



LPTV
SPECTRUM
RIGHTS
COALITION

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Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

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

Dear Ms. Dortch:

This letter is in response to both the AT&T and NAB submissions into the Incentive Auction proceedings (12-268) related to the post-auction “regional repacking plan”, and the role of “transition administrator”.

Our Coalition of LPTV and TV translators believes that a successful broadcast spectrum incentive auction includes four key components as they relate to our industry’s almost 10,000 licenses, construction permits, and new accepted applications for 6-MHz channel assignments:

- 1) The rapid assessment of the impacts of the reverse auction, and how the existing Part 74 rules relate to the displacement process;
- 2) The forward auction and its’ final level of participation in each Partial Economic Area (PEA), and how these levels will impact current LPTV and translator licensed facilities related to spectrum clearing timing;
- 3) The transition of the remaining primary broadcasters into a reorganized band plan, and how this process impacts the LPTV and translator displacement process; and,
- 4) The participation of LPTV and TV translators in the “transition plan”, including a seat at the table of principals, and the production of an “impact analysis” of each of the transition plan’s desired outcomes.

With the start of the reverse auction later this month, the post-auction transition could begin within six months. This means the LPTV and TV translator displacement window, scheduled for six months after the close of the incentive auction, could begin in less than a year from now. Repacking “all” broadcasters, both eligible for repacking protection, and those that are not, into a smaller portion of the UHF and VHF bands after the close of the auction, will present unprecedented logistical AND financial challenges to our industry.

How LPTV and TV translators will be found new channels will require careful coordination, as well as close cooperation with the wireless and broadcast industries. At a minimum, more than 4000, LPTV and TV translator licensed broadcast television stations will be moving to new channels, and with NO FINANCIAL COMPENSATION. Our Coalition estimates this to be an average of about \$150,000 for each already licensed facility. Our impacts will range from \$500 to \$900 million at a minimum just to move. The damages over the past four years of regulatory overhang and non-eligibility in the auction have devastated our balance sheets and pocket books, and has ruined many a retirement plan. Our industry is determined not to let that happen to us in any new legislation or rulemaking.

In the repacking, for the first time ever, Part 74 licensees and permittees will have to conduct engineering studies to show that we are not interfering “within a PEA”, which is totally new, and does not have any precedent for how interference engineering is now conducted. At a recent presentation by an FCC expert engineering staff member about how the new TV Study and related tools will be used post-auction, it was revealed that no staff engineering had been done so far to see how the PEA interference studies could be conducted, meaning, THAT LPTV AND TV TRANSLATORS ARE BEING REQUIRED TO CONDUCT NEW, NEVER DONE BEFORE ENGINEERING STUDIES, AND THAT THERE IS NO RESEARCH CURRENTLY BEING DONE ON THIS.

Further, because both Congress and the FCC have not protected our licenses and permits, the potential for interference within and between adjacent PEA’s will mean in many cases that all LPTV and TV translator stations in a market may be forced to complete their channel moves very quickly without funding, or risk going off the air. In response to this, our industry is considering how to slow down the clearing of PEA’s, all through legal, but delayed moving of auction eligible but not participating stations. Many Class-A owners also own many LPTV. All it takes is a few “repack protected” but “not needed” Class A’s in key markets, and the national repack is slowed down big time. For every month a PEA is not cleared from an eligible broadcaster it is financial pain to the wireless builder. The delta between an 18 month, first market to be cleared PEA, and one 30 months out, is a year of lost time. Remember, 39 months is 39 months if you have repack protection. So even the early to be cleared regions are not fully cleared unless they are.

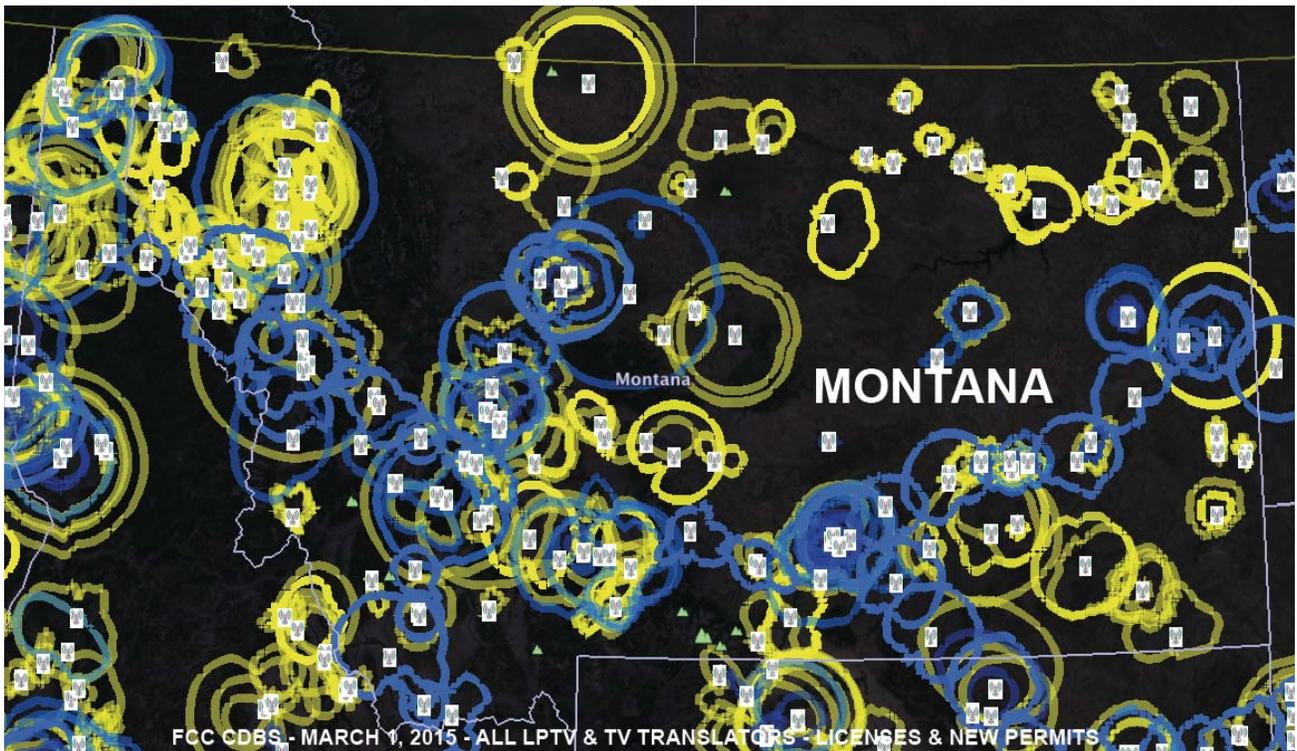
The path to a smooth, well-coordinated and efficient transition is for the FCC to include LPTV and TV translators at the table when a regional repacking plan is developed. We fully understand what the enabling legislation says about our eligibility for repack protection, but the FCC has its discretion. However, we simply want to be included in the process of how the repack will be conducted as to how it affects the 10,000 of us.

And remember, the TV translator space has changed dramatically since the DTV transition. Many local stations, after converting to digital, began local programming. And they then converted to LD status from TX. With the civic translators being about 2500, the “indie

translators”, those which are non-com, or for profit local, they are about 25%, and they usually pay for the programming they air from the major networks. This is because it usually comes from a sat feed. Translators owned by the primaries, while essential to their coverage of a DMA, are no longer the driving force in the rural areas out beyond the contours of their signals.

During the recent Senate oversight hearing, two of the Senators from Nebraska and Montana, with more than 800 LPTV and TV translators in their states, expressed their concerns about the repacking process

This is a map of Montana. Shown are all LD, LP, CA, DC, and TX licenses & permits. Montana has over 500 LPTV and translators, and they are mainly the only TV service in an area.



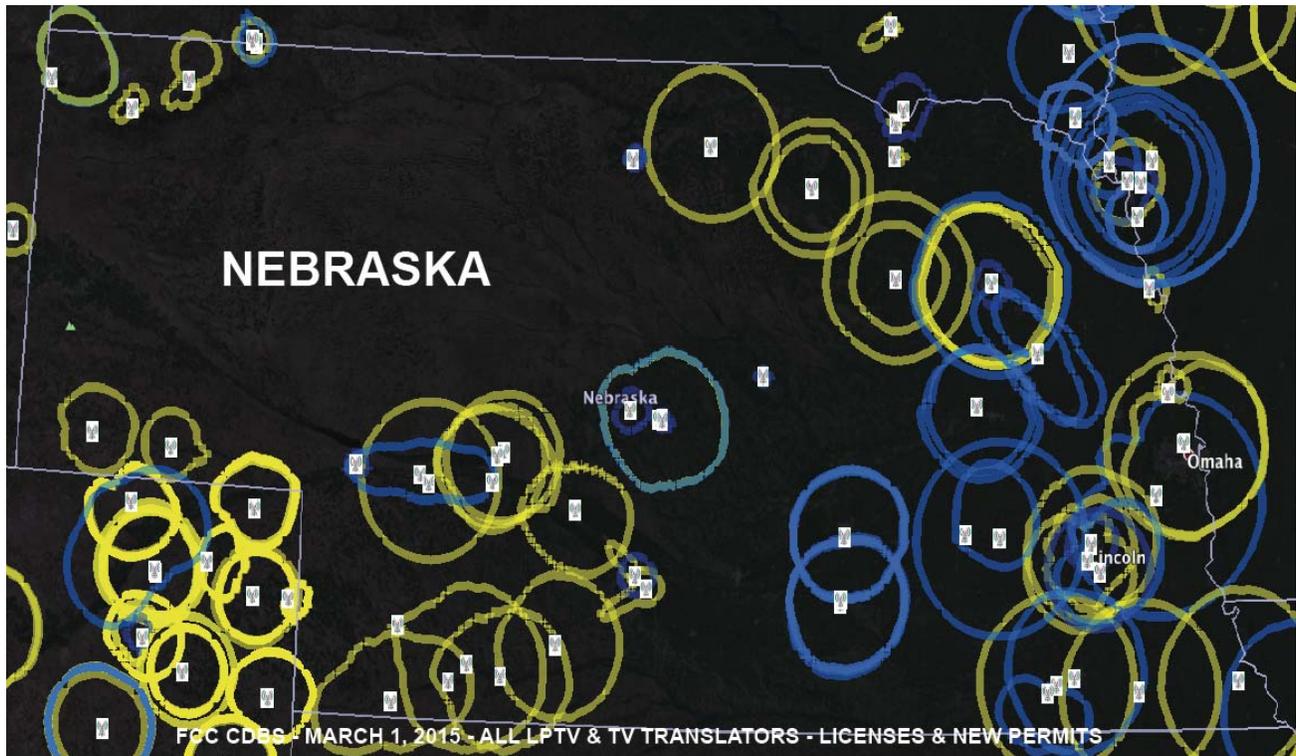
BIG MAP PROJECT

MONTANA COVERAGE MAP

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This is a map of Nebraska. Shown are all LD, LP, CA, DC, and TX licenses & permits. Nebraska has over 300 LPTV and translators, and they are mainly the only TV service in an area.



BIG MAP PROJECT

NEBRASKA COVERAGE MAP

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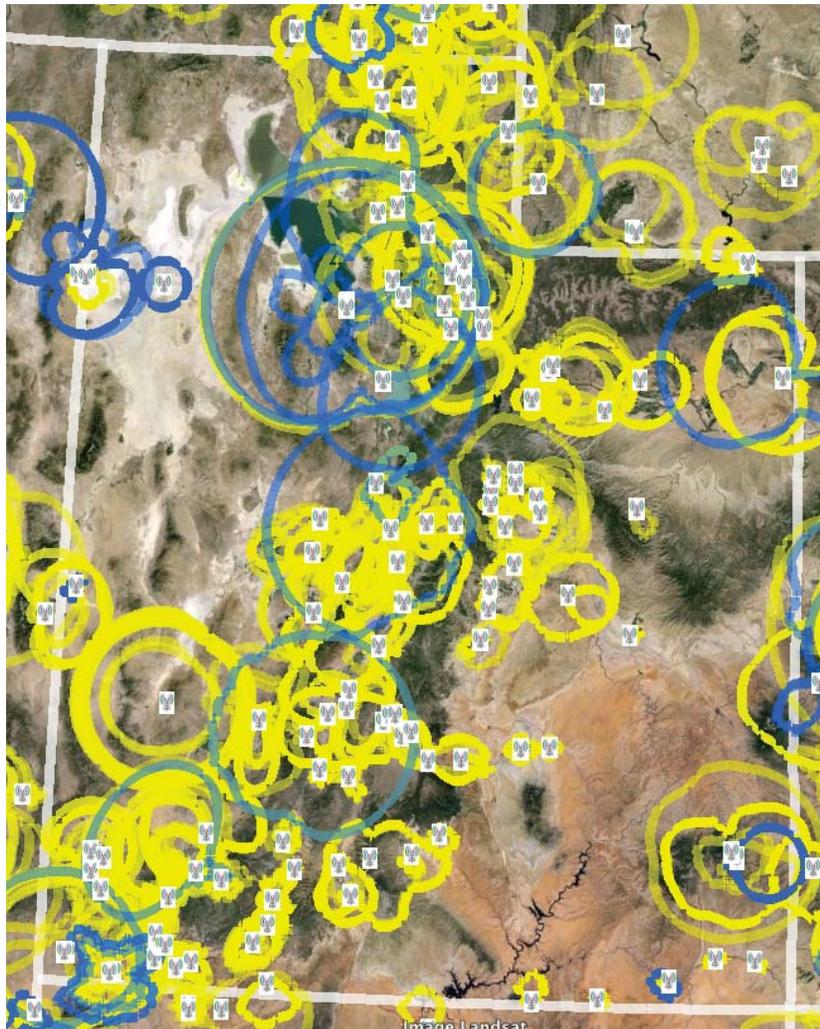
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This auction and repack, as now legally ruled on, will dramatically affect and disrupt the millions of LPTV and TV translator viewers. **WHY ARE OUR VIEWERS LESS IMPORTANT? THEY ARE NOT!** We are a vital component of the national EAS system, and if we are not at the table when the transition plan is made, and specific items are not included for us, we will have no choice then to go to court to block the process of how the transition is planned. The essential EAS service we provide to the owners of the spectrum, the citizens, needs to be managed carefully in this process. If the vacant channel order is enacted then for the first time we have to deal with potential 1000's of unknowns popping up everywhere in our coverage area in an unregulated manner with no supervision or ability of our licensed services to monitor for interference. Our EAS role in many communities is the only one providing that service. We cannot be an after thought of the transition planning. We are an essential component of it.

The transition plan needs to consider that as many as 200 local gov't & education authorities license and manage for their citizens more than 2500 LPTV and TV translator licenses, and new permits. Congress gave these communities an unfunded mandate, and not a one of them on the hill spoke out, or since then, in opposition. The FCC has a contract with each and every one of the almost 10,000 LPTV and TV translator licensees,

permittees, and applicants. Whether or not the courts rule on should the FCC have included our industry in the initial LEARN sessions and rulemaking, the current obligations the FCC has to us, under our contracts with it, demand that the impacts to us, and the current protections we are provided, will be preserved.

The State of Utah, with more than 900 translators and LPTV stations, many with licenses assigned to civic, education, and government agencies, has just passed and the Governor signed, a “Concurrent Resolution” about the incentive auction and repack. (see attached)



The LPTV and TV translator industry over thirty years now has signed contracts with the government to provide essential national and local civic communication. And through the use of our capital and skills we provide EAS to the owners of the spectrum, the citizens. As we all know, Congress said not to alter our spectrum usage rights. The FCC is responsible for our national contribution to the EAS system, and as such, needs to carefully consider our role in the repack.

Unless our industry is at the table for the transition planning, we will go to court and Congress to intervene. We know our status; we know what the rulemaking says. But for too long the FCC has neglected its' obligations to the owners of the spectrum to make sure they are getting the best they can from it. Our spectrum is not being sold at auction,

so the FCC needs to make sure we are providing the best EAS services we can. This will most importantly be true during the hand-offs of stations with channel moves. As was in the DTV transition, LPTV, especially those in metro-areas, will be needed in the transition. And they will also be needed as fill-in's, providing short-term capabilities until the actual new fill-in translators are built.

All throughout this process, the viewers of LPTV and TV translators, which may only watch a primary station a small part of the day, well they need their EAS connections without interruption.

Another problem with a regional repacking plan is that if financed and ready-to-build LPTV and TV translators are NOT included in the tower crewing, many stations could be forced off the air because the tower crews have left the region. In the top markets a transition administrator will have to consider allowing our industry to rebuild at the same time. Many second, third, and fourth positions on major urban towers are LPTV. It behooves everyone to have this done at the same time where possible.

Our industry wants to get this process over with as soon as possible and get back to business, investments, and the 3.0 futures we all want.

We agree that a successful structure for overseeing the post-auction transition should have three key components: planning; reporting; and dispute resolution. Unique to LPTV and TV translators will be our own displacement process and application windows.

Given these challenges, we agree with both NAB and AT&T that, a comprehensive planning process should include dispute resolution procedures to address potential concerns.

As NAB summarized:

“First, the Commission should be prepared to address disputes concerning broadcaster reimbursement, to provide broadcasters with confidence that they will be reimbursed for their costs.”

While LPTV and TV translators do not receive relocation funding, our Class A members do, and as such, those remaining Class A's want to make sure the funding is available when they need it.

“Second, the Commission should have in place a waiver process, with predictable standards, to address situations where the transition extends beyond the FCC's deadlines for a given market or region.”

The dispute resolution procedure is of special concern to LPTV and TV translators. Whichever leniencies are offered to the primaries needing more time to relocate, a similar type of procedure should be considered for our industry. Remember, the FCC has the obligation to maintain for the American public the LPTV and TV translator EAS capability. Waivers, were appropriate, should be considered.

Our industry deserves a seat at the transition-planning table. Our post-auction displacement activities need to be part of any transition plan. Our role in the national and local EAS system is essential and needs careful consideration within the transition plan.

Any transition administrator contracted with to oversee the regional repacking of spectrum should be required to have LPTV and TV translators in the room when the rules are made.

Respectfully Submitted,

Michael Gravino
Director
LPTV Spectrum Rights Coalition