

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

In the Matter of )  
 )  
Expanding the Economic and Innovation ) GN Docket No. 12-298  
Opportunities of Spectrum through Incentive )  
Auctions )

To: The Commission,

REPLY OF BRUNO GOODWORTH NETWORK, INC.

Comes now the reply from The Bruno Goodworth Network Inc. (BGN) former owner of Pittsburgh market stations WBGN-CD (now WEPA-CD), WNNB-CD, WPCP-CD, WKHU-CD, WMVH-CD, WWKH-CA, WWLM-CA, WEMW-CD, WJMB-CD, WJPW-CD and WVTX-CD. BGN fully supports the SUPPLEMENT TO PETITION FOR RECONSIDERATION OF ABACUS TELEVISION, in particular the discussion on pages 10-13 of this filing entitled

“THE DECISION TO EXCLUDE CLASS A SERVICE AREAS AUTHORIZED AFTER FEBRUARY 22, 2012 FROM ELIGIBILITY IS NOT SUPPORTED BY THE RECORD”

BGN still maintains an active interest in the inclusion of station coverage areas in the Incentive Auction, particularly the full digital coverage area of stations WKHU-CD and WEMW-CD. Both of these formerly analog stations were rebuilt as digitals in good faith, based on the FCC’s rules and requirements. In fact, BGN spent well over \$150,000 to get each station to its current state. BGN built these stations to better serve the Public by digitizing and increasing the coverage area to provide more viewing options to the underserved and rural communities of Kittanning and Greensburg.

BGN sold these stations to OTA Broadcasting, LLC. with the rational and reasonable understanding that the coverage areas would be protected and that the public would continue to be served by those coverage areas. The Report and Order undermines the Public Interest by not extending full protection to these digital television service areas that clearly serve the public interest and necessity.

We fully concur with Abacus Television that “Notwithstanding broad brush conclusions in the Report and Order that including all Full Power and Class A service areas licensed before the Pre-Auction Licensing deadline would:

‘... encumber additional broadcast television spectrum, thereby increasing the constraints on the repacking process due to interference and other technical requirements. This additional encumbrance could hinder our ability to repack television spectrum and undermine our goal of using market forces to repurpose spectrum for flexible use. In addition, the exercise of discretionary protection may increase the costs of the reverse auction. Protecting facilities that were not in operation as of February 22, 2012 also may undermine our ability to prepare for the auction and repacking process and our need for a stable database of the facilities that will be protected prior to the auction. If we opt to protect facilities that significantly expand a station’s coverage area, the cost of compensating the station for relinquishing its spectrum usage rights may be higher than if we were to protect only facilities licensed on February 22, 2012.’

It is obvious that the record in this proceeding does not support this narrow reading of the Auction Statute’s mandate that the Commission encourage broadcast licensee participation in the Auction, not diminish the rights of LPTV licensees, and preserve the service area and viewer population of broadcasters during its implementation of the incentive auction.

The sweeping conclusions quoted above are not supported by the facts, either facts stated in Report and Order or the factual realities of the UHF broadcast spectrum. The Commission made no effort to qualify differences between the spectrally crowded

top-thirty markets and the less crowded smaller markets. For example, when the Report and Order states that there are “approximately 100 formally out-of-core Class A eligible licensees that had converted or could convert to Class A status after February 22, 2012”, it made no effort to distinguish between licensees inside of and outside of the top thirty markets. If only four of these “100 formally out-of-core Class A eligible licensees” are in the top thirty markets (as it would appear judging by Petitions for Reconsideration from only four such licensees) then the impact of giving them repack protection/auction eligibility is grossly overstated by talking about “100 formally out-of-core Class A eligible licensees.” Furthermore, if the Commission has not identified the supposed “approximately 100 formally out-of-core Class A eligible licensees”, then citing this group of licensees as justification for its actions is inappropriate.

In its Report and Order the Commission cited a need for a stable database of the facilities that will be protected prior to the auction. Yet, the Commission proposes to calculate channel availability for both repacking purposes and channel purchases in real time during the auction using its computer capabilities. If the Commission has the capability of updating its database of projected facilities hour by hour during the auction, how can it not be able to accurately update its database from a date shortly prior to the start of the auction, e.g. the Pre-Auction Licensing deadline? The answer is obvious. There is no real database stability reason to eliminate consideration of licensed Class A digital service areas all the way up to the start of the auction.

The Commission surmised that if it protected facilities that expand a station’s coverage area, the cost of compensating the station for relinquishing its spectrum usage rights may be higher. This conclusion was not supported by specific factual analysis. It

did not take into account the negative effect this decision would likely have on the willingness of broadcasters to participate in the auction. Furthermore, this conclusion ignores the fact that the Commission is pegging its purchase price in the reverse auction on the “preclusive-ness” of a particular channel-location, and not the size of the service area or population served. This “reason” for not including service area licensed as of the Pre-Auction Licensing deadline was just thrown in as valid, without factual support.

The Commission claimed that the encumbrances created by protecting service areas licensed after February 22, 2012 but before the Pre-Auction Licensing deadline could hinder its ability to repack television spectrum and undermine its goal of using market forces to repurpose spectrum for flexible use. Once again this bald assertion was unsupported by evidence, or even a single comment in the record of this proceeding. The ability to repack television spectrum will be affected the most by the number of broadcast licensees in the top thirty markets that elect to sell their spectrum in the reverse auction.

Eliminating consideration of dually licensed service areas can only reduce the interest in participation of broadcasters that had service area increases after February 22, 2012, but before the Pre-Auction Licensing deadline. Not including dually licensed service areas is a gross distortion of the market which will only frustrate the use of market forces to properly reallocate the division of spectrum between broadcast and non-broadcast uses. This is because asking a broadcaster to sell his spectrum at a price set by his coverage area years before the auction, rather than his coverage at the start of the auction, makes no business sense.

## CONCLUSION

Bruno Goodworth Network, Inc., by this Reply to the Supplement to Petition for Reconsideration of Abacus Television, supports reconsideration of the February 22, 2012 cut-off date for the inclusion expanded service areas in auction/repack. The Report and Order gave no rational justification for this unnecessarily early cut-off date and the proceeding record was devoid of comments supporting that cut-off date. The Pre-Auction Licensing deadline is the only cut-off date supported by the Commissions own rational, the comments in the proceeding, common sense and equity.

Respectfully submitted:

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November 24, 2014

## DECLARATION AND VERIFICATION

I am Ronald J. Bruno President of The Bruno Goodworth Network Inc. located in Pittsburgh, Pennsylvania. I have reviewed the reply comments written here. The information written in this reply is true and accurate to the best of my knowledge, information and belief. I declare under penalty of perjury that the forgoing is true and correct.

A handwritten signature in black ink, appearing to read 'Ronald J. Bruno', with a long horizontal flourish extending to the right.

Ronald J. Bruno  
November 24, 2014

## CERTIFICATE OF SERVICE

I hereby certify that on November 24, 2014 I caused a true and correct copy of the foregoing to be served by first class mail to the following:

Benjamin Perez  
Abacus Television  
514 Chautauqua St.  
Pittsburgh, PA 15220