

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of )  
 )  
Expanding the Economic and Innovation ) GN Docket No. 12-268  
Opportunities of Spectrum Through Incentive )  
Auctions )

To: The Commission

**COMMENTS OF  
SHENANDOAH VALLEY EDUCATIONAL TELEVISION CORPORATION**

Shenandoah Valley Educational Television Corporation (“Shenandoah Valley”) respectfully comments on the repacking proposals described by the Commission in the Notice of Proposed Rulemaking (“NPRM”) in the above-captioned proceeding. Shenandoah Valley is the licensee of non-commercial, educational station WVPT, Staunton, Virginia. WVPT serves viewers in the Shenandoah Valley and Central Virginia. As a VHF station, and one which operates in an area with rough terrain, WVPT’s viewers experienced many problems receiving the station’s digital broadcasts. The FCC has granted WVPT a waiver to operate on VHF Channel 11 at 10 kW effective radiated power (ERP), above the usual power levels for VHF stations, and Shenandoah Valley believes that under the Spectrum Act,<sup>1</sup> the Commission must protect the station’s footprint in connection with the repacking. Shenandoah Valley submits these comments to address one particular statement in the NPRM which suggests that the Commission does not intend to do so.

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<sup>1</sup> Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 125 Stat. 156, Title VI (2012) (“Spectrum Act”).

In the NPRM, the Commission notes that the Spectrum Act requires the Commission to “make all reasonable efforts to preserve, as of the date of the enactment of this Act, the coverage area and population served of each broadcast television licensee....”<sup>2</sup> However, in footnote 157 of the NPRM, the Commission states: “We ... recognize that not all stations are currently in compliance with maximum effective radiated power (ERP) and antenna height above average terrain limits. *See* 47 C.F.R. § 73.622(f). We propose to make all reasonable efforts to preserve the existing coverage areas of stations whose operations exceed the antenna height (but not ERP) limits.”<sup>3</sup> This footnote suggests that if a station — such as WVPT — is operating with a waiver of the ERP limits, the Commission will *not* “make all reasonable efforts” to preserve its coverage area and population served as of February 22, 2012. Such an approach would be contrary to the Spectrum Act, and to the public interest, and Shenandoah Valley urges the Commission to clarify that it will protect stations in this position.

In WVPT’s case, the station has been authorized to operate above the ERP limits since late 2009. In light of the serious and widespread reception problems that the station’s viewers were experiencing, WVPT originally was able to obtain temporary authorization to operate at 10 kW ERP.<sup>4</sup> After WVPT submitted evidence showing that the power increase had allowed the station to substantially improve reception for its viewers, the Commission in mid-2010 authorized the station to operate at that power level permanently.<sup>5</sup> As intended by the

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<sup>2</sup> Spectrum Act at § 6403(b)(2) (emphasis added).

<sup>3</sup> NPRM at n.157.

<sup>4</sup> *See* BDSTA-20090817ACM.

<sup>5</sup> *See* BPEDT-20081022ABK (granted August 11, 2010). WVPT filed its license application later that month.

station and as authorized by the Commission, operations at 10 kW under the waiver of the ERP limits have improved WVPT's ability to serve the viewing public.

After having authorized WVPT to operate at 10 kW to address the reception problems related to digital broadcasting on a VHF channel, in an area with rough terrain, and in light of the station's longstanding operations at this power level — since long before the Spectrum Act was enacted — the Commission should not jeopardize the service received by WVPT's viewers by not protecting the coverage area and population served by WVPT as of February 22, 2012. Failure to protect the station's entire footprint would create risks that existing viewers would lose the free, over-the-air public television service provided by WVPT. And it would be contrary to the requirements that Congress established in the Spectrum Act. A clarification of the intent of footnote 157 of the NPRM accordingly would be desirable for Shenandoah Valley station WVPT and for other stations in a similar position.

Respectfully submitted,



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