

Cohen, Dippell and Everist, P.C.

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Media Bureau Seeks Comment on) GN Docket No. 12-268
Widely Report and Catalog of Potential)
Expenses and Estimated Costs)

Reply Comments
on Behalf of
COHEN, DIPPELL AND EVERIST, P.C.

The following reply comments are submitted on behalf of Cohen, Dippell and Everist, P.C. (“CDE”) and is in response to the Public Notice released by the Federal Communications Commission on March 20, 2014. CDE and its predecessors have practiced before the Federal Communications Commission (“FCC”) for over 75 years in broadcast and telecommunications matters. The firm or its predecessors have been located in Washington, DC since 1937 and performed professional consulting engineering services to the communication industry.

The undersigned is licensed as a Professional Engineer in the District of Columbia and has been in continuous employment with this firm or its predecessors for over fifty (50) years.

This firm has reviewed the comments, among others, by National Association of Tower Erectors, American Tower Corporation, GE Healthcare, Dielectric, Google and National Association of Broadcasters. These comments in concert with the February 21, 2014 webinar (first session) coupled with the presentation at NAB Convention on April 7, 2014 at the LPTV

presentation entitled, “LPTV & The Spectrum Auction Information Session” (“LPTV”) by William Lake provide the foundation for these reply comments.

The February 21, 2014 webinar alludes during the Incentive Auction process the problem solving routine described by Dr. Kevin Leyton-Brown. As described by Dr. Brown, it was inferred that part of the frequency placement analysis is that there is no constraint as to any TV assignment even if that facility has not placed itself in the Incentive Auction. It was also inferred by Dr. Brown that this involuntary possible reassignment change in channel could affect any UHF station above Channel 14. In other words the Incentive Auction process will not be constrained in which stations (channels) will be reorganized. Also it appears from Dr. Brown’s presentation that during this reassignment process the transmitter site may be arbitrarily changed to another location so as to achieve some yet undisclosed goal. This will add a drastic complication in achieving an orderly transition process. If true, then the FCC has not fully disclosed what constraints are placed on the process during the Incentive Auction repacking process. As noted in this firm’s comments, the Widelity introduction listed nine distinct elements. None of these elements suggest the apparent aggressive repacking process that appears to be emerging in the FCC’s plans for implementing the Incentive Auction.

Mr. William Lake at the NAB LPTV presentation described that the planned Incentive Auction process will use as the final step an “optimizer”. To this firm’s knowledge, the FCC has not provided any indication how this optimized software will achieve its yet to be disclosed “goals”.

Therefore, until the FCC makes full disclosure in detail as to how it will perform the Incentive Auction tasks, we have to assume that the FCC apparently will not be constrained in either changing the currently assigned channel for UHF stations above Channel 14 or possibly its transmitter site. This goes to the main issue as to the viability of the Widelity report.

Another reason this question is raised is, what is the replication constraint during the above scenarios? Is the replication constraint in terms of population and area, population only or area only? Is the constraint number $\pm 2\%$ or -10% or other?

This question is critically important since the hallmark of the Commission's prior assignment criteria for more than fifty (50) years was to provide off-the-air service whenever possible to underserved areas (i.e., white or grey area).

During the initial Incentive Auction number-crunching process including the optimizer process, will the Commission be looking at whether or not underserved areas are being created? If underserved areas are created, how does that comply with the enabling legislation¹ which states:

“In making any reassignments or reallocations under paragraph (1)(B), the Commission shall 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, as determined using the methodology described in OET Bulletin 69 of the Office of Engineering and Technology of the Commission.”

Coupled with recent events described above, nothing in the comments reviewed by this firm has changed its earlier conclusion submitted in this proceeding that Widelity's report has

¹Middle Class Tax Relief and Job Creation Act of 2012, Pub.L, No 112-96

Cohen, Dippell and Everist, P.C.

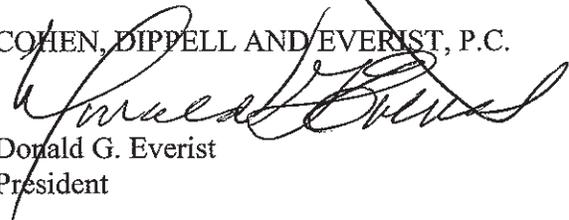
Reply Comments
GN Docket No. 12-268

Page 4

diminished usefulness. Further, recent FCC events raises more questions as to the process and procedure that will be used in the total Incentive Auction process.

Respectfully Submitted,

COHEN, DIPPELL AND EVERIST, P.C.


Donald G. Everist
President

DATE: May 6, 2014