

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions	)	GN Docket No. 12-268
	)	
Broadcast Incentive Auction Comment Public Notice Auctions 1000, 1001 and 1002	)	AU Docket No. 14-252
	)	

**COMMENTS OF  
TRINITY BROADCASTING NETWORK**

The success of the upcoming broadcast incentive auction depends on the Commission's ability to induce existing television licensees to voluntarily relinquish their rights to use spectrum. As the results of the recently-completed \$44 billion AWS-3 auction clearly demonstrated, UHF television spectrum will be highly valued by the wireless carriers if it can be reassigned to mobile broadband use.<sup>1</sup> To ensure that the maximum possible amount of spectrum is repurposed, the Commission must foster a feeling of confidence in broadcasters that the market-based mechanism for determining the value of their spectrum usage rights will be fair and transparent.

As the controlling interest holder in 35 UHF, and 2 VHF television licenses, including in 5 of the top 5 markets, 6 of the top 10 markets, and 12 of the top 20 markets, Trinity Christian

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<sup>1</sup> See, *Can the FCC Attract a Full House for the 2016 Broadcast Incentive Auction?*, Kagan Media Appraisals, February 11, 2015 study, available at: <https://broadcastcoalition.wordpress.com/2015/02/19/eobc-weighs-in-on-fcc-auction-comment-public-notice/> (visited 2-19-2015).

Center of Santa Ana, Inc., d/b/a Trinity Broadcasting Network (“TBN”) is fully evaluating participation in the reverse auction, but is concerned about several of the proposals made in the above-captioned *Comment PN*.<sup>2</sup> TBN’s comments below address four key issues that it believes may determine the extent of broadcaster participation, and consequently, the success of the incentive auction: (1) the opening price methodology; (2) the use of a Dynamic Reserve Price mechanism; (3) the transparency of the reverse auction to its participants; and (4) the size and consistency of round-by-round price decrements. TBN believes that adoption of the suggestions made below will enhance the incentives for broadcasters to participate in the incentive auction, thereby promoting the Commission’s spectrum reallocation goals. Conversely, failure to address these issues and make necessary modifications will diminish broadcaster incentives to participate in the auction and undermine the Commission’s spectrum reallocation goals.

**I. The Commission Should Calculate Each Station’s Opening Bid Price Solely On the Basis of Its Potential Impact on the Repacking of the UHF Band.**

In adopting an impressive auction framework that uses market forces to determine which television stations should be cleared, and at what price, the Commission made it clear that, to set reverse auction prices, the Commission should use factors “that affect the availability of channels in the repacking process and, therefore, the value of a station’s bid to voluntarily relinquish spectrum usage rights.”<sup>3</sup> This linkage – between a station’s reverse auction clearing price and its impact on the post-auction repacking – was further cemented by the *Incentive Auction R&O*’s

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<sup>2</sup> Public Notice, *Comment Sought on Competitive Bidding Procedures for Broadcast Incentive Auction 1000, Including Auctions 1001 and 1002*, AU Docket No. 14-252 and GN Docket No. 12-268, 29 FCC Rcd 15750 (rel. Dec. 17, 2014) (“*Comment PN*”).

<sup>3</sup> *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, *Report and Order*, 29 FCC Rcd 6567, 6753 ¶ 450 (rel. Jun. 2, 2014) (“*Incentive Auction R&O*”).

statement that “a station with a high potential for interference will be offered a price that is higher than a station with less potential for interference to other stations.”<sup>4</sup>

In the *Comment PN*, however, the Commission has proposed a formula for determining opening price offers that runs counter to this principle. The Commission’s proposed formula –  $\text{Station Volume} = (\text{Interference})^{0.5} * (\text{Population})^{0.5}$  – appropriately includes as a factor the interference constraints that a station’s continued presence would place on the repacking process, but the formula inappropriately assigns equal weight to a station’s interference-free population coverage, which should be largely irrelevant to station value in the reverse auction. The key determinant for a station’s value should be its impact on the repacking process. Giving equal weight to a covered population factor can lead to the anomalous result of assigning a higher relative value to a station with a lesser repacking impact merely because it happens to cover a larger population. In the *Incentive Auction R&O*, the Commission decided not to base a station reverse auction price on its “potential market or enterprise value,”<sup>5</sup> but the proposed population factor does just that. TBN therefore urges the Commission to modify its proposed “station volume” formula to de-emphasize the population factor.

## **II. The Commission Should Eliminate, Or At Least Reduce, The Uncertainties Inherent in the Use of A Dynamic Reserve Price Mechanism**

TBN has grave concerns that the proposed “Dynamic Reserve Price” mechanism (“DRP”), if adopted, would increase the risk that the entire incentive auction will fail. As proposed, DRP would enable the Commission to continue to reduce clearing offers made to stations even after it is determined that they can no longer be repacked. By its inherent nature, DRP would introduce unnecessary complexity and uncertainty into the reverse auction and

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

<sup>5</sup> *Id.* at ¶ 451.

suppress broadcaster participation. To enter the reverse auction with confidence, stations need to be assured that their clearing offers will be frozen when they can no longer be repacked. The Commission's DRP proposal would destroy the opportunity to generate that confidence, undermining decisions to participate.

The Commission's DRP proposal is not necessary to address the Commission's understandable desire to avoid an anomalous situation wherein a station's clearing price is unrelated to the price a station is truly willing to accept. While some form of reserve price may be needed if, in the reverse auction's opening round, a station cannot be repacked, DRP would act like a sledgehammer when a scalpel is more appropriate.<sup>6</sup> The uncertainties inherent in the use of DRP will discourage broadcaster participation in the reverse auction, and therefore the Commission should abandon, or at least limit, the use of DRP.

### **III. The Commission Should Disclose More Information to Reverse Auction Bidders Than Was Proposed in the *Comment PN***

Chairman Wheeler has stated his commitment "to ensuring broadcasters have all the information they need to make an informed business decision about whether and how to participate in the Incentive Auction."<sup>7</sup> Yet the *Comment PN* proposes to severely limit the disclosure of information regarding bidding during the reverse auction without offering any public policy rationale for doing so.<sup>8</sup>

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<sup>6</sup> The Expanding Opportunities for Broadcasters Coalition has proposed the "Round Zero Reserve" ("RZR") concept as an alternative to DRP. See Notice of Ex Parte Presentation, Letter from EOBC Executive Director Preston Padden to FCC Secretary Marlene H. Dortch (Feb. 3, 2015), at 3-4. RZR has significant merit, would add certainty, and uncomplicated the auction process by reducing the number of rounds.

<sup>7</sup> *The Incentive Auction: Helping Broadcasters Make Informed Decisions*, FCC Blog Post by FCC Chairman Tom Wheeler (Jun. 25, 2014), available at <http://www.fcc.gov/blog?page=6>.

<sup>8</sup> See *Comment PN* at ¶¶ 76-78.

The prospect of participating in the reverse auction without access to more information than that proposed in the *Comment PN* is raising fears among broadcasters regarding their ability to effectively monitor the reverse auction and make informed decisions as the auction progresses. It is notable that, under the limited disclosure policies that the Commission has adopted for recent major spectrum auctions, bidders are provided more information than the Commission is now proposing to release to reverse auction participants. The Commission should expand the information that it will make available during the reverse auction to participating stations.

Withholding information from reverse auction participants to the extent proposed in the *Comment PN* will hinder informed decision-making and suppress broadcaster participation. The policy proposed in the *Comment PN* is not necessary to protect the confidentiality of the reverse auction, and additional information can be made available to reverse auction participants without jeopardizing the reverse auction process. TBN therefore urges the Commission to make available to participating stations in the reverse auction at least the following information:

- the spectrum clearing target at the beginning of each reverse auction stage;
- the opening price – and if different, the reserve price – for every station eligible to participate in the reverse auction;
- the number of stations registered at the beginning of the auction, as well as the number of stations “frozen” and active at the end of each auction round;
- if the Commission adopts its DRP proposal (which it should not), the point at which the DRP mechanism has been turned off;
- anonymized information about the offers made in each auction round and whether the offers were accepted; and
- a running total of the required payments to broadcasters for bids that the FCC has conditionally accepted.

#### **IV. The Price Decrements To Be Used in the Reverse Auction Should Be Smaller Than Those Proposed In The *Comment PN***

The *Comment PN* proposes that the Commission have the discretion to reduce clearing offers round-to-round by between three percent and 10 percent and to change the size of price decrements at “any point during the reverse auction based on bidding activity during the

auction.”<sup>9</sup> These proposals are inappropriate for this first-of-its-kind auction, where broadcasters will require a sufficient opportunity to process information from the auction and assess whether to accept the next clearing offer.

Even the low end of the range of per round decrements suggested by the Commission (three percent) will force broadcasters – many of whom are not experienced in participating in FCC auctions – into making momentous decisions on whether to accept large reductions in price offers, especially in the early rounds of the reverse auction. From a risk analysis standpoint, large reductions in price offers from round to round will inevitably lead some broadcasters to decide to exit the auction prematurely, thereby increasing the chances that the auction will fail. The challenge to participating broadcasters is compounded if the Commission is permitted to change the size of the price decrements round by round. The Commission should be seeking to allay any anxieties broadcasters may feel about participating in the incentive auction, but the *Comment PN*'s price decrement proposal only serves to heighten them.

## **V. Conclusion**

TBN recognizes and appreciates the hard work and dedication of the Commission that has brought it and the television broadcast industry to the verge of conducting the first-ever spectrum incentive auction. TBN truly appreciates the opportunity that the reverse auction presents, but believes that in order for the Commission to achieve its goal to repurpose the maximum amount of spectrum for mobile broadband use, it should modify the proposals made in

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<sup>9</sup> *Comment PN* at ¶ 105.

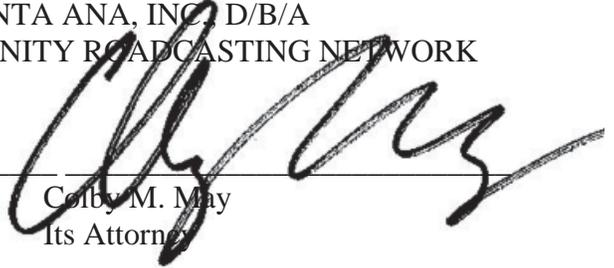
the Comment PN along the lines discussed above.

Respectfully submitted,

TRINITY CHRISTIAN CENTER OF  
SANTA ANA, INC. D/B/A  
TRINITY BROADCASTING NETWORK

By: \_\_\_\_\_

Colby M. May  
Its Attorney

A handwritten signature in black ink, appearing to read 'Colby M. May', is written over a horizontal line. The signature is stylized and cursive.

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