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Dated: June 27, 2003.

Stephen Heare,

Acting Director, Office of Emergency Prevention, Preparedness, and Response.
[FR Doc. 03-17103 Filed 7-3-03; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

[MB Docket No. 03-15, RM 9832, MM Docket Nos. 99-360, 00-167, 00-168; DA 03-1292]

RIN 3060-AH54

Simulcasting Requirements

AGENCY: Federal Communications Commission.

ACTION: Notice; temporary waiver request.

SUMMARY: This document discusses three requests filed with the Commission by various parties regarding DTV simulcasting requirements. This item grants a 6 month waiver of NCE TV stations to give them more time to comply with the requirements. This document also denies a request for suspension of the increase in minimum DTV operating hours. These actions are taken in compliance with the Commission's DTV rules.

FOR FURTHER INFORMATION CONTACT: Kim Matthews, Media Bureau at (202) 418-2154 or via Internet at Kim.matthews@fcc.gov.

SUPPLEMENTARY INFORMATION: This document is a summary of the Commission's *Order*, MB 03-15; DA 03-1292, adopted April 28, 2003 and released April 29, 2003. The full text of this *Order* is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW.,

Room CY-A257, Washington, DC 20554, and may be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail qualexint@aol.com or may be viewed via Internet at <http://www.fcc.gov/mb/>.

Synopsis of Order

1. The Media Bureau has received three requests related to the DTV simulcast requirements in § 73.624(f) of our rules. Noncommercial educational television stations collectively request a temporary suspension of the DTV simulcasting requirements as they apply to NCE stations. Paxson Communications Corporation ("Paxson") and Milwaukee Area Technical College ("MATC") request temporary waivers of § 73.624(f). As discussed, we grant NCE stations a six-month waiver of the DTV simulcast requirements. We also grant the waiver request of MATC and deny the Paxson waiver request.

Background

2. Section 73.624(f) of the Commission's rules requires DTV licensees to simulcast 50% of the video programming of their analog channel on their DTV channel by April 1, 2003. This requirement increases to a 75% simulcast requirement on April 1, 2004, and a 100% requirement on April 1, 2005. The simulcasting requirement was intended to ensure that consumers enjoy continuity of free over-the-air video programming service when analog spectrum is reclaimed at the end of the transition. The Commission stated that it may be difficult to terminate analog broadcast service if broadcasters show programs on their analog channels that are not available on their digital channels.

3. In the Memorandum Opinion and Order on Reconsideration ("MO&O") in the 1st DTV periodic review, MM 00-39 (66 FR 65122, December 18, 2001), the Commission allowed stations subject to the May 1, 2002, or May 1, 2003, digital construction deadlines to operate initially at a reduced schedule by providing, at a minimum, a digital signal during prime time hours, consistent with their simulcast obligations. The minimum operating hours for these digital stations effectively increases as the simulcast obligations are phased in. For example, beginning April 1, 2003, a DTV station that was required to be on the air by May 1, 2002, must provide a simulcast digital signal at least 50% of the time it transmits an analog signal and. Along

with the simulcasting requirements, the minimum hours requirements step up to a 75% requirement in April 2004, and a 100% requirement in April 2005. Stations that were subject to the earlier DTV construction deadlines (top four network affiliates in the top thirty markets) are required to operate their DTV station at any time that the analog station is operating.

4. In the Notice of Proposed Rule Making ("NPRM") initiating the 2nd periodic review of the transition to digital television (68 FR 7737, February 18, 2003), the Commission sought comment on whether it should retain, revise, or remove the simulcast requirement. The Commission asked whether broadcasters have a market-based incentive to simulcast that makes a simulcast requirement unnecessary. The Commission also asked whether the simulcasting requirement is causing broadcasters to forego creative uses of digital technology, and if something less than the ultimate 100% simulcast requirement would be sufficient to protect analog viewers while allowing for innovation on DTV channels. The Commission also sought comment on how to define simulcasting, and whether the current dates for the phase-in of simulcast requirements are appropriate.

5. *NCE Television Stations.* Dow, Lohnes & Albertson, Schwartz, Woods & Miller, the Public Broadcasting Service, and the Association of Public Television Stations (collectively referred to herein as "PBS, et al."), on behalf of NCE TV licensees, request that the FCC temporarily suspend the DTV simulcasting requirements as they apply to NCE stations pending FCC action on the simulcasting issues in the 2nd DTV periodic review proceeding. The emergency request states that, although many NCE DTV stations will be able to transmit a digital television signal by the May 1, 2003, construction deadline, some stations do not yet have in place necessary studio transmitter links ("STLs") or other digital interconnection facilities between their studios and their transmitters to permit them to receive the simulcast programming feed from their studios. According to PBS, some NCE stations also do not yet have the encoding equipment that enables the station to digitize its NTSC programming for DTV broadcast.

6. We recognize that, unlike commercial licensees, the deadlines to complete construction of digital facilities and to comply with the 50% simulcasting requirement for noncommercial educational licensees were the same. PBS states that many

NCE stations will be unable to both begin digital operations and comply with our current simulcasting obligations by May 1, 2003. In light of the burden faced by NCE stations in complying with both the construction and simulcasting requirements simultaneously, and in light of our pending re-evaluation of our simulcasting requirements, we find that good cause exists to grant NCE stations a six-month waiver of the simulcast requirements in § 73.624(f). Until November 1, 2003, noncommercial educational television stations will not be required to simulcast on their digital channel the programming that is aired on their analog channel. This six-month waiver of our simulcast requirements will give NCE stations additional time to acquire and install the facilities necessary to meet the simulcast requirement. We will consider granting special relief to NCE stations in certain circumstances, such as those presented here, because of the particular financial difficulties NCE stations face and the assistance they will need in the transition to DTV. Although NCE stations requested a waiver until resolution of the simulcasting issues raised in the 2nd DTV Periodic *NPRM*, we do not believe it is necessary to grant a blanket waiver to all NCE stations for an indefinite period of time. We believe that a six-month waiver should provide sufficient time for those NCE stations that do not already have simulcasting equipment to obtain and install such equipment. In the event the Commission has not yet acted on the simulcasting issues raised in the 2nd DTV Periodic *NPRM*, and in the event some NCE stations decide to request a waiver for an additional period of time, we will consider those requests at that time on their individual merit. In taking this action we are not making a final ruling on the matters raised for comment in the 2nd DTV Periodic *NPRM*.

7. This action in no way waives the existing rules regarding the minimum hours of operation on digital channels. NCE stations must air, by May 1, 2003, a digital signal for an amount of time equivalent to at least 50% of the time they provide an analog signal. In addition, a digital video program signal must be aired during prime time hours. The minimum digital operating requirement increases to 75% on April 1, 2004 (requiring airing of a digital signal for an amount of time equivalent to at least 75% of the time the station airs an analog signal), and to 100% on April 1, 2005. Stations, both commercial and NCE, that have been granted an extension of time to construct their DTV

facilities must comply with the minimum digital operation requirements in effect at the time the station commences digital operations.

8. *MATC Waiver Request.* MATC, licensee of two noncommercial educational television stations in Milwaukee, Wisconsin, requests a temporary waiver of § 73.624(f), for an unspecified period of time, to permit it to simulcast the analog programming of both of its NCE stations on one of its associated digital stations, and to use the other digital station to air high definition programming full time. MATC states that it has been operating WMVS-DT, associated with WMVS, Channel 10, since early 2000, and that it will comply with the simulcasting requirements applicable to that station. MATC has been granted an extension of time to complete construction of WMVT-DT, associated with WMVT, Channel 36, and expects that station to be on the air in July 2003. MATC states that the waiver it seeks will be needed only at the point that WMVT-DT commences operations.

9. MATC notes that, because it plans, at least initially, to provide its simulcast service on WMVS-DT, which has a larger predicted coverage area than WMVT-DT, each potential DTV viewer of MATC's stations should be able to receive the simulcast programming of both stations. MATC argues that its plan would satisfy the purpose behind the simulcasting requirement and allow MATC to investigate the feasibility in the market of an all-HDTV programming service. MATC also argues that its plan could stimulate the sale of DTV sets in its market, thereby furthering the transition.

10. We find good cause to grant MATC a waiver of the simulcast requirements in § 73.624(f), pending the issuance of an *R&O* in the 2nd DTV periodic review, to permit it to implement the plan it proposes in its waiver request. We note that, under MATC's proposal, it will be providing simulcast digital service of both of its analog channels to its community. By temporarily waiving the current rules, we are permitting MATC to experiment with innovative uses of its other digital channel and to offer additional digital programming to the community. Because MATC has committed to providing simulcasting, in the manner proposed in its waiver request, allowing it to offer additional digital programming to the community, we believe that it is appropriate to grant MATC a longer waiver to implement its proposed simulcasting plan than the waiver given to other NCE stations. In the 2nd DTV periodic review, the

Commission will consider, among other issues related to the simulcast requirement, whether the current simulcast rules should be amended to facilitate similar and other innovative uses of digital stations. As in the case of the temporary simulcast waiver granted above to all NCE stations, MATC will be required to comply with the existing rules regarding minimum hours of operation of digital channels.

11. *Paxson Waiver Request.* Paxson, corporate parent of the licensees of twenty-eight commercial DTV stations, requests a one-year waiver of § 73.624(f), and in particular the minimum operating hours requirements currently pegged to the § 73.624(f) simulcasting requirements. Paxson notes that regulatory uncertainty remains in two areas central to broadcasters' transition planning: DTV must-carry and DTV simulcasting requirements. Paxson argues that, without cable carriage, adherence to the simulcast requirement will not advance the DTV transition or improve service to television viewers, while placing undue financial and technical burdens on Paxson's DTV stations. Paxson notes that the 50% simulcast requirement that became effective April 1, 2003, represents a four-fold increase in Paxson's DTV stations' operating schedule, with corresponding increases in the stations' operating costs. Paxson argues that until broadcasters obtain carriage of their DTV signals, it should not be required to expand DTV service beyond prime-time as most viewers will not be able to view DTV broadcasts until cable carriage is achieved. Paxson also notes that the Commission is considering whether to alter or eliminate the simulcasting requirements.

12. We do not believe that it is appropriate at this stage in the transition to reduce or eliminate the mandatory hours of operation of digital stations. Increasing the operating hours of digital stations subject to the May 1, 2002, and May 1, 2003, digital construction deadlines will help further the transition by helping to drive DTV set penetration and encouraging content producers and advertisers to invest in DTV. These stations have been on notice since the November 2001 adoption of the phased-in simulcast requirements in the 1st DTV Periodic Review *MO&O* that their DTV operating hours must be stepped-up beginning on April 1, 2003. We also do not believe that the required, gradual increase in the hours of digital programming offered to viewers on these stations needs to await finalization of the Commission's separate proceeding regarding mandatory carriage of analog and digital signals

during the transition. It is neither appropriate nor necessary to waive or reduce the minimum operating hours of digital broadcast stations, thereby slowing the transition, pending the outcome of that proceeding. Finally, the Commission did not contemplate altering the minimum hours of operation of DTV stations in the 2nd DTV Periodic Review *NPRM*; therefore, the pendency of that proceeding does not provide grounds for deferring the effective date of the increased operating requirements.

Ordering Clauses

13. Pursuant to the authority contained in 47 CFR 1.3 of the Commission's rules, NCE TV stations are granted a six-month waiver of the simulcast requirements in § 73.624(f) of the Commission's rules, until November 1, 2003, as described herein.

14. The Request for Temporary Waiver of DTV Simulcasting Requirements filed by Milwaukee Area Technical College is granted to the extent described herein.

15. The Request for Temporary Waiver of § 73.624(f) of the Commission's Rules, filed by Paxson Communications Corporation, is denied.

16. This action is taken pursuant to authority delegated by 47 CFR 0.61(h) and 0.283 of the Commission's rules.

Federal Communications Commission.

W. Kenneth Ferree,

Chief, Media Bureau.

[FR Doc. 03-16626 Filed 7-3-03; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the following information collection systems described below.

1. *Type of Review:* Renewal of a currently approved collection.

Title: Notices Required of Government Securities Dealers or Brokers (Insured State Nonmember Banks).

OMB Number: 3064-0093.

Form Number: G-FIN, G-FINW, G-FIN-4, G-FIN-5.

Annual Burden

Estimated annual number of respondents: 180.

Estimated time per response: 1 hour.

Total annual burden hours: 180 hours.

Expiration Date of OMB Clearance: July 31, 2003.

SUPPLEMENTARY INFORMATION: The Government Securities Act of 1986 requires all financial institutions acting as government securities brokers and dealers to notify their federal regulatory agencies of their broker-dealer activities, unless exempted from the notice requirement by Treasury Department regulation.

2. *Type of Review:* Renewal of a currently approved collection.

Title: Foreign Banks.

OMB Number: 3064-0114.

Annual Burden

Estimated annual number of respondents: 418.

Estimated time per response: ranges from ¼ hour to 120 hours.

Total annual burden hours: 4,398 hours.

Expiration Date of OMB Clearance: July 31, 2003.

SUPPLEMENTARY INFORMATION: The collection of information consists of (a) applications to operate as a noninsured state-licensed branch of a foreign bank; (b) applications from an insured state licensed branch of a foreign bank to conduct activities which are not permissible for a federally-licensed branch; (c) internal recordkeeping by insured branches of foreign banks; and (d) reporting requirements relating to an insured branch's pledge of assets to the FDIC.

3. *Type of Review:* Renewal of a currently approved collection.

Title: Certification of Eligibility Under the Affordable Housing Program.

OMB Number: 3064-0116.

Annual Burden

Estimated annual number of respondents: 12.

Estimated time per response: 1 hour.

Total annual burden hours: 12 hours.

Expiration Date of OMB Clearance: July 31, 2003.

SUPPLEMENTARY INFORMATION: The collection of information certifies income eligibility under the affordable housing program. This certification

assists the FDIC in determining an individual's eligibility for purchasing affordable housing properties from the FDIC.

4. *Type of Review:* Renewal of a currently approved collection.

Title: Mutual-to-Stock Conversions of State Savings Banks.

OMB Number: 3064-0117.

Annual Burden

Estimated annual number of respondents: 10.

Estimated time per response: 50 hours.

Total annual burden hours: 500 hours.

Expiration Date of OMB Clearance: July 31, 2003.

SUPPLEMENTARY INFORMATION: 12 CFR 303.161 and 333.4 require state savings banks that are not members of the Federal Reserve System to file with the FDIC a notice of intent to convert to stock form and provide copies of documents filed with State and Federal banking and or securities regulators in connection with the proposed conversion.

5. *Type of Review:* Renewal of a currently approved collection.

Title: Notification of Changes in Insured Status.

OMB Number: 3064-0124.

Annual Burden

Estimated annual number of respondents: 943.

Estimated time per response: ¼ hour.

Total annual burden hours: 236 hours.

Expiration Date of OMB Clearance: July 31, 2003.

SUPPLEMENTARY INFORMATION: 12 U.S.C. 1818(q) requires an insured depository institution to provide the FDIC with a certification when it partially or completely assumes deposit liabilities from another insured depository institution.

6. *Type of Review:* Renewal of a currently approved collection.

Title: Applicant Background Questionnaire.

OMB Number: 3064-0138.

Form Number: 2100/14.

Annual Burden

Estimated annual number of respondents: 10,000.

Estimated time per response: 3 minutes.

Total annual burden hours: 500 hours.

Expiration Date of OMB Clearance: July 31, 2003.

SUPPLEMENTARY INFORMATION: The FDIC Applicant Background Questionnaire is