



April 26, 2013

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Office of Engineering and Technology Releases and Seeks Comment on Updated OET-69 Software, ET Docket No. 13-26, GN Docket No. 12-268, Notice of Ex Parte Communication

Dear Ms. Dortch,

On Wednesday, April 24, 2013, Rick Kaplan, Jane Mago and Bruce Franca of the National Association of Broadcasters ("NAB"), met with Matthew Berry and Courtney Reinhard of the Office of Commissioner Ajit Pai.

The purpose of the meeting was to discuss NAB's concerns as expressed in its comments and reply comments in the captioned proceeding relating to the Office of Engineering and Technology's ("OET") Public Notice DA 13-138 (Feb. 4, 2013), announcing a number of material changes to OET Bulletin No. 69 ("OET-69") to be applied in the context of the upcoming incentive auction. NAB emphasized that its primary goals are to see the Spectrum Act¹ faithfully implemented and the Commission successfully conduct the world's first-ever incentive auction as expeditiously as possible. NAB stated its belief that pursuing the changes to OET-69 at this time would invite unnecessary delay and create widespread uncertainty among broadcasters in progress toward those goals.

¹ Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156 (2012) ("Spectrum Act").

1771 N Street NW
Washington DC 20036 2800
Phone 202 429 5300

Specifically, NAB focused on two key areas related to the Public Notice:

- First, NAB's analysis indicates that the changes being made to OET-69 through the Public Notice create *less*, rather than more, accurate results.² Moreover, even if the new software changing the OET-69 methodology was indeed more accurate (which it is not), NAB queried why the Commission would use the new methodology only for incentive auctions and not *all* of OET-69's functions. For example, why would OET propose only to change the methodology to be more accurate for incentive auctions, but leave in place the purportedly inferior methodology for all ongoing application filings?
- Second, claims that the new software is necessary to efficiently implement the repacking element of the incentive auction are unfounded. As NAB asserted on the record in this proceeding, in comparing the use of the new and old software, there was no material difference in the efficiency with which the results were generated.³

In the meeting NAB also suggested that the Media Bureau should immediately lift its April 5, 2013, freeze on the Filing and Processing of Full Power and Class A Television Station Modification Applications.⁴ In addition to offering no compelling rationale for such a freeze – including the freezing of all applications that had *already been filed in accordance with Commission rules* – it appears that the freeze is having dramatic consequences even beyond negative impacts on individual stations and viewers. NAB submitted the attached article from the April 23, 2013, edition of *TV Technology*, which details the demise of Dielectric, the U.S. broadcast industry's largest supplier of transmission antennas, in the wake of the Freeze PN. It appears

² See Reply Comments of NAB, *et al.* in ET Docket No. 13-26 and GN Docket No. 12-268 (Apr. 5, 2013), at 7-15.

³ See Reply Comments of NAB, *et al.* in ET Docket No. 13-26 and GN Docket No. 12-268 (Apr. 5, 2013), at 5-7 and attached Declaration of Bruce Franca at ¶ 17; Comments of NAB, *et al.* in ET Docket No. 13-26 and GN Docket No. 12-268 (Mar. 21, 2013), at 21 and attached Declaration of William R. Meintel at ¶¶ 12-13.

⁴ *Media Bureau Announces Limitations on the Filing and Processing of Full Power and Class A Television Station Modification Applications, Effective Immediately, and Reminds Stations of Spectrum Act Preservation Mandate*, Public Notice, DA 13-618 (Apr. 5, 2013) ("Freeze PN").

Marlene H. Dortch
April 26, 2013
Page 3

that, as a result of particular actions at the Commission and resulting uncertainty in the broadcast industry, Dielectric and other similar manufacturers are cutting jobs or exiting the industry altogether. Not only does this affect the employment of a number of Americans, but it also puts out of business one of the companies most necessary to effectuating incentive auction repacking. We therefore urge the Media Bureau to lift its freeze until it is able to examine, evaluate and explain the impact of the freeze on all pending and impending modification applications.

NAB concluded by repeating its willingness to work with the Commission toward a successful auction, but again urged the agency to put aside changes to OET-69 in the context of the auction.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rick Kaplan", with a long horizontal line extending to the right.

Rick Kaplan
Executive Vice President, Strategic Planning
National Association of Broadcasters

cc: Matthew Berry, Courtney Reinhard

Attachment

Dielectric Demise Raises Repacking Alarm

4/23/2013



RAYMOND, MAINE — The closure of Dielectric, the U.S. broadcast industry's largest supplier of transmission antennas, is raising concerns that it will be virtually impossible to complete the post-incentive auction channel repack in three years, as Congress has mandated. Forget the 18-month window proposed by the Federal Communications Commission, said Gary Cavell of Cavell, Mertz & Associates, broadcast engineering consultants in Manassas, Va.

"The FCC's timeline certainly is not going to get met," he said "They were one of the go-to companies. There's going to be a supply-and-demand issue."

Dielectric's impending closure was confirmed on Friday, two weeks after the FCC issued a freeze on full-power and Class A TV station modification applications. The commission did so in anticipation of the

incentive auction, tentatively scheduled for June of 2014.

By Monday, the phones at Dielectric went directly to voicemail.

"You have reached SPX Communications Technologies, formerly known as Dielectric Technologies... SPX has announced its decision to close the Dielectric broadcast, TV, radio and wireless operation in Raymond, Maine, effective June 29, 2013. We will be unavailable until Thursday, April 25 to answer any inquiries regarding this process..."

Jay Adrick, a technology advisor to Harris Broadcast, said Dielectric's closure was a "grave concern for the industry."

"I have repeatedly told the commission in my filings as well as the seminar I did with them last June... and will remind them again, that three years isn't going to cut it," he said. "This further supports that position."

Around 63 percent of full-power TV stations in the country have Dielectric antennas, according to a search of the FCC's broadcast database system by Cavell Mertz's Michael D. Rhodes. The next-largest provider has a 20 percent market share. All other manufacturers combined comprise the remaining 17 percent.

Sinclair's Mark Aitken said his group had five projects under way that are "now dead."

"The FCC freeze came as a total surprise for many, and has had a chilling effect on many critical broadcast industry providers," said Aitken, Sinclair's vice president of advanced technology. "This 'guillotine' approach at break-neck speed to complete the most complex spectrum auction ever devised is having the unintended consequence of 'shutting down' entire parts of the industry that will be required in any repack scenario. The loss of crucial providers spells delay in any repack scenario."

In addition to antennas, Dielectric was the major supplier of TV transmission line, mask filters, combiners and other related equipment. Each TV station requires a customized antenna package based on frequency, coverage area, power and tower configuration. All replacements and upgrades require an engineering study to make sure the work plan meets federal regulations, structural standards and technical requirements. Dielectric also conducted those studies.

"There's not an inventory just lying there," Cavell said. "Even if Dielectric were still in business, you would still have to ramp up production, train people, import the brass, the copper, the materials... and not that many antenna crews are certified to work more than 500 feet above the ground. Those guys have scattered."

Cavell's firm was a consultant to Sprint for the 2 GHz BAS transition.

"We went through that with the 2 Ghz manufacturers," he said. "There was no shortage, but it took time for the manufacturers to ramp up, so a two-year project turned into a four-year project."

Veterans of the DTV transition agree that three years for a repack is unrealistic, much less 18 months.

"The economists at the FCC that think this type of transition can be done in three years without completely redefining the industry itself are just wishing for a miracle to happen," said one who wished to remain anonymous. "If you think about it... the DTV transition started in the 1980s, and in 1993, we were just putting up prototype systems to test it. In 1997, we went through the process... to figure out how to get all the stations on the air. Then, from 1998, through 2009, we figured out how to keep them on their air and switch channels."

This was done by allowing TV stations to operate on two channels, so service continued even as new transmitters and antennas were installed. A fraction of the 900 TV stations that shut down analog signals on June 12, 2009, "flash cut" to digital transmission on the same frequency. Those stations that don't end up on or very near the same frequency will need a new antenna, and none will have a second channel for the upcoming repack, so service disruptions are likely.

"How essential was television coverage in Boston?" Cavell said, referring to the reliance on local broadcast news for information about the pursuit of the marathon bombing suspects. "So if you have most of the stations in town taking antennas down and something big happens, you've got a problem. And there's weather... there's a lot of things that can stand in the way of this happening quickly."

The number of broadcasters that will be moved to new frequencies remains unknown, because the auction is designed so stations can participate anonymously. The estimate of participating stations now stands at around 200 out of some 1,735 full-power licensees. The FCC's goal of reclaiming TV Chs. 31-51 would require 672 full-power TV stations either to be moved or shut down, according to a study by the National Association of Broadcasters. A total of 174 stations were relocated in 2009.

Some sources blamed the freeze for killing Dielectric outright, but others cited mitigating circumstances. The staff count has been reduced by nearly two-thirds since 2000, when the operation employed 157 people, according to *The Portland Press Herald*. In a statement issued by Dielectric about the closure, 57 were left.

Dielectric's dependence on the broadcast TV market also left it vulnerable. A majority of TV stations operated on a staggered 10- to 20-year replacement cycle for transmission antennas and peripherals. The 2009 DTV transition threw that into disarray.

"In 1998, the top 10 markets went, and then the market took a dip, and then between 2000 and 2005, it went through the roof," prior to the initial 2006 deadline the transition vet said. "Then it declined and picked up again before 2009. There was a pretty steep decline after that."

Dielectric laid off 31 employees in December 2009, and another 46 in August 2011, according to the *Lakes Region Weekly*.

The company, located about 22 miles north of Portland, was founded more than 60 years ago by Dr. Charles Brown to manufacture transmission lines for military radar systems.

"Through normal course of business, SPX regularly conducts strategic assessments of its global operations," the closure statement said. "After careful consideration, SPX has decided to discontinue the broadcast television and radio and wireless antenna operations of its Dielectric Communications business unit worldwide, due to extremely difficult global economic conditions in the broadcast marketplace, and SPX's ongoing efforts to further focus its future growth strategy on its Flow Technology business. SPX is confident that this action is in the best interest of the company's future growth and success."

"SPX has made all impacted Dielectric employees in the U.S. aware of this decision--57 in Raymond, Maine. SPX is providing outplacement services to impacted Dielectric personnel, and employees in the U.S. are being encouraged to apply for open positions at other SPX-owned businesses, including Radiodetection Ltd.... which has a presence in Raymond. SPX filed a [Worker Adjustment and Retraining Notification] on April 19."

~ Deborah D. McAdams

Also see...

April 15, 2013, "FCC Readies Way to Repacking With a Freeze on TV Changes"

Just before the National Association of Broadcasters Show got underway the FCC Media Bureau issued a news release announcing limitations on the filing and processing of full-power and Class A TV station modification applications, effective immediately.

February 5, 2013, "FCC Reveals Crucial Piece of TV Channel Repacking Method"

The FCC quietly revealed what amounts to its methodology for repacking TV channels in the post-incentive auction spectrum band. The agency released a new version OET-69 software that it intends to use for the repacking, and is seeking input on its efficacy.

June 25, 2012, "Complete Chaos' Predicted if TV Repack is Done Right After Auctions"

"We don't know how many stations will move, the impact on individual stations, or when moves begin," said Jay Adrick, vice president of Broadcast Technology for Harris and a panelist at the workshop.