



# PUBLIC NOTICE

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## FREEZE ON THE FILING OF APPLICATIONS FOR DIGITAL COMPANION CHANNELS

Effective immediately, the Media Bureau announces a freeze on the filing of applications for digital companion channels for low power television (LPTV) and TV translator stations.<sup>1</sup> The incentive auction is being conducted pursuant to Title VI of the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act).<sup>2</sup> It includes a “reverse auction” and reorganization or “repacking” of the broadcast television bands in order to free up a portion of the ultra-high frequency band for new flexible uses.<sup>3</sup> The facilities of LPTV and TV translator stations are not protected during repacking. “Operating”<sup>4</sup> LPTV and TV translator stations displaced by repacking will be permitted to file displacement applications in a special window to be opened following the completion of the auction.<sup>5</sup>

To facilitate the special window for displaced LPTV and TV translator stations and to protect the opportunity for LPTV and TV translator stations displaced by the repacking of the television bands to obtain a new channel in the special window from the limited number of channels likely to be available for application after repacking, the Media Bureau deems it appropriate to freeze the acceptance of digital companion channel applications at this time. Because the Commission has postponed the digital transition deadline for LPTV and TV translator stations until 12 months after the completion of the 39-

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<sup>1</sup> See 47 CFR § 74.787(a)(2). The filing of applications for new digital LPTV and TV translator stations and for major changes and is already frozen and remains frozen. See *Freeze on the Filing of Applications for New Digital Low Power Television and TV Translator Stations*, Public Notice, 25 FCC Rcd 15120 (MB 2010); see also *Initiation of Nationwide First-Come, First-Served Digital Licensing for Low Power Television and TV Translators Postponed Until Further Notice*, Public Notice, 25 FCC Rcd 8179 (MB 2010). The filing of displacement applications is frozen as well. See *Freeze on the Filing of Applications for Digital Replacement Translator Stations and Displacement Applications*, Public Notice, 29 FCC Rcd 6063 (MB 2014). Minor change applications and applications for digital flash cut filed by existing LPTV and TV translator stations will continue to be accepted for filing.

<sup>2</sup> 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).

<sup>3</sup> See *In the Matter of Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567 (2014) (*Incentive Auction R&O*) (subsequent history omitted).

<sup>4</sup> “Operating” stations are those that have licensed their authorized construction permit facilities or have an application for a license to cover on file with the Commission on the release date of the incentive auction *Closing and Channel Reassignment Public Notice*. 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).

<sup>5</sup> *Incentive Auction R&O* at § V.D.1. After the completion of the incentive auction is announced, the Media Bureau will announce the dates and procedures for the special window for LPTV and TV translators displaced by repacking.

month post-incentive auction transition period (51 months total),<sup>6</sup> temporary postponement of the filing of applications for digital companion channels should not impact stations' efforts to transition to digital. The Media Bureau will continue to process pending digital companion channel applications. Following completion of the special window for displaced LPTV and TV translator stations, we will announce when we will again begin accepting digital companion channel applications.

The decision to impose this freeze is procedural in nature, and therefore is not subject to the notice and comment and effective date requirements of the Administrative Procedure Act.<sup>7</sup> Moreover, we find that there is good cause for not delaying the effect of these procedures until 30 days after publication in the *Federal Register*. Such a delay would be impractical, unnecessary, and contrary to the public interest because it would undercut the purposes of the freeze.<sup>8</sup>

This action is taken by the Chief, Media Bureau pursuant to authority delegated by 47 C.F.R. § 0.283 of the Commission's rules.

For additional information or questions, please contact Hossein Hashemzadeh (technical) or Shaun Maher (legal) of the Video Division, Media Bureau at (202) 418-1600.

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<sup>6</sup> See *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations*, Third Report and Order, 30 FCC Rcd 14927 (2015).

<sup>7</sup> See 5 U.S.C. § 553(b)(A), (d); see also *Neighborhood TV Co. v. FCC*, 742 F.2d 629, 637-38 (D.C. Cir. 1984) (holding that the Commission's filing freeze is a procedural rule not subject to the notice and comment requirements of the Administrative Procedure Act); *Buckeye Cablevision, Inc. v. United States*, 438 F.2d 948, 952-53 (6th Cir. 1971); *Kessler v. FCC*, 326 F.2d 673, 680-82 (D.C. Cir. 1963).

<sup>8</sup> See 5 U.S.C. § 553(b)(B), (d)(3).