

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 ABACUS TELEVISION**

Comes now Abacus Television, Pro Se, and gives its Reply to the oppositions of Latina Broadcasters of Daytona Beach, LLC. and CTIA – The Wireless Association.

Latina Broadcasters fashioned its pleading as a “Partial Opposition” because it plead, for the most part, that the Commission grant Abacus Television the relief it sought in its Petition for Reconsideration and its Supplement to Petition for Reconsideration. Latina Broadcasters differed from Abacus Television as to the actions the Commission should take on reconsideration in only one respect. Latina Broadcasters believes that the scope of the relief requested should have been significantly broader than was requested in this Petitioner’s pleadings.

Abacus Television sought reconsideration of the cut off date adopted in the Auction Report and Order for the purpose of determining repack protection/auction eligibility and the cutoff date for consideration of new or expanded digital coverage area. Petitioner argued that the only cutoff date supported by the record and consistent with the goals and objectives of the Incentive Auction was the Pre Auction Licensing

Deadline. Petitioner, therefore, argued that its station WPTG-CD should have been auction eligible and that the expanded coverage area of its other Class A stations, including WBOA-CD should be fully considered and protected in the reverse auction/spectrum repack. In a separate Petition for Reconsideration, a second formerly out-of-core Class A eligible licensee similarly argued that it's now Class A licensed station, WOSC-CD, should be auction eligible.

Latina Broadcasting partially opposed these two Petitions for Reconsideration (WOSC-CD and WPTG-CD), arguing that “the Commission should afford protection to all similarly-situated Class A stations that are licensed by the Pre-Auction Licensing Deadline, including [their station] WDYB.” While Petitioner was most concerned with inclusion of its Class A station in the class of stations held auction eligible, it cannot disagree with Latina Broadcasters’ logic that all similarly situated Class A stations should be reverse auction eligible and repack protected based on their Class A licensed status no earlier than as of the Pre-Auction Licensing Deadline. Petitioner agrees with Latina Broadcasters arguments that this later date is the only date fully consistent with the Community Broadcasters Protection Act, the Auction Statute, and the Public Interest in protecting the service areas and populations served by these Class A stations.

Abacus Television also is compelled to Reply to the Opposition and Reply of CTIA-The Wireless Association (CTIA). For the most part, CTIA’s Opposition focused its criticism on petitioners that sought reconsideration of the Commission’s dismissive treatment of licensees in the Low Power Television (LPTV) service. For the most part, CTIA’s Opposition based its support of the Commission’s poor treatment of the LPTV service on the absence of provisions in the Spectrum Act directing the Commission to

protect the LPTV service. While this wooden reading of the Spectrum Act is facially correct, CTIA is not correct in its reading of the Spectrum Act as amending the Communication Act of 1934, as amended, so that the Commission no longer need act consistent with the mandate therein to regulate the communications industry in the Public Interest. Rather, there is nothing in the Spectrum Act that limits the Commission's discretion to find that it is in the Public Interest to extend protections or benefits to the LPTV service beyond a strict reading of the Spectrum Act.

CTIA also over shoots the mark when it variously argued that February 22, 2012 was some sort of mandatory cutoff date for the Commission's consideration of coverage areas and populations served by broadcast stations for reverse auction/spectrum repack purposes.<sup>1</sup> That date was an unfortunate aspect of the Auction Report and Order and not an immutable cutoff date from the Spectrum Act. As this Petitioner argued in its Supplement to Petition for Reconsideration, it's Petition for Reconsideration, and argues above, the Pre-Auction Licensing Deadline is the only fair and rational cutoff date for evaluating broadcasters' auction rights.

### **CONCLUSION**

Abacus Television, by this Reply, supports reconsideration of the February 22, 2012 cut-off date for the inclusion of expanded service areas in the reverse auction/spectrum repack. The Report and Order gave no rational justification for this unnecessarily early cut-off date and the proceeding record is devoid of a factual basis or a public interest reason supporting that cut-off date. The Pre-Auction Licensing deadline is the only cut-off date supported by the Commission's own rational, the factual record in the proceeding, fairness, common sense and equity.

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<sup>1</sup> See, e.g., Opposition and Reply of CTIA at 16

Respectfully submitted:

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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 serviced by first-class mail on the following:

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