

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Office of Engineering and Technology Releases and Seeks Comment on Updated OET-69 Software	)	ET Docket No. 13-26
	)	
Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions	)	GN Docket No. 12-268
	)	

**REPLY COMMENTS OF THE ASSOCIATION OF PUBLIC TELEVISION STATIONS,  
CORPORATION FOR PUBLIC BROADCASTING, AND  
PUBLIC BROADCASTING SERVICE**

The Association of Public Television Stations (“APTS”),<sup>1</sup> the Corporation for Public Broadcasting (“CPB”),<sup>2</sup> and the Public Broadcasting Service (“PBS”)<sup>3</sup> (collectively, “PTV”) submit these reply comments to urge the Office of Engineering and Technology (“OET”) to refrain from adopting the changes to Bulletin No. 69 (“OET-69”) proposed in its

---

<sup>1</sup> APTS is a non-profit organization whose membership comprises the licensees of nearly all of the nation’s 364 CPB-qualified noncommercial educational television stations. The APTS mission is to support the continued growth and development of a strong and financially sound noncommercial television service for the American public.

<sup>2</sup> CPB is a private, non-profit corporation created and authorized by the Public Broadcasting Act of 1967 to facilitate and promote a national system of public telecommunications. Pursuant to its authority, CPB has provided millions of dollars in grant monies for support and development of public broadcasting stations and programming.

<sup>3</sup> PBS, with its nearly 360 member stations, offers all Americans — from every walk of life — the opportunity to explore new ideas and new worlds through television and online content. Each month, PBS reaches 120 million people through television and nearly 28 million people online, inviting them to experience the worlds of science, history, nature, and public affairs; to hear diverse viewpoints; and to take front row seats to world-class drama and performances.

February 4, 2013 Public Notice.<sup>4</sup> Not only would these changes create uncertainty in the public television system’s ability to continue providing universal access to high-quality, noncommercial public television services, they also would be contrary to Congress’s directive in the Middle Class Tax Relief and Job Creation Act of 2012 (“Spectrum Act”).

**I. THE PROPOSED CHANGES TO OET-69 WOULD CREATE UNCERTAINTY IN THE PUBLIC TELEVISION SYSTEM’S ABILITY TO PROVIDE UNIVERSAL, NONCOMMERCIAL TELEVISION SERVICES TO THE PUBLIC.**

The commenters in this proceeding agree that applying the changes proposed in the OET’s Public Notice will significantly alter the coverage area and population served for many television stations. For example, broadcasters’ testing concluded that “if all of the recommended default settings in TVStudy are applied, approximately 61% of all stations would lose area- and population-coverage when compared to the predictive calculations generated by the version of OET-69 in effect on February 22, 2012.”<sup>5</sup>

This significant reduction in stations’ coverage area and population served would create widespread uncertainty for stations and would make it difficult for public television stations to serve their mission of providing all Americans with important free, noncommercial television services. As PTV explained in its comments on the Commission’s Notice of Proposed Rulemaking concerning the incentive auction and repacking, the nation’s public television system is built on a mission of universal service using a combination of full-power broadcast

---

<sup>4</sup> OET, Public Notice, Office of Engineering and Technology Releases and Seeks Comment on Updated OET-69 Software: Comment Sought on Software To Be Used in Conjunction With Proposed Incentive Auction, DA 13-138 (Feb. 4, 2013).

<sup>5</sup> Comments of the National Association of Broadcasters, FOX Entertainment Group, CBS Corporation, NBCUniversal LLC, ABC Owned Television Stations, ABC Television Affiliates Association, CBS Television Network Affiliates Association, FBC Television Affiliates Association, and NBC Television Affiliates, Office of Engineering and Technology Releases and Seeks Comment on Updated OET-69 Software, ET Docket No. 13-26, at 12 (Mar. 21, 2013).

stations and television translators to provide services that, in the aggregate, blanket the population of the United States.<sup>6</sup> By proposing changes that would have the effect of significantly reducing stations' service areas and, consequently, diminishing stations' ability to preserve service to their viewers after the repacking, OET would create uncertainty for stations and their viewers, including tribal and other underserved populations that rely on over-the-air access in disproportionately large numbers.

**II. THE SPECTRUM ACT REQUIRES THE COMMISSION TO APPLY THE OET-69 METHODOLOGY THAT WAS IN EFFECT AT THE TIME THE ACT WAS ADOPTED, THEREBY PRECLUDING THE PROPOSED AMENDMENTS.**

Section 6403(b)(2) of the Spectrum Act directs the Commission to “make all reasonable efforts to preserve, as of the date of the enactment of this Act, the coverage area and population served of each broadcast television licensee, as determined using the methodology described in OET Bulletin 69.”<sup>7</sup> Like many of the commenters, PTV is concerned that the proposals would be contrary to the plain language of the statute because they alter the interpretation, application, and assumptions of OET-69. The proposals are particularly concerning given that they fail to “preserve” stations' service areas and, instead, significantly reduce the coverage area and population served for many stations.

CEA attempts to distinguish between (1) the text of OET-69 and (2) the interpretation, application, and assumptions of that text. CEA arbitrarily suggests that the “methodology” is limited to the four corners of the OET-69 text and that, because the Public Notice “merely describes and seeks public comment on updates and improvements to the tools

---

<sup>6</sup> Comments of the Association of Public Television Stations, Corporation for Public Broadcasting, and Public Broadcasting Service, Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12-268, at 9–10 (Jan. 25, 2013).

<sup>7</sup> Pub. L. No. 112-96, § 6403(b)(2), 125 Stat. 156 (2012).

that the Commission uses to implement that methodology”<sup>8</sup> and prescribes different “parameters not specified in OET-69,”<sup>9</sup> OET’s proposed changes are not precluded by the Spectrum Act.

CEA’s argument is contrary to the statute’s plain meaning and common sense. The term “methodology” is not defined in the Spectrum Act and thus should be given its common and ordinary meaning. The Oxford English Dictionary defines “methodology” to mean “a method or body of methods used in a particular field of study or activity.”<sup>10</sup> In turn, a “method” is defined as “a way of doing anything, esp. according to a defined and regular plan; a mode of procedure in any activity, business, etc.”<sup>11</sup> While the data to which the method is applied might vary from station to station, the method itself (including any assumptions or decisions related to the sources used for the data) applies universally across all television stations. Consequently, the text of OET-69 along with any interpretations, applications, or assumptions of the text are all part of the method in the methodology of calculating a station’s coverage area and population served.

In addition, permitting OET to revise its interpretation, application, or assumptions of OET-69 would not have the effect intended by Congress of “preserving” television stations’ coverage area and population served. To the contrary, as noted above and elaborated in the comments, adopting the changes proposed by OET would significantly reduce a large number of stations’ coverage area and population served. As PTV has explained in related

---

<sup>8</sup> Comments of the Consumer Electronics Association, Office of Engineering and Technology Releases and Seeks Comment on Updated OET-69 Software, ET Docket No. 13-26, at 2 (Mar. 21, 2013).

<sup>9</sup> *Id.* at Executive Summary.

<sup>10</sup> Oxford English Dictionary (3d ed.), *available at* <http://www.oed.com/> (“method” last updated online December 2012).

<sup>11</sup> *Id.* (“methodology” last updated online June 2012).

proceedings, the plain meaning of the term “preserve” is to “keep in its original or existing state” and “to continue without physical or chemical change.”<sup>12</sup> By diminishing stations’ coverage area and population served, the proposals directly contradict the statute’s mandate to keep stations’ coverage area and population served in its existing state. Because the proposals would be contrary to the plain meaning of the Spectrum Act, they should not be adopted.

### **CONCLUSION**

PTV appreciates the opportunity to comment on the proposals contained in the OET’s Public Notice. However, for the reasons identified above, we strongly urge OET to refrain from adopting these proposals in connection with the upcoming spectrum auction and repacking.

Respectfully submitted,

---

<sup>12</sup> *Id.* (“preserve” last updated online March 2013).

/s/

---

Lonna Thompson  
Executive Vice President, Chief Operating  
Officer, and General Counsel  
ASSOCIATION OF PUBLIC TELEVISION  
STATIONS  
2100 Crystal Drive, Suite 700  
Arlington, VA 22202

/s/

---

John S. McCoskey  
Chief Technology Officer  
Craig A. Sperling  
Vice President and Deputy General  
Counsel  
Thomas Rosen  
Senior Counsel  
Eric J. Wolf  
Vice President, Technology Strategy  
and Planning  
PUBLIC BROADCASTING SERVICE  
2100 Crystal Drive  
Arlington, VA 22202

/s/

---

J. Westwood Smithers, Jr.  
Senior Vice President and General Counsel  
CORPORATION FOR PUBLIC BROADCASTING  
401 Ninth Street, NW  
Washington, DC 20004

/s/

---

Matthew S. DelNero  
Lindsey L. Tonsager  
COVINGTON & BURLING LLP  
1201 Pennsylvania Avenue, NW  
Washington, DC 20004

April 5, 2013