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Marlene H. Dortch, Secretary
Federal Communications Commission
Washington, DC 20554

Re: Report of Oral Ex Parte Communications
GN Docket No. 12-268

Dear Ms. Dortch:

This is to report that oral ex parte communications were made with respect to the above-referenced docket as follows:

Presenter: **WatchTV, Inc.**
855 Harbor Court, Southlake, TX 76092
Represented by: Gregory J. Herman, President; Amy Brown, Executive
Director of SpectrumEvolution.org, and
Peter Tannenwald and Robert J. Schill, Legal Counsel

FCC Personnel:

June 26, 2013:
Matthew Berry, Esq., **Office of Commissioner Pai**
Gary M. Epstein, Esq. and Edward Smith, **Auction Task Force**
Barbara A. Kreisman and Rebecca Hanson, **Media Bureau**

June 27, 2013:
Alex Hoehn-Saric, Esq., **Office of Commissioner Rosenworcel**

WatchTV, Inc. is the licensee of five Class A television stations in the Portland, Oregon, DMA (Market 22), as well as other Class A and Low Power Television stations in the states of Oregon and Washington. With respect to its Class A stations, it wishes to participate in the upcoming incentive auction. Mr. Herman discussed the business uncertainty that WatchTV currently faces because it does not know whether its spectrum will be accepted in the auction, when the auction will take place, and when auction proceeds will be distributed. With equipment now reaching an age when it must be replaced, and the traditional business model of Class A stations eroded by migration of national programming to digital streams on full power television stations, a decision must be made soon as to whether or not to invest in replacing equipment and building a new business model. The longer the FCC takes to make decisions and disseminate hard information about how the incentive auction will work, who will be eligible to sell, and how the repacking process will be engineered, the more pressure WatchTV will face to move forward with its business. The more that it invests in its existing business, the less incentive it will have to participate in the auction or the higher its selling price will go if it does participate. After some point in time, it will likely not participate at all.

WatchTV urged that the Commission increase the incentives for stations to participate by relieving stations that are currently not profitable from incurring additional operating and capital expenses. Stations committing now to participate in the auction should be permitted to go dark and remain dark until after the incentive auction, with the Commission making an appropriate finding permitting this arrangement under Section 312(g) of the Communications Act. The Commission should also not consider being dark to constitute failure to comply with Class A local programming and minimum hours requirements and should pull back from its recent intensive Class A enforcement efforts.

In response to Staff comments that allowing stations to go dark would deprive the public of service and would relieve stations from public service obligations that they willingly accepted when they applied for licenses, WatchTV noted that these stations will go dark anyway after the auction, and the timing of when they go dark is less important than fulfilling the Commission's strong policy of encouraging them to participate in the auction. Moreover, intense enforcement of Class A obligations, with an offer to excuse violations if stations accept a downgrade to low power status, encourages stations to move to a classification where they have no public interest obligations or minimum operating hours, thus ending up with the same loss of service, effectively encouraged by the Commission. In response to comments that public policy must prevail over business considerations, WatchTV responded that the highest priority and most recently adopted public policy right now is to encourage stations to participate in the incentive auction, and the Commission needs to harmonize a variety of legacy policies so that they all aim toward achievement of that highest priority.

WatchTV also suggested that the Commission could assist low power TV stations, which offer diversity of video programming and ownership opportunities not found elsewhere, to survive by reserving channels for them with technical parameters, including power, distributed antennas, and signal format flexibility, that would enable those stations to occupy spectrum adjacent to spectrum auctioned for wireless broadband services without interfering with



broadband services. Even without reserved channels, spectrum flexibility, which the Middle Class Relief Act explicitly allows for stations foregoing relocation compensation, would help low power stations both find usable spectrum and broaden their service to the public, including in rural areas where financial incentives are weak for broadband build-out by large wireless carriers.

Respectfully submitted,

Peter Tannenwald

cc: All Meeting Participants