



PUBLIC NOTICE

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INCENTIVE AUCTION TASK FORCE AND MEDIA BUREAU SET FORTH TOOLS AVAILABLE TO LPTV/TRANSLATOR STATIONS DISPLACED PRIOR TO THE SPECIAL DISPLACEMENT WINDOW

MB Docket No. 16-306
GN Docket No. 12-268

I. INTRODUCTION

1. In the *LPTV Procedures Public Notice*, the Incentive Auction Task Force and Media Bureau described procedures for a Special Displacement Window for operating low power television, analog-to-digital replacement translator, and TV translator stations (referred to collectively as “LPTV/translator stations”) that are displaced as a result of the broadcast incentive auction (Auction 1000) and repacking process.¹ This Public Notice sets forth tools available to LPTV/translator stations that are displaced prior to the opening of the Special Displacement Window. Such displacement could occur as a result of new 600 MHz Band wireless licensees commencing operations or conducting first field application (FFA) testing on their licensed 600 MHz spectrum prior to the opening of the Special Displacement Window. The tools listed below can be used to permit displaced stations to continue providing service to viewers with as little disruption as possible.

II. BACKGROUND

2. Auction 1000, conducted pursuant to Title VI of the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act),² was completed on April 13, 2017, with the release of the *Closing and Channel Reassignment Public Notice*.³ Today, the Incentive Auction Task Force and Wireless Telecommunications Bureau granted 2,317 licenses in the 600 MHz Band.⁴ LPTV/translator stations on channels 38 through 51 must terminate operations if they receive notice of likely interference to a new 600 MHz band licensee that intends to commence operations or conduct FFA testing.⁵ This notice must

¹ *The Incentive Auction Task Force and Media Bureau Announce Procedures for Low Power Television, Television Translator and Replacement Translator Stations During the Post-Incentive Auction Transition*, Public Notice, DA 17-442 (rel. May 12, 2017).

² Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §§ 6402 (codified at 47 U.S.C. § 309(j)(8)(G)), 6403 (codified at 47 U.S.C. § 1452), 126 Stat. 156 (2012).

³ See *Incentive Auction Closing and Channel Reassignment Public Notice: The Broadcast Television Incentive Auction Closes; Reverse Auction and Forward Auction Results Announced; Final Television Band Channel Assignments Announced; Post-Auction Deadlines Announced*, Public Notice, 32 FCC Rcd 2786 (2017) (*Closing and Channel Reassignment Public Notice*).

⁴ *Incentive Auction Task Force and Wireless Telecommunications Bureau Grant 600 MHz Licenses*, Public Notice, DA 17-582 (rel. June 14, 2017).

⁵ See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, 29 FCC Rcd 6567, 6841-42, paras. 668-71 (2014) (subsequent citations omitted); *id.* at 6840 n.1863 (“To the extent that 600 MHz Band licensees are commencing operations in areas of their geographic licenses where harmful interference

(continued....)

be in the form of a letter, by certified mail, return receipt requested, delivered to the LPTV/translator station not less than 120 days in advance of the commence operations or FFA testing date (120-day notice).⁶ The LPTV/translator station must cease operations or eliminate the likelihood of harmful interference by that date. We have received information from T-Mobile USA, Inc. (T-Mobile), one of the recipients of the licenses granted today in the 600 MHz Band, indicating that it may commence operations or conduct FFA testing using some of its 600 MHz Band licenses later this year—possibly before the opening of the Special Displacement Window.⁷

3. There is currently a freeze on the filing of displacement applications (Displacement Freeze).⁸ The Media Bureau instituted the Displacement Freeze in order to protect the opportunity for all LPTV/translator stations displaced by the incentive auction and repacking process to obtain a new channel from the limited number of channels likely to be available, but noted that it would consider a waiver of the freeze if an LPTV/translator station could demonstrate new interference resulting from the initiation of new or modified service by a full power station during the freeze. As indicated in the *LPTV Procedures Public Notice*,⁹ the Media Bureau will release a Displacement Public Notice announcing the date of the Special Displacement Window for operating LPTV/translator stations subject to displacement as a result of the incentive auction and repacking process approximately seven to eight months after the April 13, 2017, release of the *Closing and Channel Reassignment Public Notice*. Because the Displacement Public Notice must be released 60 days prior to the opening of the Special Displacement Window, the window will most likely open in the first quarter of 2018.¹⁰ It therefore appears that some LPTV/translator stations currently operating on channels 38 through 51 may receive notice that T-Mobile will commence operations on its newly licensed spectrum prior to the Special Displacement Window opening in 2018.

III. TOOLS AVAILABLE TO LPTV/TRANSLATOR STATIONS DISPLACED PRIOR TO THE SPECIAL DISPLACEMENT WINDOW

4. Given the ongoing licensing in the 600 MHz band for wireless operations, and the possibility that LPTV/translator stations may need to terminate service on channels 38 through 51 prior to the Special Displacement Window, this notice sets forth two mechanisms these stations can avail themselves of to stay on the air. First, until the Special Displacement Window opens, an LPTV/translator station that receives the 120-day notice described above may operate on a temporary channel. Specifically, it may submit a displacement application together with a request for waiver of the Displacement Freeze and request Special Temporary Authority (STA) to operate on a temporary channel as described below. Second, such a station may choose to enter into a temporary channel sharing arrangement as described below.

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from LPTV or TV translator stations would not be likely, these stations are not required to cease operations.”) (*Incentive Auction R&O*) (subsequent history omitted); *Commencing Operations R&O*, 30 FCC Rcd 12025 at para.1, 12028-29, para.7 (2015) (defining the term “commence operations” for purposes of the displacement notification process).

⁶ See 47 CFR § 73.3700(g)(4); *Incentive Auction R&O*, 29 FCC Rcd at 6839-40, paras. 668-70; *Commencing Operations R&O*, 30 FCC Rcd 12025.

⁷ See Letter from Michael A. Lewis, DLA Piper LLP (USA) and Slide Presentation, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 16-306 and ET Docket No. 12-268, Att. p. 3 (filed June 1, 2017).

⁸ See *Freeze on the Filing of Applications for Digital Replacement Translator Stations and Displacement Applications*, Public Notice, 29 FCC Rcd 6063 (MB 2014) (*Displacement Freeze Public Notice*).

⁹ *The Incentive Auction Task Force and Media Bureau Announce Procedures for Low Power Television, Television Translator and Replacement Translator Stations During the Post-Incentive Auction Transition*, DA 17-442 (rel. May 12, 2017) (*LPTV Procedures Public Notice*).

¹⁰ *LPTV Procedures Public Notice* at para. 6.

A. Operation on Temporary Channel**1. Eligibility**

5. The ability to operate on a temporary channel is limited to “operating” LPTV stations¹¹ on channels 38 through 51 (1) that have received a 120-day notice from a 600 MHz wireless licensee that the LPTV/translator station is likely to cause interference in areas where the wireless licensee intends to commence operations or FFA testing, and (2) whose termination of operations date will occur before the Special Displacement Window opens (eligible LPTV/translator stations). Eligible LPTV/translator stations must submit a copy of the 120-day notice that they received from the 600 MHz Band wireless licensee with their displacement applications in support of a waiver of the Displacement Freeze. Applications that do not include the 120-day notice will be dismissed.

2. Displacement Applications

6. We remind eligible LPTV/translator stations seeking to operate on a temporary channel that they may only apply for a channel that remains allocated to broadcast television service (i.e., channels 2 through 36), and not for channels that have been repurposed for the new 600 MHz Band.¹² As with applications filed during the Special Displacement Window, eligible LPTV/translator stations will be required to demonstrate that they would not cause interference to the predicted service of: (1) all other primary users in the repacked TV Band or in adjacent bands including land mobile operations,¹³ (2) licenses and valid construction permits for LPTV stations; (3) licenses and valid construction permits for full power and Class A stations that were not reassigned; (4) the post-auction channels of reassigned full power and Class A stations as reflected in the *Closing and Reassignment Public Notice*, and (5) the alternative channels and expanded facilities proposed during the two filing windows by reassigned full power and Class A stations.¹⁴ Applications filed with a request for waiver of the Displacement Freeze will be treated as if filed on the last day of the Special Displacement Window and processed in accordance with the rules for the Window.¹⁵

3. Special Temporary Authority

7. Eligible LPTV/translator stations currently on channels 38 through 51 may submit an application for an STA to operate on the channel proposed in their displacement application. In considering the STA request, we will assess whether the proposed displacement facility complies with our technical and interference rules. Relief, if granted, will be temporary. As noted above, displacement applications filed by eligible LPTV/Translator stations will be treated as filed on the last day of the Special Displacement Window and processed in accordance with the rules. Therefore, stations granted an STA to operate the facilities proposed in their displacement applications may be required to terminate their STA operations if their application is ultimately not granted.

B. Channel Sharing

8. Displaced LPTV/translator stations may also use the following channel sharing tools to continue to provide service to viewers in areas where channel availability is limited. We clarify that two or more eligible LPTV/translator stations may each request a waiver of the Displacement Freeze and submit a displacement application that proposes to share a channel with the other eligible LPTV/translator

¹¹ See Media Bureau Announces Date By Which LPTV and TV Translator Stations Must Be “Operating” In Order To Participate In Post-Incentive Auction Special Displacement Window, Public Notice, 31 FCC Rcd 5383 (MB 2016).

¹² LPTV Procedures Public Notice at para. 11.

¹³ 47 CFR § 74.709.

¹⁴ See LPTV Procedures Public Notice at para. 11 & n.42; 47 CFR §§ 73.3700(g), 74.787.

¹⁵ LPTV Procedures Public Notice at paras. 14-16.

station(s).¹⁶ These stations may also submit applications for STA to operate on a shared basis on the channel proposed in their pending displacement applications. In considering the STA request, we will assess whether the proposed displacement facility complies with our technical and interference rules as well as our rules applicable to channel sharing.

9. We also note that an eligible LPTV/translator station may submit an application to channel share with another LPTV/translator station that has *not* received a 120-day notice. Such applications are not subject to the Displacement Freeze and may be filed at any time.¹⁷ If, however, the sharer station subsequently receives a 120-day notice and thus becomes an eligible LPTV/translator station as defined above, then the sharing stations may each request a waiver of the Displacement Freeze and submit a displacement application that proposes to share a channel with the other station. As explained in the previous paragraph, these stations may submit STA requests to operate on a shared basis on the channel proposed in their pending displacement applications.

10. For additional information or questions concerning the matters addressed in this Public Notice, contact Joyce Bernstein (legal) at (202) 418-1647 or Joyce.Bernstein@fcc.gov or Hossein Hashemzadeh (technical) at (202) 418-1658 or Hossein.Hashemzadeh@fcc.gov. Press contact: Charles Meisch, (202) 418-2943 or Charles.Meisch@fcc.gov.

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¹⁶ *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations*, MB Docket No. 03-185, Third Report and Order and Fourth Notice of Proposed Rulemaking, 30 FCC Rcd 14927, 14942 n.98 (2015) (“In the event the sharing stations are all displaced as a result of the incentive auction or repacking process, each station will file an application for a construction permit for identical technical facilities during the post-incentive auction displacement window proposing to share the channel, including a copy of the CSA as an exhibit.”) (*LPTV DTV Third R&O*).

¹⁷ *LPTV Procedures Public Notice* at para. 30 (“If only a potential sharee’s station is subject to displacement as a result of the incentive auction and repacking process, the potential sharee station may file an application to propose sharing the sharer’s non-displaced facilities at any time after April 13, 2017 and is not limited to filing during the Special Displacement Window.”); *id.* at n.85 (“[A]n LPTV or TV translator station that is subject to displacement but is not yet required to discontinue operations on its current channel may act as a sharer for another displaced station that is required to discontinue operations.”). See also *LPTV DTV Third R&O*, 30 FCC Rcd at 14942 n.98.