



PUBLIC NOTICE

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MEDIA BUREAU RELEASES ADDITIONAL GUIDANCE TO BROADCASTERS WISHING TO FILE ANONYMOUS COMMENTS IN THE EXPANDING THE ECONOMIC AND INNOVATION OPPORTUNITIES OF SPECTRUM THROUGH INCENTIVE AUCTIONS PROCEEDING

GN Docket No. 12-268

On October 2, 2012, the Commission released a Notice of Proposed Rulemaking (*NPRM*) initiating the broadcast television spectrum incentive auction process.¹ The *NPRM* sought comments and replies, filed either electronically or by paper, in accordance with the procedures set forth in sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419.² By this Notice, the Media Bureau provides guidance for broadcasters interested in filing comments regarding the incentive auction process without disclosing their identities.

Generally, when a party identifies itself it improves the ability of both the Commission and the public to evaluate the position the party takes in the proceeding, thus benefiting the rulemaking process.³ Our existing rules, however, allow the filing of anonymous rulemaking comments. Section 1.419(e) requires that a party filing in electronic format and not represented by an attorney provide its name and mailing address.⁴

We want to encourage those broadcasters interested in auction participation to raise issues of specific concern to them regarding the incentive auction process so that we may develop a robust record to assist us in devising auction-related rules. At the same time, we recognize that broadcasters may have

¹ See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Notice of Proposed Rulemaking, 27 FCC Rcd 12357 (2012).

² See *id.* at 12495, ¶ 418.

³ Indeed, the Commission has stated a general preference for disclosure of the identity of commenters in Commission rulemaking proceedings, and a proceeding seeking comment on whether the Commission should adopt enhanced disclosure requirements for parties filing comments remains outstanding. See *Amendment of the Commission's Ex Parte Rules*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 4517, 4526, 4539 ¶ 80 (2011) (*Ex Parte FNPRM*) ("it would serve the public interest to have a disclosure requirement that addresses . . . [the] problem . . . [of hidden interests]").

⁴ Specifically, section 1.419 of our rules provides that "[c]omments and replies . . . filed in electronic form by a party represented by an attorney shall include the name and mailing address of at least one attorney of record. Parties not represented by an attorney that file comments and replies and other documents in electronic format shall provide their name and mailing address." 47 C.F.R. § 1.419. No analogous requirement appears in section 1.415, which governs paper filings. 47 C.F.R. § 1.415.

legitimate reasons for not wanting to disclose their potential interest in reverse auction participation.⁵ Thus, we remind broadcasters that they may file anonymously by paper, or electronically so long as they have an attorney of record. We request, however, that any broadcaster filing anonymously provide sufficient basic information to enable the Commission and the public to understand and evaluate the positions it takes in its comments. Such information may include, for example, the market tier in which the station operates and whether it is network-affiliated or independent. Finally, we note that broadcasters wishing to file anonymous comments electronically without an attorney of record must seek a waiver of section 1.419(e).

For further information, contact Dorann Bunkin of the Media Bureau, Video Division at Dorann.Bunkin@fcc.gov or (202) 418-1636. Press contact: Janice Wise, Janice.Wise@fcc.gov, (202) 418-8165.

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⁵ We note that the Spectrum Act, which directs the Commission to conduct a broadcast incentive auction, requires the Commission to “take all reasonable steps necessary to protect the confidentiality of Commission-held data of a [broadcast] licensee participating in the reverse auction ... including withholding the identity of such licensee ... [for a specified period of time].” See 47 U.S.C. § 1452(a)(3). Although this statutory provision concerns only reverse auction participants, broadcasters may also have an interest in not disclosing their identities in comments regarding the incentive auction.