



PUBLIC NOTICE

Federal Communications Commission
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MEDIA BUREAU SEEKS COMMENT ON PETITION FOR CLARIFICATION AND/OR DECLARATORY RULING FILED BY PMCM TV, LLC

GN Docket No. 12-268

Comment Date: April 18, 2016
Reply Comment Date: May 2, 2016

On March 4, 2016, PMCM TV, LLC (PMCM) filed a “Petition for Clarification And/Or Declaratory Ruling” in which it “seeks clarification and, to the extent warranted, a declaratory ruling setting forth in detail the process by which the Commission plans to publicize, provide opportunity to comment on, and ultimately evaluate any requests for waiver of the multiple ownership rules that may be required in connection with channel sharing arrangements entered into by participants in the reverse auction component of the upcoming Incentive Auction.”¹

We issue this Public Notice pursuant to Section 1.2 of the Commission’s Rules to seek comment on PMCM’s Petition.² PMCM’s Petition is available electronically through the Commission’s ECFS under GN Docket No. 12-268, which may be accessed on the Commission’s Internet website at <http://apps.fcc.gov/ecfs/>. All filings concerning the matters referenced in this Public Notice should refer to GN Docket No. 12-268. Comments may be filed within 30 days of release of this Public Notice.³ Replies may be filed within 15 days thereafter.

While PMCM asserts that the Commission must address the issues raised in its Petition prior to March 29, 2016, the date by which prospective reverse auction bidders must make their initial bid commitments,⁴ that assertion is unwarranted. PMCM mistakenly assumes that any request for a waiver of the multiple ownership rules in connection with an incentive auction-related channel sharing arrangement (CSA) must be resolved prior to the start of the auction, pointing to

¹ PMCM TV, LLC Petition for Clarification And/Or Declaratory Ruling, GN Docket No. 12-268, filed Mar. 4, 2016, at para. 1 (Petition).

² See 47 C.F.R. § 1.2(b). See also *In the Matter of Certain of the Commission’s Part 1 Rules of Practice and Procedure and Part 1 Rules of Commission Organization*, GC Docket No. 10-44, Report and Order, 26 FCC Rcd 1594 (2011).

³ See 47 C.F.R. § 1.2(b).

⁴ See Petition at paras. 3, 9-10. PMCM does not explain why, given its contention that the issues it raises must be addressed prior to March 29, it waited until less than a month before the auction commences to file its Petition.

language in the June 2014 *Incentive Auction R&O*.⁵ To the contrary, the Commission has explained that it will not review CSAs for compliance with its regulatory requirements, including the multiple ownership rules, until after the auction is complete and the results of the repacking process have been announced publicly.⁶ With respect to post-auction CSAs permitted under our rules,⁷ such review is by definition not even possible until after the auction.⁸

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-

⁵ See Petition at para. 2, quoting *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, Report and Order, 29 FCC Rcd 6567, 6847-48, para. 691 (2014) ("Absent a waiver of the rules, however, we will not accept channel sharing bids in the reverse auction that would cause a media ownership rule violation by a party to the channel sharing arrangement based on the rules and facts as they exist at the time the application to participate in the auction is filed.")

⁶ See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, First Order on Reconsideration and Notice of Proposed Rulemaking, 30 FCC Rcd 6668, 6678-79, paras. 26-28 (2015) (Commission will review CSAs at the pre-auction stage solely to confirm that the parties qualify for the anti-collusion rule exception adopted for parties to a CSA) (*First Order on Reconsideration*); see also *Auction 1000 Application Procedures PN*, 30 FCC Rcd at 11050 n.79 ("regardless of whether an arrangement is entered into pre- or post-auction, a sharee must include a showing of compliance with the multiple ownership rules in its construction permit application if operation from the shared site triggers a new multiple ownership combination that is subject to those rules") (emphasis added). Among other things, this post-auction process averts confidentiality issues that might be raised by pre-auction resolution of a multiple ownership rule waiver request. See Petition at para. 8.

⁷ *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions; Channel Sharing by Full Power and Class A Stations Outside the Broadcast Television Spectrum Incentive Auction Context*, First Order on Reconsideration and Notice of Proposed Rulemaking, 30 FCC Rcd 6668 (2015).

⁸ In light of our statutory duty to keep broadcaster participation in the auction confidential, see Spectrum Act § 6403(a)(3), we do not disclose whether any broadcasters submitting CSAs with their auction applications filed requests for waivers of the ownership rules. Cf. Petition at para. 10.

A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

The proceeding this Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.⁹ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

FOR FURTHER INFORMATION CONTACT: Dorann Bunkin, Video Division, Media Bureau at (202) 418-1636, or Dorann.Bunkin@fcc.gov. For press inquiries, contact Charles Meisch at (202) 418-2943, or Charles.Meisch@fcc.gov.

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⁹ 47 C.F.R. §§ 1.1200 *et seq.*

