

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

In the Matter of	)	
	)	
Expanding the Economic and Innovation	)	GN Docket No. 12-268
Opportunities of Spectrum Through	)	
Incentive Auctions	)	

**REPLY COMMENTS  
OF THE DISPATCH PRINTING COMPANY**

The Dispatch Printing Company, d/b/a the Dispatch Broadcast Group (“Dispatch”), owner of television station WTHR, Indianapolis, Indiana, filed an unopposed Petition for Reconsideration requesting that the Commission reconsider its decision to not protect in the Incentive Auction the coverage areas of stations that operate above the limit on effective radiated power (“ERP”) to the extent such operations exceed the maximum power limits without regard to antenna height.<sup>1</sup> The National Association of Broadcasters (“NAB”) filed comments in support of the Petition,<sup>2</sup> and no party filed comments that refuted the arguments Dispatch made in its Petition. Dispatch files these Reply Comments to urge the Commission to grant its unopposed Petition for Reconsideration.

As explained more fully in the Petition, by neglecting to preserve the existing coverage areas of stations that operate with waivers of the ERP limits, to the extent such operations exceed the maximum power limits without regard to HAAT, the Commission has failed to correctly implement the Spectrum Act, and its failure to do so is arbitrary and

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<sup>1</sup> Petition for Reconsideration of Dispatch, GN Dkt. 12-268 (filed September 15, 2014).

<sup>2</sup> Comments of The National Association of Broadcasters, GN Dkt. 12-268 (filed November 12, 2014) at 18-19.

capricious, in violation of the Administrative Procedure Act.<sup>3</sup> Congress clearly has required that the Commission make all reasonable efforts to protect “the coverage area and population served of each broadcast television licensee” as of February 22, 2012, *regardless* of whether the licensee’s operations as of that date happen to have been authorized by an FCC-approved waiver of the power limits. As the NAB said, the Commission’s decision to not protect the population and coverage area served by stations such as WTHR flatly contravenes the clear language of the Spectrum Act.<sup>4</sup>

Moreover, the decision is contrary to the FCC’s essential policy goal of not depriving viewers of access to free, over-the-air television service. Dispatch’s Petition explained that WTHR, like other VHF stations, has experienced particular difficulties in serving all of its viewers with a reliable digital signal after the digital transition. As a result of WTHR’s increasing its power, the station was able to improve service to viewers in its former analog coverage area, and was able to make its signal more robust for all viewers. The Commission’s failure to protect the station’s entire footprint creates risks that existing viewers, many of which are elderly and/or low-income households, will lose the station’s free, over-the-air public television service. As the NAB stated in its Comments, “failing to protect the facilities actually in use by broadcasters will harm those stations and their viewers solely for the purpose of making repacking easier for the FCC.”<sup>5</sup>

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<sup>3</sup> See 5 U.S.C. § 706(2). See also *Chevron, U.S.A. v. Natural Resources Defense Council*, 467 U.S. 837 (1984).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 19.

Accordingly, the Commission should grant Dispatch's unopposed Petition for Reconsideration.

Respectfully submitted,



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