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August 15, 2013

Honorable Jessica Rosenworcel  
Commissioner  
Federal Communications Commission  
Washington, DC 20554

Re: Broadcast Incentive Auctions

Dear Commissioner Rosenworcel:

After the Incentive Auction Update at the Commission meeting last week, you released a statement that included some very important concepts:

Second, participation. As has been said before, we do not want to hold a party and have no one show up. Voluntary participation is essential. I continue to believe that reaching out directly to every broadcaster in the top 30 markets in this country is prudent.... Some stakeholders have suggested that the Commission could ease regulatory burdens on broadcasters that commit in advance to participate in the auctions. I know there are knotty legal issues here, but I think we should untangle them -- because creative ideas should be encouraged and this Commission should respond by acting quickly and being creative in return.

WatchTV, Inc. is the licensee and operator of five Class A television stations in Portland, OR, DMA, Market #22. Our company would like to “show up” and take advantage of the economic opportunity offered by the auction. We will do so completely voluntarily if given the opportunity, but we face barriers making it increasingly difficult to participate as time passes – barriers, which are both unnecessary and easily removed.

Reaching out to broadcasters like us is critical, because at least some of the barriers of participation are really not “knotty legal issues” but rather, once recognized and understood, can be easily untangled and removed with the creative thinking that you have urged everyone to undertake. I personally came to the Commission on June 26, meeting with several officials, including Alex Hoehn-Saric of your office and Gary Epstein of the Auction Task Force, among others, to explain some of the barriers. I hope that you will pursue the path you have urged, encouraging both Commissioners and Staff to broaden the scope of their contacts

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with individual broadcasters, so that they will learn more about the barriers which seem to be moving in the wrong direction, decreasing rather than increasing incentives for participation.

I think that the preponderance of affected parties agree that the most likely auction participants are stations that are not profitable, those that foresee decreasing revenues, and stations facing capital expenditures which are difficult to justify in the present environment, where future spectrum availability is uncertain because of lack of information about how re-packing will be implemented. WatchTV's own stations, all of which are already built out and operating with digital equipment, face the problem of aging hardware, which needs replacement. They are also currently not profitable, so continued operation is a financial drain. The longer we have to wait, the more pressure we are under to re-build the stations and seek new business models, or at least, increase our price threshold in the auction.

I urge you to help remove the financial barrier by enabling stations which commit now to participate in the auction (assuming they are invited to do so) by stopping the "bleeding" and allowing them to remain dark until they have sold in the auction, or until a period of time after an auction where they are unable to sell. The only regulatory barriers to going dark now are Section 312(g) of the Communications Act, which declares a license to be expired after one year of continuous failure to broadcast, and the local programming and minimum hours of operation requirements imposed on Class A stations, which are substantially more stringent than those imposed on full power TV stations.

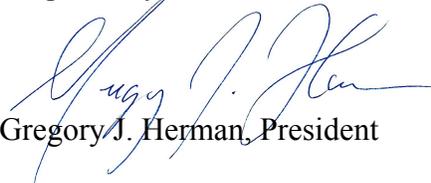
Section 312(g) gives the Commission discretion to extend the one-year period, so it has full authority to do that without any "knotty" legal issues. The Commission has also recognized that Class A stations obviously cannot satisfy programming requirements when they are dark, so there is no barrier to granting that relief either.

I recognize that when a station goes dark, the public loses broadcast service; but the basic purpose of the incentive auction is to repurpose TV spectrum, and the inevitable result of stations contributing their spectrum to the auction will be loss of broadcast service. In the Middle Class Tax Relief and Job Creation Act of 2012, Congress authorized the Commission to invite TV stations to participate in the incentive auction and go out of business, thus making it clear that legacy policies, whatever their merit, must no longer serve as barriers to the new national policy to find spectrum to support wireless broadband growth. Whether shutdowns occur in 2013, 2014, or 2015, broadcast services cannot reasonably be deemed critical when compared to the overarching objective of making some of today's broadcast spectrum available for wireless broadband services.

Please do reach out to all broadcasters, and with all due respect, not so much with webinars and presentations but rather with open ears, and true incentives, seeking not to announce what the Commission thinks but to learn what is now deterring broadcasters and what will best incentivize them, leaving plenty of time for questions and comments. The Commission can then focus its efforts on removing the barriers it has found in order to achieve the primary goal of significant voluntary auction participation.

Thank you for reading my letter and for your efforts to look for new approaches and ways to solve problems.

Respectfully submitted,



Gregory J. Herman, President

cc: Honorable Mignon Clyburn, Acting Chairwoman  
Honorable Ajit Pai, Commissioner  
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GN Docket 12-268 (via ECFS)