

**Before the
NATIONAL TELECOMMUNICATIONS AND
INFORMATION ADMINISTRATION
DEPARTMENT OF COMMERCE
Washington, D.C.**

In Re: Low Power Television and
Translator Digital-to-Analog
Conversion Program

Docket No. 070920527-7528-01

**COMMENTS OF THE OREGON ASSOCIATION OF BROADCASTERS
ON NATIONAL TELECOMMUNICATIONS AND INFORMATION
ADMINISTRATION LOW POWER TELEVISION AND
TRANSLATOR DIGITAL-TO-ANALOG CONVERSION PROGRAM**

The Oregon Association of Broadcasters (“OAB”), through its counsel, respectfully submits these Comments in response to the Notice of the National Telecommunications and Information Administration (“NTIA”) published in the Federal Register on October 9, 2008. NTIA seeks comments on procedures for the implementation of its TV Translator and Low Power Television Upgrade Program.

The NTIA will have aggregate funds of some \$65 million available between the fiscal years 2009 and 2012 which would allow the licensees of eligible TV translators and low power television stations (“Translator/LPTVs”) to receive reimbursement for the equipment necessary to convert such stations from analog to digital operations in “eligible rural communities.” The NTIA seeks public comment on the following matters:

1. Station eligibility
2. Eligible communities
3. The process for reimbursement
4. Priority reimbursement
5. Eligible equipment and costs
6. Application selection
7. Administrative procedures to award grants

In response to the request for information on the above sections, the OAB respectfully submits as follows:

Background. The OAB is a state association which represents all of the 35 television stations, both commercial and non-commercial, which are licensed to and operate in the State of Oregon. The OAB has a keen interest in assuring that the TV translator viewership of its television station members and the LPTV stations in Oregon is transitioned as smoothly as possible during the conversion of the television industry from analog to digital technology. Based on the NTIA figures of 7,000 nationally licensed TV translators, Oregon's 424 represent some six percent (6%) of all translators in the United States. According to FCC and NTIA records, there are more than seventy (70) licensees in the State of Oregon operating 424 Translator/LPTVs, serving 135 separate communities within the state. Of this number, some 70 TV Translator/LPTV stations (approximately 16.5%) are assigned to cities with populations in excess of 20,000 persons. The remaining 350 TV translators/LPTV stations (or 83.5%) are licensed to communities with populations fewer than 20,000 persons, *i.e.* rural areas. Of this number, 288 operate in communities of fewer than 10,000 persons, or some 68% of all of the TV Translator/LPTVs in Oregon.

With this as background the OAB next considers the topics on which the NTIA sought comment.

1. **Station Eligibility.** The OAB agrees that in order to be eligible for NTIA upgrade funding, the facility should be a licensed operation as of February 8, 2006. Given that only ten (10) construction permits have been granted to TV Translator/LPTVs in Oregon since that date, none of which have been licensed since that date, there is little, if any, evidence that any existing TV Translator/LPTV stations will be prejudiced by this date.

However, if a previously licensed TV Translator/LPTV began operation before that date and has a pending construction permit on file to modify to a new location or even seeking to convert to digital operation, the OAB submits these entities should be eligible for funding. If only a permit has been issued and no license, the OAB would not endorse funding for that facility.

a. **Uniform Deadline.** The NTIA asks whether it should establish a uniform deadline for eligibility. The OAB endorses a uniform eligibility deadline of February 8, 2006. The applicant would seek funding via a web page application to the NTIA for each licensed TV translator/LPTV station it operates. Upon processing the NTIA would issue the applicant a redeemable coupon for each TV translator/LPTV station deemed eligible.

b. **Should a Government Subsidiary Be Considered a Non-profit Entity for Priority Reimbursement?** Currently the NTIA's rules require that "priority reimbursement" be available only to non-profit corporations that serve rural areas of fewer

than 10,000 viewers. In Oregon, that would allow some 288 translators to qualify for “priority reimbursement.” However, several of the television translator operators in Oregon are “translator districts,” suggesting they are a form of a governmental subsidiary. Please note that in Oregon, translator districts have no taxing power. Thus they neither are subsidized nor receive any public funding and must rely on contributions. Accordingly, we would urge that translator districts be considered non-profit entities and thus qualify for a priority reimbursement.

The OAB notes that only two small towns in Oregon, *i.e.* Vale (population 1940) and Milton-Freewater (population 6,467), have only three translators. Both communities are located in sparsely populated Eastern Oregon. Given the limited budgets of small towns, the OAB would urge that small towns which operate TV translators be eligible for funding.

The NTIA asks as to whether or not the same eligibility requirements established in the digital to analog conversion program should be used in the upgrade program. The OAB would recommend a single filing window for all applicants, with non-profit applicants given priority processing.

2. Eligible Communities. The OAB recommends that the NTIA utilize the statutory definition of a “eligible rural community” as that being an area not contained within an incorporated city with a population of over 20,000 inhabitants. The NTIA goes on to request whether a rural community’s population should be based on the population of the licensed community or various coverage areas as determined by certain coverage contours of the applicant station. The OAB proposes that if the individual TV translator/LPTV station is authorized to an incorporated community of under 20,000 it should be eligible.

The NTIA notice suggested that other various contour methods of measuring the population of a rural communities should be considered. The OAB would oppose this for any use of contours because of the financial hardship it would work on the applicants. In Oregon almost 70% of the TV Translator/LPTV stations are in small communities of fewer than 10,000 and almost all operations are non-profit entities which depend wholly on volunteers to maintain the facilities or pay the power bills. Even to require that such an entity provide a contour map to determine population would require retention of professional engineers to provide the appropriate studies. These contours/population studies can cost anywhere between \$500.00 to \$2,500.00; an amount in many cases which is often close to the equivalent of the station’s operating budget for the year. A more efficient way of determining community eligibility is a simple process such as the population count of the community of license according to the latest Census data.

3. The Process for Reimbursement. The Digital Television Transition and Public Safety Act (“DTTPSA”) provides that stations are eligible for reimbursement if it has not converted from analog to digital prior to February 8, 2006. The NTIA asks whether expenditures incurred by eligible stations *after* that date should be entitled to reimbursement or should another date be established, such as an “expenditure start date.” Only after such an

expenditure start date would an applicant be eligible for reimbursement. The NTIA goes on to ask if there should be another date other than February 8, 2006, what that date should be. The OAB supports the February 8, 2006 date as an appropriate eligibility date.

4. Priority Reimbursement. The DTTPSA provides that priority reimbursement be given to eligible TV translators/LPTV stations which are owned by non-profit corporations and whose stations serve rural areas of fewer than 10,000 viewers. In addition, NTIA asks if a category of priority reimbursement should be within a larger grant round. OAB endorses a single grant round in which priority would be given to non-profit entities, including translator districts and municipal applicants with populations under 10,000 persons.

The NTIA also asks for comments as to what the population eligibility requirement should be. Again, as described above, a contour method of determining population will require TV translator/LPTV operators to engage professional engineers to determine this information, just adding extra costs to the process. If a TV translator/LPTV is located in a county with fewer than 50,000 population, it should be deemed eligible regardless of whether it is located in an unincorporated town or city without the need to engage in an engineering determination as to contour coverage. In this regard, the OAB points out in the State of Oregon, which has 36 counties, some 20 of its counties have fewer than 50,000 population.

In fact, 15 counties in Oregon have total populations of fewer than 25,000. Added to this is the fact Oregon is the 9th largest state in the nation, with 60% of its population concentrated along a 100 mile corridor between Eugene and Portland. Another 12% of Oregon's population resides in three counties (Deschutes, Douglas and Jackson), leaving the remaining 28% of the state population spread out in 28 counties comprising some 74,600 square miles, or a population density of fewer than 14 people per square mile. In short, this is a very sparsely populated area. Some 303 of Oregon's 424 translator are located in these 28 counties. (Only 70 of Oregon's translators are licensed to communities with populations in excess of 20,000 persons.) Thus the likelihood that the signal of a TV Translator/LPTV authorized to a community of fewer than 20,000 would reach a viewership of more than 20,000 persons is highly unlikely. In the interest of simplicity and reduced cost to the applicants, OAB urges the NTIA to use a census population of the community of license as the determinative factor in population eligibility.

5. Eligible Equipment and Costs. The NTIA requests discussion on the costs or equipment which should be eligible for reimbursement under the program and whether there should be a limit on the amount of funds awarded to a single station. Turning to the eligible costs of equipment, the OAB proposes that only equipment directly related to the conversion process be eligible. This would include transmitters and encoders. Any antennas or transmission lines would be eligible if the applicant certifies that the old antenna/transmission lines will not work.

Insofar as any limit on the amount of funds to be awarded is concerned, the OAB would propose that the award be based on the cost of a new transmitter which utilizes a power level sufficient to replicate its current analog coverage, *i.e.* a unit which generates power at about 25% of its current NTSC facility. It is well established among broadcast engineers that a digital TV translator can operate with approximately 25% of the wattage required for an analog translator. Thus where a great majority of current analog transmitters operate with 100 watts, these can very easily be replaced with transmitters which generate only 25 watts and still achieve the same coverage.

The OAB submits that the typical replacement cost for an old 100 watt analog system with a 25 watt digital unit, including mask filter, and assorted equipment, is between \$17,000.00 to \$25,000.00, depending on the vendor. Accordingly, the OAB proposes a cap of \$25,000 be placed on a proposal and that applicants submit bills and other appropriate documentation to establish the amount of money required for the conversion process.

The OAB also urges the NTIA to consider that these conversion grants be issued on an up front basis instead of on a reimbursement basis. The NTIA could do this by issuing a coupon to the eligible applicant for 80% of the proposed costs with additional funding to be provided upon subsequent documented need. Up front funding is necessary because almost all of the non-profit groups serving these small communities survive on minimum operating funds. They do not have available resources to buy equipment in the range of \$17,000.00 to \$25,000.00. And, if these non-profit rural area translators do not get the full amount they need, any award which is not up front will be fruitless as the applicants will not have the ability to order the necessary replacement equipment.

6. Application Selection. The NTIA has asked for comment on procedures for selecting applications for funding, including: (a) uniform funding for all applicants; (b) use of a first come-first served basis; (c) use of a competitive grant cycle for the evaluation and award and funds; and (d) whether there should be a single or multiple ground cycles.

Based on the OAB's review of the 424 TV translators/LPTVs authorized in the State of Oregon, the OAB estimates that less than half will make application for upgrade funds. This is based in part upon the review of the current TV translators as well as the experience of the NTIA in the operation of its earlier conversion program. The NTIA indicated that as of July 31, 2008 only 749 facilities have applied for conversion funds, or less than 10% of the 7,000 translator facilities that were listed in the records of the Federal Communications Commission. Based on the response to the NTIA's earlier conversion program, it is highly likely that less than half of the translators authorized in the United States will make application for upgrade funds. If this is the case, a minimum of \$18,000.00 should be made available in initial grants to the applicants. To the extent additional funds remain available after processing the eligible applications, those applicants would be entitled to submit additional requests for funds to cover expenses incurred above the \$18,000.00 limit. This request would be supported by appropriate documentation, *i.e.* vendor's bills, cancelled checks, certifications from the applicants, affidavits, etc.).

The OAB would support a selection process based on a single round of applications. Applicants would be allowed a specified window period in which to submit their proposals. These applications should be processed on the priority basis discussed under §4.

The OAB does not necessarily endorse a competitive grant cycle other than preferences should be given to processing the non-profit rural community proponents first.

7. **Administrative Procedures to Award Grants.** The OAB would urge that whatever administrative procedures are adopted to award grants, that the emphasis should be on a simple and efficient program. This would include an application which is relatively simple. Simplification is necessary because the great majority of applicants involved are small, unsophisticated groups which have little familiarity or experience with applications and forms. This simplistic approach would include requiring the applicants to verify costs, including copies of their invoices and other appropriate documentation on all equipment purchased or services retained. There would be a strict limit on the amount of monies available for the reimbursement of services, something in the area of between \$500.00 to \$1,000.00. In order to avoid exploitation of the process, all applicants would be required to certify in their application that they would consent to future audit to insure that the grant process is not exploited or defrauded.

DATED this 14th day of November, 2008.

Respectfully submitted,

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