

## **E. Class A and Low Power DTS**

**52. First, we approve on an experimental basis the use of DTS technologies by a single digital Class A TV, digital LPTV or digital TV translator station to provide service within its authorized service area.**<sup>217</sup> Second, as proposed in the DTS Notice, we permit a licensee of multiple digital Class A TV, digital LPTV, and/or digital TV translator stations to operate through interconnected single-frequency DTS networks, but will continue to separately license each station in this interconnected single-channel network.<sup>218</sup> In this section, we first discuss the use of DTS by a single digital Class A TV, digital LPTV and digital TV translator station to provide DTS service in the same manner as a full-power DTS station, i.e., to provide service within the station's authorized service area.<sup>219</sup> Then, we discuss the use of DTS by multiple Class A or low power stations to operate through interconnected single-frequency DTS networks.

**53. Single-station DTS.** We will allow low power stations to request an experimental license to use DTS to build out their digital facilities, as we offered to full power stations in 2004. However, at this time, we believe that it is premature and unnecessary to create DTS service rules for individual Class A and low power stations to use DTS in place of a single transmitter to provide service within the protected contour of the authorized station. In the DTS Notice, the Commission generally sought comment on whether to allow Class A and low power stations to use DTS to provide service within their authorized service area. While noting that such stations may benefit from use of DTS technologies to overcome terrain limitations and avoid interference, the DTS Notice also noted that the service area of a Class A or LPTV station is typically much smaller than that of a DTV broadcast station and, thus, Class A and low power stations may have less need for distributed stations.<sup>220</sup> The comments generally support allowing these stations to use DTS to serve authorized service areas.<sup>221</sup> For example, Holston Valley and Smith note that low power UHF stations can achieve large service contours, for which DTS would help overcome the same reception problems faced by full-power stations.<sup>222</sup> The CBA states that there will be Class A and LPTV licensees interested in experimenting with DTS technologies.<sup>223</sup>

**54. The record is not instructive on the specific means to implement a Class A or secondary low power DTS service.** We believe that low power stations should be able to use DTS for individual station operation. However, we do not have an adequate record at this time to resolve the technical issues for low power stations as they differ from full power stations. Nor do we have sufficient indication of widespread interest in DTS among individual low power stations to warrant initiating a further notice at this time. We recognize that low power stations generally serve a much smaller geographic area than most full power stations. Consequently, the likelihood of needing DTS to provide service is low. Moreover, Class A and low-power stations do not face the same

DTV transition deadline as full-power stations,<sup>224</sup> thereby reducing the urgency for post-transition low power DTS rules. Low power stations are in the early stages of transitioning to digital service and do not yet have a deadline for terminating analog service.<sup>225</sup> To provide maximum flexibility, we will allow low power stations to request an experimental license to use DTS to build out their digital facilities, as we offered to full power stations in 2004.<sup>226</sup> If there is demonstrated interest in or need for DTS as an alternative for individual low power stations on a permanent basis, we can initiate a rulemaking at that time. For now, Class A and low power stations that wish to experiment with DTS technologies may request STA on a case-by-case basis.

**55. Interconnected Networks of Class A Stations.** We permit a digital Class A TV licensee<sup>227</sup> to use DTS technologies to operate a group of commonly-owned stations with contiguous predicted DTV noise-limited contours through interconnected single frequency networks that carry common locally-produced programming within the market area<sup>228</sup> served by the station group.<sup>229</sup> Because the rules now permit a digital Class A TV licensee to offer common locally-produced programming within the contiguous predicted DTV noise-limited contours of any of the digital Class A stations in a commonly-owned group,<sup>230</sup> we find that we should permit the more spectrally-efficient single-frequency network of commonly-owned stations with contiguous predicted DTV noise-limited contours. Accordingly, we will not reject a digital application of a Class A station to change its channel on the basis of predicted interference to another commonly-owned station in the same market area. Applications for such digital Class A TV stations must be filed using the process proposed in the digital LPTV proceeding.<sup>231</sup> We will not otherwise permit single-frequency networks of commonly-owned digital Class A stations (i.e., stations with non-contiguous contours) and we will separately license each station in the single-frequency network (i.e., we will not issue a single DTS license for such interconnected stations).

**56. In the DTS Notice, the Commission proposed to authorize Class A TV licensees to use DTS technologies to operate a single-frequency network of a group of commonly owned digital Class A stations.**<sup>232</sup> Commenters were split on this proposal. One group of commenters support such single-channel networks of commonly-owned Class A stations because it would be spectrally efficient.<sup>233</sup> The other group of commenters oppose such networks, claiming that it would in effect change the regulatory status of Class A TV stations.<sup>234</sup> Specifically, MSTV and NAB assert that allowing Class A TV licensees to use DTS to operate such single-channel networks throughout a station's market area would convert such networks into a single Class A "super" station that would change the regulatory relationship between full-power and Class A stations.<sup>235</sup>

**57. We conclude that our current rules permit Class A stations to use of a single frequency DTS network to interconnect.** Therefore, to the extent that Class A stations may now offer service throughout the contiguous predicted DTV noise-limited

contours of a commonly owned group of digital Class A stations, we will allow it. When there are commonly-owned stations in the same market, the individual stations operate on different TV channels in order to avoid interference to reception. Use of a common channel in a Class A station group using DTS technologies would promote spectrum efficiency and may also provide an alternative for licensees whose stations may someday face channel displacement and possible cessation of operation. We also note that our rules do not now preclude licensees from operating such commonly-owned stations on the same channel, albeit with the potential for interference.<sup>236</sup> Use of DTS technology could significantly lessen the interference risk among such stations depending on local conditions. Moreover, each of the commonly-owned Class A stations in the same market is separately licensed and, with certain exceptions, must satisfy the regulatory requirements for a Class A station. That is, the operation of each of the Class A stations in such networks would, in most respects, be the same as their operation as stand-alone digital stations with regard to protected service area, permitted ERP, and minimum hours of operation. These stations would be authorized with the same regulatory status accorded stand-alone digital Class A stations under the existing Class A interference standards.<sup>237</sup>

**58. We find that the above provisions for use of DTS technologies do not alter the statutory status of Class A stations.** The Commission established the Class A television service pursuant to the Community Broadcasters Protection Act of 1999 (“CBPA”) in order to preserve low-power community television service.<sup>238</sup> Class A stations provide locally-originated programming, often to rural and urban communities that have either no or little access to such programming. Such stations are owned by a wide variety of licensees, including minorities, women, educational organizations and small businesses, and often provide niche programming to residents of specific ethnic, racial, and interest communities. The Class A service promotes diversity and localism in television broadcasting. The CBPA provided Class A eligibility for licensees of commonly-owned LPTV stations broadcasting common local programming produced in the combined market area of these stations.

**59. Interconnected Networks of Low Power Stations.** We permit digital LPTV and TV translator stations to interconnect through the use of a single-frequency DTS network. We find that they can do so within the framework of their service rules.<sup>239</sup> Unlike Class A networks, low power networks do not raise any policy considerations because they involve only secondary service. Moreover, these low power stations have no minimum coverage obligations.

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<sup>217</sup> DTS Notice, 20 FCC Rcd at 17809-10, ¶ 37.

<sup>218</sup> DTS Notice, 20 FCC Rcd at 17809-10, ¶ 36.

<sup>219</sup> The service area of a Class A TV station is defined by 47 C.F.R. § 73.6010(c) and (d). The service area of a digital LPTV or translator station is defined by 47 C.F.R. § 74.792.

<sup>220</sup> See DTS Notice, 20 FCC Rcd at 17810 ¶ 37.

<sup>221</sup> See, e.g., Coalition comments at 12; CBA at 1; Holston Valley comments at 1-2; LMFG comments at 1-2; MWG comments at 24; MSTV comments at 12-13; Smith comments at 5-6.

<sup>222</sup> Holston Valley comments at 2; Smith comments at 6. We note that the protected signal contour of a digital UHF low power station operating with the maximum permitted ERP of 15, 000 watts at an antenna height of 152.4 meters (500 feet) is predicted to extend 49.9 kilometers (29.1 miles).

<sup>223</sup> CBA comments at 1.

<sup>224</sup> See supra note 7.

<sup>225</sup> See supra note 23.

<sup>226</sup> Second DTV Periodic Report and Order, 19 FCC Rcd at 18283, 18355-57, ¶¶ 9, 174-78.

<sup>227</sup> See 47 U.S.C. § 336(f)(1). In the Community Broadcasters Protection Act of 1999 (“CBPA”), Congress directed the Commission to establish a Class A television service to provide a measure of primary status to certain LPTV stations so that those stations could continue to operate during and after the DTV transition. In order to qualify for Class A status, an LPTV station was required to have broadcast a minimum of 18 hours per day and to broadcast an average of at least 3 hours of locally produced programming per week during the three month period preceding enactment of the CBPA. The CBPA directed that Class A licensees must be subject to the same license terms and renewal standards as full power television licensees, and that Class A licensees should be accorded primary status as television broadcasters as long as they continue to meet the requirements set forth in the statute. Class A TV stations are similar in many respects to LPTV stations; their operations are generally governed by the same technical standards. Unlike LPTV stations, Class A stations must comply with Part 73 regulations applicable to full-service TV broadcast stations, except for those that cannot apply for technical or other reasons. Class A stations also are afforded certain interference protection rights not available to LPTV stations. The Class A service rules (Part 73, Subpart J) also contain provisions for the operation of digital Class A TV stations. Digital LPTV Report and Order, 19 FCC Rcd at 19333-34, ¶ 4. There are

currently approximately 567 Class A stations. See News Release, “Broadcast Station Totals as of December 31, 2006,” 2007 WL 221575 (dated Jan. 26, 2007) (“Broadcast Station Totals”);

<sup>228</sup> The market area for locally produced programming of a digital Class A station is the area within the station’s predicted DTV noise-limited contour, as defined in Section 73.622(e), based on the station’s authorized facilities. See Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations, MB Docket No. 03-185, Report and Order, 19 FCC Rcd 19331 (2004) (“Digital LPTV Report and Order”). With respect to a group of commonly-owned stations, digital Class A stations whose predicted noise-limited contours are physically contiguous to each other comprise the market area for locally produced programming. See 47 C.F.R. § 73.6000(2).

<sup>229</sup> See proposed rule section 47 C.F.R. § 73.6023 in Appendix A to the Notice. We will not issue a single DTS license for such interconnected stations.

<sup>230</sup> See 47 C.F.R. § 73.6000(2).

<sup>231</sup> See *supra* note 23.

<sup>232</sup> See DTS Notice, 20 FCC Rcd at 17809, ¶ 36.