



LPTV
SPECTRUM
RIGHTS
COALITION

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May 20, 2015

Via ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: Ex Parte Meeting Regarding GN Docket No. 12-268: Expanding the
Economic and Innovation Opportunities of Spectrum Through Incentive
Auctions**

Dear Ms. Dortch:

Michael Gravino, Director of the LPTV Spectrum Rights Coalition, (the "Coalition"), met on May 20, 2015 with Renee Gregory, Legal Advisor, Engineering and Technology, Wireless and Incentive Auction for FCC Chairman Wheeler. The Coalition had requested for the 5th time to meet with Chairman Wheeler, since he has never met with any representatives of the LPTV industry during his term, and keeps refusing to meet with us.

In our 10-minute meeting we provided Ms. Gregory, for the Chairman, two posters (see attached) of LPTV and TV translator maps, to graphically show the 8000 LPTV, Class-A, and TV Translator licenses and new construction permits. The FCC Media Bureau, Video Division, generated two of the maps for the Coalition and one map was generated by the Coalition from its new CDBS-Google

Earth mash-up called the BIG MAP PROJECT.

We also gave Ms. Gregory a copy of the Coalition's 96-page *2015 LPTV Industry Directory* so she and the Chairman could see the industry research we have generated to support our filings, and to better see the component parts of our industry.

The main intent of the meeting was to brief Ms. Gregory, for the Chairman, about the proposed Coalition "LPTV & TV TRANSLATOR SPECTRUM USAGE RIGHTS BUY-BACK LEGISLATION" (see attached). This proposed legislation attempts to accomplish the following:

1. Fix Original Problems In The Incentive Auction Act
2. Fix Problems Created By The 1000+ Day FCC Rule Making Process
3. Fix Problems Neither The FCC Nor Congress Have Been Willing To Fix
4. Anticipate Future Spectrum Needs Of The Country And Industry

Ms. Gregory challenged the assertion of the Coalition that Congressional action was needed for the FCC to repurpose TV band spectrum for unlicensed use, and that since the Commissioners have on circulation "*Amendment of Parts 15, 73 and 74 of the Commission's Rules to Provide for the Preservation of One Vacant Channel in the UHF Television Band For Use By Wireless Microphones and White Space Device*", submitted by Office of Engineering and Technology, and the Media Bureau, that she could not discuss it.

The Coalition responded by saying that this item had been on circulation and continues to be since February 2, 2014, and that by having it on so long, any discourse or conversations with staff or any of the Commissioners had been effectively prohibited. The Coalition further stated that the enabling Incentive Auction legislation had enshrined during the rule making and implementation process of the auction, parts 73 and 74 rules for LPTV and TV translators, and that only Congress could change those. Ms. Gregory ended the 10-minute meeting by saying that the FCC, "has the power to repurpose spectrum as it sees fit, and that LPTV could be displaced without compensation", so that there was, "no reason for Congress to offer any buy-back of LPTV and TV translator spectrum now or in the future", EVEN OUTSIDE THE CONTEXT OF THE INCENTIVE AUCTION.

The Coalition asserts, that while LPTV and TV translators are not authorized for compensation while being displaced for the purposes of the Incentive Auction repacking process, that is NOT what the intent of Congress is for protecting LPTV and TV translator spectrum rights. The FCC specifically DOES NOT have the right to change Parts 73 and 74 to elevate an unlicensed spectrum user over a licensed or permitted spectrum user. Any such attempt by the FCC to do so will result in a delay in the auction from any and all legal challenges, which can be made by the LPTV and TV translator industry.

Further, by keeping the item on circulation and prohibiting conversations with staff and the Commissioners about it, during the time of the actual rule making process, is tantamount to a violation of the Administrative Procedures Act, and will be challenged as such.

Since the Chairman has refused to meet with the Coalition, which represents more than 175 LPTV and TV translator businesses, which have many as 1100 FCC licensed facilities and new construction permits in most states, as well as any other LPTV and TV translator industry representatives; but, has met on numerous occasions with the unlicensed spectrum industry, and further, has refused to have an FCC Incentive Learn session during the time of the rule making for the auction, the Coalition is prepared to make legal claims against the Incentive Auction Report and Order.

We further alert the Commission that the Coalition will be seeking a new bill in Congress to check the potentially illegal application of discretionary authority by the FCC, and to fix the problems in the Incentive Auction legislation, which the FCC has been unwilling to go back to Congress to get fixed. The Coalition further asserts, that the Incentive Auction process is in disarray, and can only be fixed by Congressional action, or the Courts.

Respectfully submitted,

Mike Gravino, Director
LPTV Spectrum Rights Coalition

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