

Before the
Federal Communications Commission
Washington, D.C. 20554

Expanding the Economic and Innovation)	
Opportunities of Spectrum Through)	GN Docket No. 12-268
Incentive Auctions)	
)	
Incentive Auction Task Force and)	
Media Bureau Seek Comment on)	MB Docket No. 16-306
Post-Incentive Auction Transition)	
Scheduling Plan)	

COMMENTS

Gray Television, Inc. (“Gray”) hereby files in support of the Comments and Petition for Reconsideration filed by ION Media Networks, Inc. (“ION” and the “ION Comments”) in the above-captioned proceedings.¹ The ION Comments addressed issues raised in the still-pending Petition for Reconsiderations of the National Association of Broadcasters filed on March 17, 2017 (“NAB Petition”) and of the ABC, CBS, Fox, and NBC Network Affiliates Associations filed on September 15, 2014 (“Affiliate Petition”). As the ION Comments clearly express, broadcasters have significant, valid concerns about elements of the Commission’s repack policies and procedures. Gray encourages the FCC to carefully evaluate and address the issues raised in the ION Comments, the NAB Petition and the Affiliate Petition.

I. THE FCC MUST MAKE CHANGES TO ENSURE THE REPACK IS SUCCESSFUL

Gray owns or operates more than 100 stations in 57 markets, and of these, the Commission assigned 25 new channels during the repack process. Gray shares ION’s concerns

¹ ION Media Networks, Inc., Comments on the FCC’s Post-Auction Repack and Petition for Reconsideration, GN Docket No. 12-268, MB Docket No. 16-306 (filed July 31, 2017) (“ION Comments”).

with the unrealistic 39-month transition timeline. Gray has worked diligently to fully evaluate and plan for each repack facility beginning the day it received its new channel assignments. However, like many other broadcast groups, it is managing multiple buildouts during the same time period—including nine stations that must transition during one construction phase. Gray supports ION’s call for the Commission to either extend the construction period or relax its waiver standard to ensure that a station is not forced off the air if it cannot complete its repacked facility by the phase deadline.

Gray supports the ION Comments’ call for all stations reassigned to Channel 14 to receive a new interference-free channel. The hurdles involved in building an interference-free facility on Channel 14 are insurmountable in many markets. The Spectrum Act guaranteed that the Commission “make all reasonable efforts to preserve . . . the coverage area and population served of each broadcast television licensee” involuntarily moved as a result of the incentive auction.² While reassigning stations to Channel 14 may have seemed innocuous and reasonable upon implementation, new facts and real-world experience demonstrate the opposite. To deliver on its statutory mandate, the agency must provide these stations a new interference-free channel.

Broadcasters are doing the best they can to construct their repacked stations on a very short timeline. The Commission should provide these stations with maximum flexibility to select the most effective tower site, even when such a move would result in a contour shift. Gray supports ION’s comments calling for the Commission to relax its current contour freeze limitations to allow a broadcaster to relocate to a new tower provided it does “not create more

² 47 USC § 1452(b)(2).

than *de minimus interference*” and does “not create mutual exclusivities with another applicant...”³

II. THE FCC SHOULD CLARIFY CERTAIN ASPECTS OF THE REIMBURSEMENT PROCESS

The repack will be a long and disruptive process for broadcasters. Broadcasters will devote thousands of hours to calling and working with vendors, on-site troubleshooting, responding to FCC inquiries, and tracking and seeking reimbursement. For many broadcasters, the opportunity cost of these intangibles cannot be compensated. However, the agency can make clarifications to its reimbursement policies to ensure that clear-cut costs, like equipment and tower work, are fully reimbursed as Congress intended.⁴ Gray supports ION’s call for the Commission to clarify or revise its policies on reimbursement of solid state transmitters in place of tube transmitters, top-mount antennas in place of side-mount antennas and comparable transmitter “headroom.”⁵ Further, Gray strongly agrees that the Commission should allow payment to be made to an affiliated entity in order to avoid unintended tax consequences.⁶

³ ION Comments at 9.

⁴ See 47 USC § 1452(b)(4)(A)(i).

⁵ See ION Comments at 14-20.

⁶ See *id.* at 22.

III. CONCLUSION

The majority of repacked stations have received their initial construction permits and are working diligently to construct their post-auction facilities. Gray encourages the Commission to respond to the NAB Petition, the Affiliate Petition, and ION's Comments quickly to ensure that uncertainty does not delay the repack.

Respectfully submitted,

GRAY TELEVISION, INC.

_____/s/_____
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