



PUBLIC NOTICE

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INCENTIVE AUCTION TASK FORCE AND MEDIA BUREAU ANNOUNCE THE OPENING OF THE FIRST PRIORITY FILING WINDOW FOR ELIGIBLE FULL POWER AND CLASS A TELEVISION STATIONS FROM AUGUST 9 THROUGH SEPTEMBER 8, 2017

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

Upon conclusion of the incentive auction (Auction 1000), the Commission initiated a transition period during which the facilities of broadcast television stations that received new channel assignments in the post-incentive auction repacking process will be reauthorized and relicensed.¹ As directed by the Commission, this transition period includes a first priority filing window available to certain eligible full power and Class A television stations.² This Public Notice announces that the first priority filing window will open on Wednesday, August 9, 2017, and close at 11:59 pm EDT on Friday, September 8, 2017. Procedures and requirements for the first priority filing window have been described in detail previously and are summarized herein.³

Eligibility. The first priority filing window is limited to: (1) 25 reassigned stations that were granted a waiver of the July 12, 2017, filing deadline for applications for initial construction permits because we found that those stations were “unable to construct” the specified facilities assigned to them in the *Closing and Channel Reassignment Public Notice*; (2) any reassigned station, band changing station, or non-reassigned station entitled to protection in the repacking process that is predicted to experience a loss of population served in excess of one percent as a result of the repacking process;⁴ and (3) Class A stations that did not receive protection and were displaced in the repacking process.⁵ Both applications filed by stations that received a waiver of the initial filing deadline and Class A displacement applications

¹ 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*).

² See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, 29 FCC Rcd 6567, 6795, para. 556 (2014) (subsequent citations omitted) (*Incentive Auction R&O*); *id.* at 6794, paras. 554-55.

³ See *Closing and Channel Reassignment Public Notice*, 32 FCC Rcd at 2809-10, paras. 70-71; *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition*, Public Notice, 32 FCC Rcd 858, 866-69, paras. 27-34 (IATF/MB 2017) (*Broadcast Transition Procedures Public Notice*).

⁴ *Closing and Channel Reassignment Public Notice*, 32 FCC Rcd at 2804, para. 56, with link to https://fcc.gov/download/incentive-auctions/Transition_Files that includes an indication of stations with reassignments that satisfy this criteria.

⁵ 47 CFR § 73.7300(b)(1)(iv)(A)-(B). See *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 866-67, para. 27.

are exempt from a filing fee.⁶ Applications filed by stations that are predicted to experience a loss of population are subject to a filing fee.⁷

Application Requirements and Processing. Stations eligible to file in the first priority window may request expanded facilities or an alternate channel. Applications for expanded facilities are limited to those that qualify as a minor change under the Commission's rules.⁸ Applications for alternate channels are major change applications and are subject to the local public notice requirements in the Commission's rules, including a 30-day period for the filing of petitions to deny.⁹ Band changing stations may not apply for alternate channels outside of their post-auction band.¹⁰

Applicants in the first priority filing window must protect the construction permit facilities of reassigned stations and band changing stations, whether those stations' applications have been granted or remain pending.¹¹ In addition, all applications filed in the first priority filing window must protect the facilities specified in applications filed before the April 2013 freeze with "cut-off" protection.¹² Applications filed by displaced Class A stations must also demonstrate that the proposal would not cause interference to a low power television or television translator facility previously authorized or proposed.¹³ The facilities proposed in applications filed during the first priority filing window will be entitled to interference protection from subsequently filed applications and amendments thereto.¹⁴

Cut-Off Protection and Mutually Exclusive Applications. Applications filed during the first priority filing window will be treated as filed on the last day of that window for purposes of determining mutual exclusivity. Stations filing applications during the first priority filing window that are determined to be mutually exclusive with another application filed in the same window will be notified and will be

⁶ *Incentive Auction R&O*, 29 FCC Rcd at 6794 n.1574; *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 869 n.60.

⁷ *Incentive Auction R&O*, 29 FCC Rcd at 6790 n.1547.

⁸ *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 867, para. 28; 47 CFR §§ 73.3700(b)(vii)(2)(ii), 73.3572(a)(1)-(3), 74.787(b).

⁹ 47 CFR §§ 73.3580, 73.3700(b)(vii)(2)(i); *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 867, para. 29.

¹⁰ *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 867, para. 29 & n.48; 47 CFR § 73.3700(b)(2)(i)(A)-(C). Stations which believe that they will experience a loss of population served in excess of one percent as a result of the repacking process, but were not identified in the *Closing and Channel Reassignment Public Notice* as being in that category (*see supra* n.4), must include in their application (or an amendment to their initial construction permit application, if still pending) an exhibit demonstrating the predicted population loss. *See Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 868, para. 32.

¹¹ The deadline for applications for construction permits consistent with the requirements of the *Closing and Channel Reassignment Public Notice* was July 12, 2017. *See Closing and Channel Reassignment Public Notice*, 32 FCC Rcd at 2809, para. 70. Applicants in the first priority filing window must protect the facilities specified in the *Closing and Channel Reassignment Public Notice* for reassigned stations that did not file construction permit applications prior to the opening of the first priority filing window.

¹² *See Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 867-68, para. 30; *Media Bureau Announces Limitations on the Filing and Processing of Full Power and Class A Television Station Modification Applications, Effective Immediately, and Reminds Stations of Spectrum Act Preservation Mandate*, Public Notice, 28 FCC Rcd 4364 (MB 2013).

¹³ 47 U.S.C. § 336(f)(7)(B).

¹⁴ *Incentive Auction R&O*, 29 FCC Rcd at 6794 n.1573.

given a 90-day period to resolve their mutual exclusivity by proposing a technical solution or settlement¹⁵ in an amendment to their pending applications.¹⁶

Incomplete or Defective Applications. A station that files an application during the first priority filing window that is incomplete or defective will be contacted and afforded an opportunity to submit an amendment via LMS to cure any defects. Failure to correct any defect will result in dismissal of the application.¹⁷ If an application filed by (1) a station that was unable to construct the facilities specified in the *Closing and Channel Reassignment Public Notice* or (2) a displaced Class A station is dismissed, then the station must file a new application within 15 days of dismissal and pay the requisite filing fee.¹⁸

Additional Information. For additional information, contact Joyce Bernstein, Joyce.Bernstein@fcc.gov, (202) 418-1647, or Kevin Harding, Kevin.Harding@fcc.gov, (202) 418-7077. Press contact: Charles Meisch, Charles.Meisch@fcc.gov, (202) 418-2943.

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¹⁵ Any proposed settlement will be subject to the rules and limits on agreements for removing application conflicts. See 47 U.S.C. § 311(c); 47 CFR § 73.3525.

¹⁶ See 47 CFR § 73.623(h)(3). If a Class A station that files a displacement application in the first priority window is determined to be mutually exclusive with another Class A displacement application filed in that window, then the applicants will be given an opportunity to resolve their mutual exclusivity by settlement or engineering solution. Absent such a resolution, the mutual exclusivity will be resolved through competitive bidding. See 47 CFR §§ 73.3572(a)(4)(iii); 74.787(a)(4). See also 47 CFR § 73.5000, *et seq.* In the event, however, that the application of a displaced Class A station is mutually exclusive with the application of a station that was entitled to repacking protection, the application of the station that received protection will prevail. *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Order on Reconsideration, 31 FCC Rcd 1367, 1382 n.111 (2016).

¹⁷ See 47 CFR §§ 73.3566, 73.3568.

¹⁸ *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 870, para. 37.