

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 09-440; MB Docket No. 05-67; RM-11116, RM-11342]

Radio Broadcasting Services; Clinton, Fishers, Indianapolis, and Lawrence, IN

AGENCY: Federal Communications Commission.

ACTION: Final rule, denial of petition for reconsideration.

SUMMARY: This document denies a Petition for Reconsideration filed by Word Power, Inc., directed to the *Report and Order* in this proceeding, which had denied Word Power's counterproposal and had granted a mutually exclusive rulemaking petition. See **SUPPLEMENTARY INFORMATION, infra.**

FOR FURTHER INFORMATION CONTACT: Andrew Rhodes, Media Bureau (202) 418-2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Memorandum Opinion and Order* in MB Docket No. 05-67, adopted February 25, 2009, and released February 27, 2009. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160 or <http://www.BCPIWEB.com>.

The *Report and Order* granted a rulemaking petition, *inter alia*, to substitute Channel 230B1 for Channel 230A at Fishers, Indiana, to reallocate Channel 230B1 to Lawrence, Indiana, and to modify the license for Station WRWM to specify Lawrence as the community of license. To accommodate this reallocation, Word Power's Station WPFR-FM, Clinton, Indiana, was ordered to change its frequency from Channel 230A to Channel 229A. The *Report and Order* also denied Word Power's counterproposal to upgrade its Station WPFR-FM from Channel 230A to Channel 230B1. See 72 FR 53687, September 20, 2007.

The *Memorandum Opinion and Order* found that the *Report and Order* did not err by (1) not discussing the applicability of the *Tuck* factors regarding whether Lawrence is sufficiently independent of Indianapolis to warrant consideration as a first local

service; and (2) not specifically requiring the reimbursement to Word Power for the costs of changing channels. The document reasoned that a *Tuck* analysis is not required in this situation where a station is moving from one community to another inside an urbanized area. Likewise, a reimbursement condition is not necessary given the repeated assertions by the initial rulemaking petitioners that they will reimburse Word Power for the reasonable expenses related to the Station WPFR-FM facility modification. Finally, the *Memorandum Opinion and Order* rejected Word Power's argument that the staff had inadequately inquired into the possible premature construction of the upgraded WRWM facilities at Lawrence.

The Commission will not send a copy of this *Memorandum Opinion and Order* to GAO pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A), because the Petition for Reconsideration was denied.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.
Federal Communications Commission.
John A. Karousos,
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DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

47 CFR Part 301

[Docket Number: 090212171-9172-01]

RIN 0660-AA19

Amendments to the Digital-to-Analog Converter Box Program to Implement the DTV Delay Act

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: On February 11, 2009, President Obama signed into law the DTV Delay Act, which extended the deadline for the digital conversion and the coupon application period for the Digital-to-Analog Converter Box Program (Coupon Program) by four months.¹ The DTV Delay Act also authorized the National Telecommunications and Information

¹ See DTV Delay Act, Pub. L. 111-4, 123 Stat. 112 (Feb. 11, 2009).

Administration (NTIA) to issue replacement coupons to households whose coupons have otherwise expired unredeemed. These changes to the Coupon Program were conditioned upon enactment of new budget authority for the Coupon Program, which was recently provided by the American Recovery and Reinvestment Act of 2009.²

DATES: This final rule becomes effective March 12, 2009.

FOR FURTHER INFORMATION CONTACT: Milton Brown, NTIA (202) 482-1816 or mbrown@ntia.doc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Digital Television Transition and Public Safety Act of 2005 (the Act), among other things, directed the Federal Communications Commission (FCC) to require full-power television stations to cease analog broadcasting and to broadcast solely digital transmissions after February 17, 2009.³ Recognizing that consumers may wish to continue receiving broadcast programming over the air using analog-only televisions not connected to cable or satellite service, section 3005 of the Act also authorized NTIA to establish and implement the Coupon Program.⁴ Accordingly, NTIA issued final regulations to implement the Coupon Program on March 15, 2007.⁵

On February 11, 2009, President Obama signed into law the DTV Delay Act. The DTV Delay Act, among other things, extended the date by which the Federal Communications Commission must terminate all licenses for full-power television stations in the analog television services from February 18, 2009 until June 13, 2009.⁶ Specific to the Coupon Program, subsection 3(a) of the DTV Delay Act amended paragraph (1) of subsection 3005(c) of the Act to

² The American Recovery and Reinvestment Act, Pub. L. 111-5, 123 Stat. 115 (Feb. 17, 2009).

³ See Section 3002 of Title III of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4, 21 (Feb. 8, 2006) (the Act). Section 3002(a) of the Act previously amended Section 309(j)(14)(A) of the Communications Act of 1934 so that analog full-power television licenses will terminate on February 17, 2009. Section 3002(b) of the Act directed the FCC to terminate analog television licenses for full-power stations by February 18, 2009.

⁴ Digital Television Transition and Public Safety Act § 3005, 120 Stat. at 23, 24.

⁵ 47 C.F.R. Part 301. The regulations were subsequently amended to waive the "eligible household" application requirement for individuals living in nursing homes, intermediate care facilities and assisted living facilities, and to permit households that utilize post office boxes for residential mail delivery to apply for and receive coupons. 73 Fed. Reg. 54,325 (Sep. 19, 2008).

⁶ See DTV Delay Act at Subsection 2(a).