

## LOCAL MEDIA TV HOLDINGS, LLC

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March 22, 2013

William Lake  
Chief, Media Bureau  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re: FCC Docket No. 12-268  
In the Matter of Expanding the Economic and Innovation  
Opportunities of Spectrum Through Incentive Auctions  
Notice of Ex Parte Communication**

Dear Bill,

I am writing to seek clarification on the Media Bureau's policy for processing Class A displacement applications while we await rules to implement the spectrum auction and subsequent repacking, as proposed in the Commission's Notice of Proposed Rulemaking in the docket listed above.

Recently, Media Bureau staff informed us that they will not place a Class A displacement on a proposed grant list ("PGL") or grant those that have already been placed on a PGL because they expect to issue a public notice changing the rules relating to Class A station displacement applications. Specifically, we were advised that a Class A station filing a digital displacement application may be required to contain the contour of its displaced facility wholly within the existing authorized contour of the station. Until staff determines whether and how it can implement this rule change, we were advised that Class A displacement applications will not be processed, even though these applications fully comply with existing rules.

This information was shared with us in response to our status request for two pending Class A displacement applications. The first application is for WTSD-CA, Philadelphia, PA. This station displaced from analog channel 14 to digital channel 16. The facility was built and a license application was filed. The New York City Department of Information Technology & Telecommunications (NYC DoITT) contacted Local Media shortly after the station began operations claiming they were receiving interference. WTSD immediately ceased operations while it worked to resolve the claim with NYC DoITT. The station returned to the air with a lower power facility pursuant to Special Temporary Authority, but NYC DoITT again asked it to cease operations until it could work out a testing and coordination schedule. Although we have worked in good faith for many months to resolve NYC DoITT's concerns, they have been very clear that the only solution they would be satisfied with is a change in WTSD's channel. WTSD has been off the air since July 3, 2012 and must return to the air by July 2, 2013 or it will have been silent for twelve consecutive months and risks forfeiture of its license. WTSD filed a

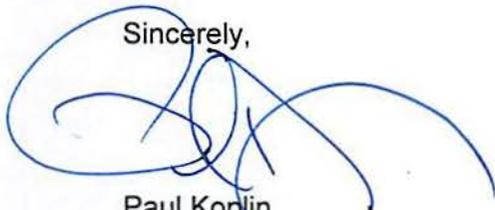
digital displacement application on February 28, 2013 seeking to move from Channel 16 to Channel 23 (FCC File No. BDISDTA-20130227AIH). Media Bureau staff recently advised us that despite the unique public interest considerations associated with this application, the application would not be placed on the next PGL (a requirement for displacement applications), nor could staff give us any timeline of when they could process this Class A displacement application. It thus appears that the Media Bureau has adopted a new policy – without notice to regulated parties – that it intends let Class A stations lose their license by the failure of staff to process pending applications.

The second application is for W40CN-D, a station recently acquired by Local Media. An application seeking displacement for W40CN was filed by Local Media in December 2012 (FCC File No. BDISDTA-20121219ACH) contingent upon grant of its application to acquire this station. Local Media conducted an engineering study and determined that W40CN caused an impermissible level of interference to WIFR(TV), a full power station. Pursuant to 73.3572(a)(4)(iii), W40CN is displaced, and “may at any time file a displacement relief application for a change in channel, together with technical modifications that are necessary to avoid interference or continue serving the station's protected service area, provided the station's protected contour resulting from a relocation of the transmitting antenna is predicted to overlap some portion of the protected contour based on its authorized facilities.” W40CN was placed on the January 15, 2013 PGL. The majority of the low power applications on that list were granted in mid-March, however, the three Class A applications on the list were not. Staff now advises that even though the application was reviewed prior to placement on the PGL and found to be eligible for grant, they have taken another look at the application and while they agree that the engineering demonstrates impermissible interference with a full power station they believe that there are other ways to resolve the interference (such as improved equipment), and therefore, will not grant the application.

We ask that you immediately and publicly clarify the Media Bureau's policy for processing Class A displacement applications. Due process concerns and the requirements of the Administrative Procedure Act require clarification regarding the following questions: Has the Media Bureau placed an internal freeze on processing Class A displacement applications? If so, when will this freeze be lifted? Will the Commission issue a Notice of Proposed Rulemaking for public comment of its proposed changes to the rules for Class A displacement applications? Will it continue to withhold all action on Class A displacement applications during this process? Please also explain how any rule change can be applied retroactively to applications already on file. And please explain by what authority staff can refuse to process displacement applications that fully comply with current rules.

We look forward to your response.

Sincerely,



Paul Koplin  
Operating Partner