RENEE L. ELLMERS
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# Congress of the United States
## House of Representatives
Washington, DC 20515–3302

ENERGY AND COMMERCE
SUBCOMMITTEE ON
COMMUNICATIONS AND TECHNOLOGY

SUBCOMMITTEE ON
HEALTH

SUBCOMMITTEE ON
ENERGY AND POWER

1078

October 22, 2015

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

*Re: Expanding the Economic and Innovation Opportunities of Spectrum through Incentive Auctions, Docket No. 12-268, and*

*Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power TV and Translator Stations, Docket No. 03-185*

Dear Mr. Chairman:

We write to applaud your efforts to achieve a successful Spectrum Incentive Auction. As supporters of the Middle Class Tax Relief and Job Creation Act ("Spectrum Act"), it is our view that a successful auction must make an effort to accommodate Low-Power Television ("LPTV") stations and translators so they may continue to serve their communities, whether urban, suburban, or rural.

As our colleagues Representatives Greg Walden and Joe Barton reminded you in a letter on August 4th, Congress and the FCC agree on the importance of community-based LPTV and translators. LPTV and translators provide the public with a diverse selection of programming and content representing many different cultures, denominations, and worldviews.

Following our July 28, 2015 oversight hearing, we are concerned that following the FCC's broadcast incentive auction there may not be sufficient spectrum to accommodate LPTV stations and translators, potentially forcing them to cease operation.

In order to retain as many of these valuable voices in our communities, it is essential that the FCC limit the incentive auction's impact on LPTV service as much as possible without harming the goals of the incentive auction or delaying its progress.

By November 18, 2015, I would like you to provide us with the following:

1. A detailed status of the Commission's open rulemaking on considering additional means to mitigate the potential impact of the incentive auction and the repacking process on

LPTV and TV translator stations to help preserve the important services they provide (Docket No. 03-185 and No. 12-268), specifically addressing whether this rulemaking will be completed well before auction.

2. In addition, we would also appreciate if you provided whatever analyses and studies that have been conducted by your staff and consultants on the impacts on possible stranding or effective extinguishment of LPTV stations in an auction that clears 126 MHz in the reverse stage and sells 100MHz in the tandem forward event nationwide in all markets, as your staff and investment banking agents have been marketing. Please provide these forecasted LPTV clearing effects by TV market.
3. Lastly, we would also like you to release any alternate scenarios already in-hand that provide ranges of impacts upon LPTV for clearing down to 84 MHz and up also up to 132 MHz of spectrum, as have appeared in various FCC public statements as possible auction goals and outcomes.

We look forward to your response.

Sincerely,

Renee Ellmers (R-NC)
Member of Congress

Kevin Cramer (R-ND)
Member of Congress

Gus M. Bilirakis (R-FL)
Member of Congress

Billy Long (R-MO)
Member of Congress

cc: Hon. Mignon Clyburn, FCC Commissioner
Hon. Michael O'Rielly, FCC Commissioner
Hon. Ajit Pai, FCC Commissioner
Hon. Jessica Rosenworcel, FCC Commissioner

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

November 16, 2015

The Honorable Billy Long
U.S. House of Representatives
1541 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Long:

Thank you for your letter concerning the impact of the upcoming auction on low power TV stations and translators. I agree that LPTV stations and TV translators provide important services upon which many consumers and businesses in rural communities rely. Although the Middle Class Tax Relief and Job Creation Act of 2012 ("Spectrum Act") does not explicitly protect LPTV and TV translator stations in the repacking process, the Commission is taking an array of steps to help mitigate the impact of the auction and repacking process on LPTV and TV translator stations so that the important programming content they provide continues to reach viewers.

As an initial matter, the Commission last year announced that it will open a special filing window for operating LPTV and TV translator stations that are displaced by the repacking and reallocation of the television bands, in order to offer such stations an opportunity to select a new channel.[1] We also modified our rules to allow stations with mutually exclusive displacement applications to reach a settlement or an engineering solution, rather than require competing stations to resolve all mutual exclusivity through an auction as the Communications Act generally requires.[2] In cases where a settlement is not possible, in order to ensure the continued availability of full power television service, we afforded priority to displacement applications filed by digital replacement translators used to fill in the service areas of full power stations that could not otherwise be replicated when those stations transitioned from analog to digital facilities.[3]

Additionally, to help accommodate some of the needs of LPTV and translator stations following the auction, the Commission adopted rules that will permit these stations to remain on their existing channels during the post-auction transition period until they are notified that a forward auction winner is within 120 days of commencing operations on the repurposed 600 MHz spectrum.[4] For many LPTV and translator stations that are located in the new 600 MHz Band, this could mean continued operations for many years until wireless licensees commence operations.

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[1] *See Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GH Docket No. 12-268, Report and Order, 29 FCC Rcd 6567, 6834-35, para. 657 (2014) ("*Incentive Auction Report & Order*").
[2] *Id.*, para. 661.
[3] *Id.*
[4] *Id.*, para. 661.

Recognizing the importance of LPTV and TV translator stations, the Commission also opened a dedicated proceeding to consider additional means to mitigate the potential impact of the incentive auction and the repacking process on LPTV and TV translator stations to help preserve the important services they provide.[5] Today, I circulated proposed rules to my fellow commissioners and I expect that the Commission will act on the proposals put forward in this proceeding later this fall. Those proposals include a range of options to help enable LPTV and TV translator stations remain on the air. First, we have proposed extending the digital transition date for LPTV and TV translator stations until 12 months following the completion of the 39-month post-incentive auction transition period. This extension would prevent stations from having to upgrade facilities to meet the digital transition deadline before knowing whether the station would be displaced by the auction repacking process. Second, we have proposed allowing channel sharing by and between LPTV and TV translator stations.

Channel sharing arrangements could mitigate the effects of repacking displacement by allowing stations to share the remaining television channels and will facilitate the continued viability of LPTV through new programming and business arrangements that promote spectral efficiency.[6] Third, in response to concerns that finding a new channel for displaced LPTV and TV translator stations will be challenging, we have also proposed to use our auction optimization and repacking software to assist LPTV and TV translator stations identify available channels and potentially maximize the number of such stations in the TV band post-auction.[7] Of course, a station's decision to seek channel assignments recommended by the optimization software would be completely voluntary, but I believe that the use of our software will expedite and ease the post-auction transition process for many LPTV and TV translator stations.

The auction will by definition result in a smaller TV band and, therefore, fewer channels for all television stations – full power as well as LPTV and TV translator stations. The Commission has recognized that the auction will potentially displace a significant number of LPTV stations.[8] However, in light of Congress's determination not to include LPTV or TV translator stations in the auction or protect them in repacking, we have not systematically analyzed the potential displacement impact on those stations. Similarly, because LPTV and TV translator stations are not entitled to protection in the repacking process, no assumptions regarding them are necessary to conduct auction simulations or repacking analyses; LPTV and TV translator stations do not factor into such analyses.

Since Congress enacted the Spectrum Act, the FCC has sought to faithfully implement its mandate, while mitigating the potential impact on broadcaster and other services that currently use the broadcast band, including LPTV and TV translator stations. I am confident that the steps

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[5] *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations*, MB Docket NO. 03-185, Third Notice of Proposed Rulemaking, FCC 14-151 (rel. Oct. 10, 2014) ("*LPTV NPRM*").

[6] *LPTV NPRM*, para. 14.

[7] *Id.*, para. 44 et seq.

[8] Incentive Auction Report and Order, 29 FCC Rcd at 6834-35, paras. 656-57.

I have described above will help ensure the continued availability of LPTV and TV translator services post-auction.

Sincerely,

Tom Wheeler

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

November 16, 2015

The Honorable Gus Bilirakis
U.S. House of Representatives
2112 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Bilirakis:

Thank you for your letter concerning the impact of the upcoming auction on low power TV stations and translators. I agree that LPTV stations and TV translators provide important services upon which many consumers and businesses in rural communities rely. Although the Middle Class Tax Relief and Job Creation Act of 2012 ("Spectrum Act") does not explicitly protect LPTV and TV translator stations in the repacking process, the Commission is taking an array of steps to help mitigate the impact of the auction and repacking process on LPTV and TV translator stations so that the important programming content they provide continues to reach viewers.

As an initial matter, the Commission last year announced that it will open a special filing window for operating LPTV and TV translator stations that are displaced by the repacking and reallocation of the television bands, in order to offer such stations an opportunity to select a new channel.[1] We also modified our rules to allow stations with mutually exclusive displacement applications to reach a settlement or an engineering solution, rather than require competing stations to resolve all mutual exclusivity through an auction as the Communications Act generally requires.[2] In cases where a settlement is not possible, in order to ensure the continued availability of full power television service, we afforded priority to displacement applications filed by digital replacement translators used to fill in the service areas of full power stations that could not otherwise be replicated when those stations transitioned from analog to digital facilities.[3]

Additionally, to help accommodate some of the needs of LPTV and translator stations following the auction, the Commission adopted rules that will permit these stations to remain on their existing channels during the post-auction transition period until they are notified that a forward auction winner is within 120 days of commencing operations on the repurposed 600 MHz spectrum.[4] For many LPTV and translator stations that are located in the new 600 MHz Band, this could mean continued operations for many years until wireless licensees commence operations.

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Recognizing the importance of LPTV and TV translator stations, the Commission also opened a dedicated proceeding to consider additional means to mitigate the potential impact of the incentive auction and the repacking process on LPTV and TV translator stations to help preserve the important services they provide.[5] Today, I circulated proposed rules to my fellow commissioners and I expect that the Commission will act on the proposals put forward in this proceeding later this fall. Those proposals include a range of options to help enable LPTV and TV translator stations remain on the air. First, we have proposed extending the digital transition date for LPTV and TV translator stations until 12 months following the completion of the 39-month post-incentive auction transition period. This extension would prevent stations from having to upgrade facilities to meet the digital transition deadline before knowing whether the station would be displaced by the auction repacking process. Second, we have proposed allowing channel sharing by and between LPTV and TV translator stations.

Channel sharing arrangements could mitigate the effects of repacking displacement by allowing stations to share the remaining television channels and will facilitate the continued viability of LPTV through new programming and business arrangements that promote spectral efficiency.[6] Third, in response to concerns that finding a new channel for displaced LPTV and TV translator stations will be challenging, we have also proposed to use our auction optimization and repacking software to assist LPTV and TV translator stations identify available channels and potentially maximize the number of such stations in the TV band post-auction.[7] Of course, a station's decision to seek channel assignments recommended by the optimization software would be completely voluntary, but I believe that the use of our software will expedite and ease the post-auction transition process for many LPTV and TV translator stations.

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Sincerely,

Tom Wheeler

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WASHINGTON

OFFICE OF
THE CHAIRMAN

November 16, 2015

The Honorable Kevin Cramer
U.S. House of Representatives
1032 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Cramer:

Thank you for your letter concerning the impact of the upcoming auction on low power TV stations and translators. I agree that LPTV stations and TV translators provide important services upon which many consumers and businesses in rural communities rely. Although the Middle Class Tax Relief and Job Creation Act of 2012 ("Spectrum Act") does not explicitly protect LPTV and TV translator stations in the repacking process, the Commission is taking an array of steps to help mitigate the impact of the auction and repacking process on LPTV and TV translator stations so that the important programming content they provide continues to reach viewers.

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November 16, 2015

The Honorable Renee Ellmers
U.S. House of Representatives
1210 Longworth House Office Building
Washington, D.C. 20515

Dear Congresswoman Ellmers:

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