

106TH CONGRESS
1ST SESSION

H. R. 486

To amend the Communications Act of 1934 to require the Federal Communications Commission to preserve low-power television stations that provide community broadcasting, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 1999

Mr. NORWOOD (for himself, Mr. KLINK, Mr. DEAL of Georgia, Mr. OXLEY, Mr. BURR of North Carolina, Mr. CUNNINGHAM, Mr. BISHOP, Mr. CONDIT, and Mr. WEYGAND) introduced the following bill; which was referred to the Committee on Commerce

A BILL

To amend the Communications Act of 1934 to require the Federal Communications Commission to preserve low-power television stations that provide community broadcasting, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Community Broad-
5 casters Protection Act of 1999”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) Since the creation of low-power television li-
2 censes by the Federal Communications Commission,
3 a small number of license holders have operated
4 their stations in a manner beneficial to the public
5 good providing broadcasting to their communities
6 that would not otherwise be available.

7 (2) These low-power broadcasters have operated
8 their stations in a manner consistent with the pro-
9 gramming objectives and hours of operation of full-
10 power broadcasters providing worthwhile services to
11 their respective communities while under severe li-
12 cense limitations compared to their full-power coun-
13 terparts.

14 (3) License limitations, particularly the tem-
15 porary nature of the license, have blocked many low-
16 power broadcasters from having access to capital,
17 and have severely hampered their ability to continue
18 to provide quality broadcasting, programming, or
19 improvements.

20 (4) The passage of the Telecommunications Act
21 of 1996 has added to the uncertainty of the future
22 status of these stations by the lack of specific provi-
23 sions regarding the permanency of their licenses, or
24 their treatment during the transition to high defini-
25 tion, digital television.

1 **SEC. 3. PRESERVATION OF LOW-POWER COMMUNITY TELE-**
2 **VISION BROADCASTING.**

3 (a) AMENDMENT.—Section 336 of the Communica-
4 tions Act of 1934 (47 U.S.C. 336) is amended—

5 (1) by redesignating subsections (f) and (g) as
6 subsections (g) and (h), respectively; and

7 (2) by inserting after subsection (e) the follow-
8 ing new subsection:

9 “(f) PRESERVATION OF LOW-POWER COMMUNITY
10 TELEVISION BROADCASTING.—

11 “(1) CREATION OF CLASS A LICENSES.— With-
12 in 120 days after the date of enactment of the Com-
13 munity Broadcasters Protection Act of 1999, the
14 Commission shall prescribe regulations to establish a
15 class A television license to be available to licensees
16 of qualifying low-power television stations. Such li-
17 cense shall be subject to the same license terms and
18 renewal standards as the licenses for full-power tele-
19 vision stations except as provided in this section, and
20 each such class A licensee shall be accorded primary
21 status as a television broadcaster as long as the sta-
22 tion continues to meet the requirements for a quali-
23 fying low-power station in paragraph (2). Within 30
24 days after the enactment of the Community Broad-
25 casters Protection Act of 1999, the Commission
26 shall send a notice to the licensees of all low-power

1 televisions licenses that describes the requirements
2 for class A designation. Within 30 days after receipt
3 of the notice, licensees intending to seek class A des-
4 ignation shall submit to the Commission a certifi-
5 cation of eligibility based on the qualification re-
6 quirements of this subsection. Absent a material de-
7 ficiency, the Commission shall grant certification of
8 eligibility to apply for class A status. The Commis-
9 sion shall act to preserve the contours of low-power
10 television licensees pending the final resolution of a
11 class A application. Consistent with the require-
12 ments set forth in paragraphs (2)(A), (2)(B), and
13 (6) of this subsection, a licensee may submit an ap-
14 plication for class A designation under this para-
15 graph within 30 days after final regulations are
16 adopted. The Commission shall, within 30 days after
17 receipt of an application that is acceptable for filing,
18 award such a class A television station license to any
19 licensee of a qualifying low-power television station.

20 “(2) QUALIFYING LOW-POWER TELEVISION STA-
21 TIONS.—For purposes of this subsection, a station is
22 a qualifying low-power television station if—

23 “(A) during the 90 days preceding the
24 date of enactment of the Community Broad-
25 casters Protection Act of 1999—

1 “(i) such station broadcast a mini-
2 mum of 18 hours per day;

3 “(ii) such station broadcast an aver-
4 age of at least 3 hours per week of pro-
5 gramming that was produced within the
6 market area served by such station, or the
7 market area served by a group of com-
8 monly controlled stations that carry com-
9 mon local programming not otherwise
10 available to their communities; and

11 “(iii) such station was in compliance
12 with the Commission’s requirements appli-
13 cable to low-power television stations; and

14 “(B) from and after the date of its appli-
15 cation for a class A license, the station is in
16 compliance with the Commission’s operating
17 rules for full power television stations; or

18 “(C) the Commission determines that the
19 public interest, convenience, and necessity
20 would be served by treating the station as a
21 qualifying low-power television station for pur-
22 poses of this section, or for other reasons deter-
23 mined by the Commission.

24 “(3) COMMON OWNERSHIP.—No low-power tele-
25 vision station shall be disqualified for a class A li-

1 cense based on common ownership with any other
2 medium of mass communication.

3 “(4) ISSUANCE OF LICENSES FOR ADVANCED
4 TELEVISION SERVICES TO QUALIFYING LOW-POWER
5 TELEVISION STATIONS.—The Commission is not re-
6 quired to issue any additional licenses for advanced
7 television services to the licensees of the class A tele-
8 vision stations under this subsection but shall accept
9 such license applications proposing facilities that will
10 not cause interference to any other broadcast facility
11 authorized on the date of filing of the class A ad-
12 vanced television application. In reviewing such ap-
13 plications, the Commission shall consider the impact
14 of such a grant on the primary television viewing au-
15 dience of the applicant. Such new license or the
16 original license of the applicant shall be forfeited
17 after the date on which the digital television service
18 transition period terminated, as determined by the
19 Commission. Low-power television station licensees
20 may, at the option of licensee, elect to convert to the
21 provision of advanced television services on its ana-
22 log channel, but shall not be required to convert to
23 digital operation until the end of the DTV transi-
24 tion.

1 “(5) NO PREEMPTION OF SECTION 337.—Nothing
2 ing in this section preempts section 337 of this Act.

3 “(6) INTERIM QUALIFICATION.—

4 “(A) STATIONS OPERATING WITHIN CER-
5 TAIN BANDWIDTH.—The Commission may not
6 grant a class A license to a low-power television
7 station operating between 698 and 806 mega-
8 hertz, but the Commission shall provide to low-
9 power television stations assigned to and tempo-
10 rarily operating in that bandwidth the oppor-
11 tunity to meet the qualification requirements
12 for a class A license. When such a qualified ap-
13 plicant for a class A license is assigned a chan-
14 nel within the core spectrum (as such term is
15 defined in MM Docket 87–286, February 17,
16 1998), the Commission shall simultaneously
17 issue a class A license.

18 “(B) CERTAIN CHANNELS OFF-LIMITS.—

19 The Commission may not grant a class A li-
20 cense to a low-power television station operating
21 on a channel within the core spectrum under
22 this subsection that includes any of the 175 ad-
23 ditional channels referenced in paragraph 45 of
24 its February 23, 1998, Memorandum Opinion
25 and Order on Reconsideration of the Sixth Re-

1 port and Order (MM Docket No. 87–268).
2 Within 18 months after the date of enactment
3 of the Community Broadcasters Protection Act
4 of 1999, the Commission shall identify by chan-
5 nel, location, and applicable technical param-
6 eters those 175 channels.

7 “(7) NO INTERFERENCE REQUIREMENT.—The
8 Commission may not grant a class A license nor ap-
9 prove a modification of a class A license unless the
10 applicant or licensee shows that the class A station
11 for which the license or modification is sought will
12 not cause—

13 “(A) interference within the Grade B con-
14 tour of any television station (as of the date of
15 enactment of the Community Broadcasters Pro-
16 tection Act of 1999, or as proposed in a minor
17 change application filed on or before such date)
18 or the DTV service areas provided in the DTV
19 Table of Allotments, or subsequently granted by
20 the Commission prior to the filing of a class A
21 application;

22 “(B) interference within the protected con-
23 tour of any low-power television station or low-
24 power television translator station licensed, au-
25 thorized by construction permit, or with a pend-

1 ing displacement application submitted prior to
2 the date on which the application for a class A
3 license, or for the modification of such a license,
4 was filed; or

5 “(C) interference within the protected con-
6 tour of 80 miles from the geographic center of
7 the areas listed in section 22.625(b)(1) or
8 90.303 of the Commission’s regulations (47
9 C.F.R. 22.625(b)(1) and 90.303) for fre-
10 quencies in—

11 “(i) the 470–512 megahertz band
12 identified in section 22.621 or 90.303 of
13 such regulations; or

14 “(ii) the 482–488 megahertz band in
15 New York.”.

16 (b) AMENDMENT.—Section 309(j)(2) of the Commu-
17 nications Act of 1934 (47 U.S.C. 309(j)(2)) is amended—

18 (1) by striking “or” at the end of subparagraph
19 (B);

20 (2) by striking the period at the end of sub-
21 paragraph (C) and inserting “; or”; and

22 (3) by adding at the end the following new sub-
23 paragraph:

24 “(D) for low-power television and TV
25 translator stations where one or more of the

1 mutually exclusive applicants is a qualified class
2 A licensee or a translator rebroadcasting the
3 signal of a primary service station within its
4 designated market area, except that—

5 “(i) in cases where more than one ap-
6 plicant qualifies, the Commission shall no-
7 tify affected parties and provide them no
8 fewer than 60 days to develop an engineer-
9 ing solution so that the applications are
10 not mutually exclusive; and

11 “(ii) in the absence of an engineering
12 solution, the Commission shall devise a
13 system of selection for awarding licenses,
14 other than competitive bidding, which
15 maintains equal opportunities for both
16 class A and translator applicants but en-
17 courages, to the extent possible, localism,
18 diversity of ownership in the broadcast
19 service, and programming not otherwise
20 available for underserved communities.”.

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