

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In the Matter of)

Expanding the Economic and Innovation)
Opportunities of Spectrum Through Incentive)
Auctions)
_____)

) Docket No. 12-268

To: The Commission

**Comments of
Community Television, Inc.**

Community Television, Inc. (“Community”), through undersigned counsel, hereby files comments in response to the Commission’s September 28, 2012 *Notice of Proposed Rulemaking* in the above-captioned matter.¹

Background

Community is the owner and operator of non-commercial full power television station WATC, Atlanta, Georgia. WATC is an independent broadcaster that has been providing community-oriented religious programming to the Atlanta area for over 17 years. Community is gravely concerned that the post-auction spectrum repacking process will compromise its maximized digital television service, causing viewers to lose service.

In the NPRM, the FCC concludes that the Spectrum Act’s February 22, 2012 effective date is the cut off date for protection of broadcast facilities during spectrum repacking by interpreting that as the date by when facilities had to be licensed in order to receive protection.² However, the Commission does consider that there may be other permitted facilities that, though

¹ Notice of Proposed Rulemaking, *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*; FCC 12-118, rel. October 2, 2012 (hereinafter “NPRM”).

² NPRM, ¶113.

not “licensed” as of February 22, 2012, should nevertheless be fully protected during repacking.³ For the reasons below, Community strongly urges the Commission to extend interference protection during repacking to maximized digital television construction permits that expand digital television service to the public.

In 2008, Community decided to expand its digital facilities by increasing effective radiated power, and pursuant to the FCC lifting a freeze that allowed such filings, filed a construction permit for those facilities on June 19, 2008.⁴ The FCC granted the permit ten months later on April 30, 2009. Community began planning for the build out of those facilities, and after finalizing those plans to coincide with financial budgets, filed an application in November, 2011 to modify the permit to specify slightly reduced parameters.⁵ The FCC granted that modified permit on January 11, 2012. Community purchased equipment and contracted for labor, completing construction and filing for a license on April 4, 2012.⁶ The FCC granted the new license for WATC’s maximized digital facilities on May 7, 2012. In all, WATC’s efforts expanded its coverage area by 20%, adding new digital television service to thousands of new viewers. WATC spent well over \$200,000 to deliver this new service.

Cutting off interference protection for WATC’s maximized facilities places its investment and the television service to its new viewers at risk. In addition, it is unfair and contrary to the Spectrum Act’s mandate to preserve stations’ coverage areas and populations. Spectrum Act §6403(b). WATC had a valid permit and relied upon its right to construct the facilities as it expended time and money. The Commission even modified that permit before the Spectrum Act became effective. Congress could not have intended to subject authorized maximization facilities to interference during repacking, and the FCC’s very narrow

³ NPRM, ¶¶113-118.

⁴ BPEDT-20080619AIR, granted May 30, 2009.

⁵ BMPEDT-20111117AMN.

⁶ BLEDT-20120404AAX.

interpretation of what constitutes “licensed” stations⁷ thwarts Congress’ stated objective of preserving broadcast television service during spectrum auctions. So long as a station held a license as of February 22, 2012, whatever facilities it was authorized – built or unbuilt – should absolutely be protected. Such logic particularly makes sense in Community’s situation, where substantial sums were expended to provide new television service.

Conclusion

For the above reasons, during any post-auction repacking process, Community respectfully submits that the FCC should fully protect WATC’s authorized and built maximized digital television facilities.

Respectfully submitted:

Community Television, Inc.



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⁷ NPRM, ¶113.