FCC begins accepting first-come, first-served digital applications. Acting sooner rather than later will get you ahead of any tsunami of applications that might develop in, say, August (or January) as far as processing is concerned; it may also prevent other applications from limiting your options in some ways.

The FCC application filing fee for a new LPTV station or for a major change in an existing station is \$705.00. There is no FCC filing fee for flash-cut or digital companion channel applications. All applications must be submitted electronically through the FCC's CDBS program.

It's been years since the FCC has flung open the door for new (*i.e.*, non-companion) LPTV stations anywhere. As a result, it is extremely likely, if not an odds-on mortal lock, that some serious demand has built up – demand that we will see unleashed on August 25. In other words, we can probably expect a ton of filings as soon as the door

opens. Since the coming opportunity is strictly first-come, first-served, applications which are filed at the first opportunity will block out later-filed applications. That being the case, if you have specific notions of filing for a new station in a particular community, you would be smart to get all your ducks in a row so that you will be able to file on August 25. Otherwise, you run the risk that somebody else will get there first.