

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
)
Expanding the Economic and Innovation)
Opportunities of Spectrum) GN Docket No. 12-268
Through Incentive Auctions)

**REPLY COMMENTS OF THE ASSOCIATION OF PUBLIC TELEVISION STATIONS,
CORPORATION FOR PUBLIC BROADCASTING, AND
PUBLIC BROADCASTING SERVICE**

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EXECUTIVE SUMMARY

The record in this proceeding demonstrates not only the complicated, interrelated nature of the incentive auction and repacking process, but also the need to strike the right balance to ensure that all viewers continue to have universal access to the important services that public television stations provide. In particular, the Association of Public Television Stations (“APTS”), Corporation for Public Broadcasting (“CPB”), and Public Broadcasting Service (“PBS”) draw the Commission’s attention to three themes that the record in this proceeding overwhelmingly supports.

First, the rules proposed in the Notice of Proposed Rulemaking (“NPRM”) are not sufficient to satisfy the requirement of the Spectrum Act that the Commission “make all reasonable efforts” to preserve the public’s access to broadcast television services. For example, the National Association of Broadcasters (“NAB”) and numerous broadcast licensees document the need for a repacking interference standard that consists *both* of a maximum amount of new interference from any single station (0.5 percent) *and* an aggregate cap on new interference from all stations (1.0 percent). To be clear, while new interference of up to one percent of a public television station’s population served would adversely affect statutory principles of universal service, the one percent interference cap would at least contain the widespread service loss that otherwise could occur without a cap on aggregate interference to a station as a result of the involuntary repacking.

In the same vein, the Commission should not allow the repacking to undo its prior efforts made in partnership with stations to preserve viewer service following the transition to digital television, as both commercial and noncommercial broadcasters explain in their comments. Most notably:

- When the Commission calculates a station's existing service area and population served for purposes of the repacking interference analysis, it should not ignore the waivers it granted previously for increases in effective radiated power or antenna height. As the Shenandoah Valley Educational Television Corporation notes, these waivers were granted to ensure that viewers would not lose television service in the wake of the DTV transition.
- Service from a station's replacement translator should be recognized in calculating the station's coverage area and population served for any repacking interference analysis. Digital replacement translators form part of the primary service of full-power stations and thus are entitled to protection under the Spectrum Act.
- The Commission can take pragmatic steps — entirely consistent with the Spectrum Act — to minimize the likelihood that other translators will be displaced in the repacking. Regardless of whether they have “secondary” spectrum status, television translators play a significant role in delivering public television services to the public in rural, remote, and tribal areas. Viewers in these areas should not be left in the dark.

Second, in implementing the repacked band plan, the Commission should take steps to minimize disruption to public television services. For instance:

- Public broadcaster KLCS-TV proposes that stations considering a relocation to the VHF band be provided with greater certainty regarding their channel placement options. This proposal will serve the public's interest in uninterrupted service *and* encourage incentive auctions bids to move to the VHF band.
- NAB submitted a helpful list of reimbursable expenses that stations may incur in the repacking. By using that list in preparing tiered estimates of stations' relocation expenses, the Commission can minimize disruption and uncertainty to public television stations operating on ever-tightening budgets. In contrast, Sprint Nextel's proposal to require that *all* broadcasters submit detailed estimates and information in advance of the repacking would be needlessly complex, burdensome, and wasteful of resources.
- The Commission should reject AT&T's proposal to limit use of channels adjacent to the mobile downlink guard band. AT&T's proposal would increase the number of stations that would be forced to relocate in the repacking, thereby creating greater disruption to viewers and increasing the relocation costs that must be paid from the auction proceeds.

Third, separate allocations should be maintained for broadcast and mobile broadband services. CTIA's request that the Commission make mobile broadband services “co-primary” in the broadcast bands is contrary to the intent of the Spectrum Act, which authorizes

the Commission to reclaim only a portion of the broadcast television spectrum for mobile broadband services, using the specified mechanism of a one-time incentive auction.

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The Association of Public Television Stations (“APTS”),¹ the Corporation for Public Broadcasting (“CPB”),² and the Public Broadcasting Service (“PBS”)³ (collectively, “PTV”) submit these reply comments to underscore three key themes that emerge from the comments filed in the above-referenced proceeding.⁴ In particular, the Commission should:

1. Take a number of additional, reasonable efforts to preserve the public’s access to critical broadcast television services;

¹ APTS is a non-profit organization whose membership comprises the licensees of nearly all of the nation’s 364 CPB-qualified noncommercial educational television stations. The APTS mission is to support the continued growth and development of a strong and financially sound noncommercial television service for the American public.

² CPB is a private, non-profit corporation created and authorized by the Public Broadcasting Act of 1967 to facilitate and promote a national system of public telecommunications. Pursuant to its authority, CPB has provided millions of dollars in grant monies for support and development of public broadcasting stations and programming.

³ PBS, with its nearly 360 member stations, offers all Americans — from every walk of life — the opportunity to explore new ideas and new worlds through television and online content. Each month, PBS reaches 120 million people through television and nearly 28 million people online, inviting them to experience the worlds of science, history, nature, and public affairs; to hear diverse viewpoints; and to take front row seats to world-class drama and performances.

⁴ Consistent with its comments, PTV continues to believe that the Commission should adopt simple and transparent auction rules. In addition to the issues discussed in these reply comments, PTV urges the Commission to adopt clear and reasonable anti-collusion rules that account for the unique circumstances presented by the incentive auction.

2. Minimize disruptions to the public’s television service during implementation of the repacked band plan; and
3. Decline to add fixed and mobile allocations throughout the UHF and VHF television bands.

By adopting rules consistent with these three themes, the Commission will further its statutory mandate to preserve the public’s access to the vibrant, diverse, and free over-the-air television services provided by public television stations.

I. MANY COMMENTERS AGREE WITH PTV THAT THE COMMISSION SHOULD MAKE ADDITIONAL, REASONABLE EFFORTS TO PRESERVE THE PUBLIC’S ACCESS TO CRITICAL BROADCAST TELEVISION SERVICES.

Many of the comments filed in response to the Commission’s Notice of Proposed Rulemaking (“NPRM”) identified additional efforts that would help the Commission fulfill its statutory obligation to “make all reasonable efforts to preserve . . . the coverage area and population served of each broadcast television licensee.”⁵ For example, the National Association of Broadcasters (“NAB”) proposed an interference standard that meets this statutory requirement by serving as a reasonable effort to minimize the number of viewers who lose access to their existing local television services as a result of the repacking.⁶ Other commenters encouraged the Commission to honor existing power limit waivers and to preserve digital replacement translator

⁵ Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, § 6403(b)(2), 125 Stat. 156, codified at 47 U.S.C. §1452 (2012) [hereinafter “Spectrum Act”]. In contrast, the Competitive Carriers Association’s comments — which urge the Commission to reconsider “retransmission consent rules, must carry obligations, limitations on importation of distant signals, tier and channel placement restrictions,” and other longstanding communications policies in order to create a “blend of ‘carrots’ and ‘sticks’ that promote participation by broadcasters” — not only raise issues that are outside the scope of this proceeding but also directly contradict the mandate of the Spectrum Act to preserve the public’s existing local television services and to ensure that broadcasters’ participation in the incentive auction remains entirely voluntary.

⁶ Comments of the National Association of Broadcasters, Docket No. 12-268, at 20-21.

services in order to replicate stations' existing service areas.⁷ When combined with PTV's proposals to reject reverse auction bids that would result in markets without any local public television service, to adopt channel sharing rules that allow stations to remain on air after the repacking, and to take steps to limit the impact of the repacking on other viewers who receive their television signals from television translators,⁸ these reasonable efforts will allow public television stations to continue providing the public with universal, nationwide access to the most trusted, vibrant, and diverse source of news and informational programming, weather and emergency alerts, and other critical television services.⁹

A. PTV Supports the National Association of Broadcaster's Proposed Interference Standard, Which Is a Reasonable Effort to Preserve Stations' Coverage Area and Population Served on a Station-By-Station and Aggregate Basis.

NAB, along with a number of other broadcast television station groups and licensees,¹⁰ proposes an interference standard that, in those extraordinary circumstances where

⁷ See Comments of Shenandoah Valley Educational Television Corporation, Docket No. 12-268, at 1-2; Comments of ABC Television Affiliates Association, CBS Television Network Affiliates Association, FBC Television Association, and NBC Television Affiliates, Docket No. 12-268, at 38-41; Comments of Bahakel Communications, LTD, Docket No. 12-268, at 3-4; Comments of Bonten Media Group, Inc., Docket No. 12-268, at 10; Comments of Cox Media Group, Docket No. 12-268, at 4-5; Comments of Gray Television, Inc., Docket No. 12-268, at 7-8; Comments of WGAL Hearst Television Inc., Docket No. 12-268, at 13-15; Comments of the National Association of Broadcasters, Docket No. 12-268, at 33; Comments of Raycom Media, Inc., Docket No. 12-268, at 8; Comments of Tribune Company, Docket No. 12-268, at 18-21; Comments of the Walt Disney Company, Docket No. 12-268, at 14 n.42.

⁸ See Comments of the Association of Public Television Stations, Corporation for Public Broadcasting, and Public Broadcasting Service, Docket No. 12-268, at 10-18 [hereinafter "PTV Comments"].

⁹ See, e.g., Press Release, Public Broadcasting Service, "PBS and Member Stations Mark 10 Years as America's Most Trusted Institution and an 'Excellent' Use of Tax Dollars" (Feb. 21, 2013), <http://to.pbs.org/most-trusted-2013> (finding that, for the tenth year in a row, public television stations were ranked first in trust among nationally known institutions).

¹⁰ Comments of the National Association of Broadcasters, Docket No. 12-268, at 20-21; Comments of the ABC Television Affiliates Association, CBS Television Network Affiliates

the Commission is unable to fully preserve the coverage area and population served by a specific station in the repacking, would require a television station to tolerate additional interference from another station for up to 0.5 percent of the station's viewers as long as the aggregate additional interference received from all stations is capped at 1.0 percent.¹¹ PTV supports this approach, which does a better job of meeting the Spectrum Act's requirement of making "all reasonable efforts" to preserve each television station's coverage area and population served than the interference standards proposed in the NPRM.¹²

As explained in PTV's comments, public television stations are committed to providing universal access to a vibrant, diverse, and high-quality noncommercial educational television service for every American.¹³ Each public television station has a unique mission and provides a customized blend of local and national programming and services — serving as a trusted source of important and potentially life-saving news, weather, and emergency information. Public television station viewers would suffer if the Commission failed to fully replicate stations' existing coverage area and population served because these stations often have unique obligations to serve specific viewers, such as a particular school district or university, with important educational programming and services. Diminishing or shifting the coverage

Association, FBC Television Affiliates Association, and NBC Television Affiliates, Docket No. 12-268, at 32-37; Comments of Belo Corp., Docket No. 12-268, at 14; Comments of CBS Corporation, Fox Entertainment Group, Inc., NBCUniversal Media, LLC, the Walt Disney Company, and Univision Communications Inc., Docket No. 12-268, at 6-7; Comments of Gray Television, Inc., Docket No. 12-268, at 5-6; Comments of Mobile Content Venture, LLC, Docket No. 12-268, at 6-7; Comments of the New York State Broadcasters Association, Inc., Docket No. 12-268, at 21; Comments of Tribune Company, Docket No. 12-268, at 17; Comments of Univision Communications Inc., Docket No. 12-268, at 7.

¹¹ Comments of the National Association of Broadcasters, Docket No. 12-268, at 20-21.

¹² Spectrum Act, § 6403(b)(2).

¹³ *See generally* PTV Comments, at 3-4 (summarizing public television stations' mission of promoting universal access to local television services).

area and population served by these public television stations could make it impossible for them to fulfill their duties to these local communities. Consequently, it is critical that public television stations are able to serve the same specific viewers after the repacking, subject to a small amount of permitted increased interference that is no greater than 0.5 percent per station and 1.0 percent in the aggregate.

While a few commenters encourage the Commission to permit additional interference that meets or exceeds 2.0 percent of a station's population served, these proposals must be rejected as inconsistent with the statutory requirement of making "all reasonable efforts to preserve . . . the coverage area and population served of each broadcast television licensee."¹⁴ For example, the Consumer Electronics Association ("CEA") argues that "there may be some situations in which reductions in service areas of more than two percent will occur."¹⁵ The CEA proposal directly conflicts with the text and intent of the Spectrum Act, which directs the Commission to make *all* – not just some – reasonable efforts to preserve each television station licensee's coverage area and population served. Disfranchising such a significant number of viewers, who would lose access to their existing local television services, would be unreasonable and contrary to the public interest.

B. The Record Demonstrates That Further Steps, Such As Honoring Power Limit Waivers and Protecting Digital Replacement Translators, Are Needed To Replicate Stations' Existing Coverage Area and Population Served After the Repacking.

One of the important lessons learned from the digital television transition is how difficult it is to replicate the coverage area and population served of broadcast television stations

¹⁴ Spectrum Act, § 6403(b)(2).

¹⁵ Comments of the Consumer Electronics Association, Docket No. 12-268, at 32.

that are forced to transition to new digital channels. To ensure that viewers did not lose access to important local television services after the digital television transition, stations worked closely with Commission staff to utilize a variety of different mechanisms — including waivers of effective radiated power (“ERP”) limits and antenna height restrictions, as well as construction permits to operate digital replacement translators — to restore television service throughout their service areas as quickly as possible. PTV agrees with other commenters that the Commission should avoid squandering the tremendous private and public sector investment in the public’s broadcast television service that was made less than four years ago. Instead, the Commission should make additional, reasonable efforts to preserve stations’ existing coverage area and population served in the repacking.

After the digital television transition, a number of television stations — including, for example, noncommercial educational station WVPT in Staunton, Virginia — received waivers to operate above permitted power levels or to exceed antenna height restrictions in order to allow viewers to receive digital broadcasts of the station’s signals.¹⁶ PTV agrees with the Shenandoah Valley Educational Television Corporation, licensee of WVPT, that the Spectrum Act requires the Commission to preserve the coverage area and population served not only of stations who have received a waiver of the applicable antenna height restrictions, but also those who have received a waiver of the standard ERP limits.¹⁷ There is no reason to distinguish, as the NPRM proposes to do,¹⁸ between waivers of the antenna height and ERP restrictions. Both

¹⁶ See Comments of Shenandoah Valley Educational Television Corporation, Docket No. 12-268, at 1.

¹⁷ *Id.* at 2.

¹⁸ NPRM, ¶ 100 n.157 (“We propose to make all reasonable efforts to preserve the existing coverage areas of stations whose operations exceed the antenna height (but not ERP) limits.”)

types of waivers were sought and granted in order to allow television stations to replicate their service area and population served so that viewers would not lose service after the digital television transition. Therefore, to avoid unfairly disadvantaging viewers of WVPT and other stations who have received waivers of the ERP limits, PTV encourages the Commission to make all reasonable efforts to preserve a station's existing coverage area and population served, including the coverage area and population served by the station's operations consistent with valid waivers previously granted by the Commission to exceed antenna height or ERP limits.

In addition, PTV agrees with the many comments that urge the Commission to preserve local television service for viewers who receive their television signals from replacement television translators.¹⁹ A sizeable number of full-power television stations (including 23 noncommercial educational stations with licensed digital replacement translators and 14 noncommercial educational stations with construction permits for digital replacement translators) depend on this translator service to reach viewers within the station's coverage area who lost service as a direct result of the digital television transition. Preserving the coverage area of and population served by these digital replacement translators promotes the Spectrum Act's legislative intent and purpose because these translators preserve, rather than extend, a full-power television station's service area. They have the same call sign and facility identification number as the full-power station, may not be separately assigned or transferred, and are renewed

¹⁹ *See, e.g.*, Comments of ABC Television Affiliates Association, CBS Television Network Affiliates Association, FBC Television Association, and NBC Television Affiliates, Docket No. 12-268, at 38-41; Comments of Bahakel Communications, LTD, Docket No. 12-268, at 3-4; Comments of Bonten Media Group, Inc., Docket No. 12-268, at 10; Comments of Cox Media Group, Docket No. 12-268, at 4-5; Comments of Gray Television, Inc., Docket No. 12-268, at 7-8; Comments of WGAL Hearst Television Inc., Docket No. 12-268, at 13-15; Comments of the National Association of Broadcasters, Docket No. 12-268, at 33; Comments of Raycom Media, Inc., Docket No. 12-268, at 8; Comments of Tribune Company, Docket No. 12-268, at 18-21; Comments of the Walt Disney Company, Docket No. 12-268, at 14 n.42.

with the station's main license. In short, digital replacement translators form part of the primary service of full-power stations and thus are entitled to protection under the Spectrum Act.

Given the important role that these digital television translators play in ensuring that viewers left behind in the digital television transition regain access to their local television services, PTV agrees with other broadcasters that the Commission should preserve digital replacement translator service regardless of whether a construction permit for these facilities was pending or unbuilt as of February 22, 2012. Six noncommercial educational television stations have pending construction permits for digital replacement translators. To deny the public access to these important public television services that were lost due to the digital television transition would be unfair and contrary to these public television stations' statutory mission to provide universal service.²⁰

While PTV agrees with commenters that digital replacement translators uniquely enable television station licensees to serve their existing viewers, these are *not* the only circumstances where the Commission should take steps to limit the impact of the repacking on viewers who receive their television signals via translators. As explained in PTV's comments, the Commission also should: (1) accommodate translator service in rural areas, where translators are used extensively to reach hundreds of remote, otherwise unreachable geographic areas, by refraining from condensing the broadcast band more in rural areas than in urban areas; (2) permit

²⁰ See PTV Comments, at 7 n.15 (citing 47 U.S.C. § 396(a)(5) (“[I]t furthers the general welfare to encourage public telecommunications services which will be responsive to the interests of people both in particular localities and throughout the United States, and will constitute an expression of diversity and excellence, and which will constitute a source of alternative telecommunications services for all the citizens of the Nation.”); *id.* § 396(a)(7) (“[I]t is necessary and appropriate for the Federal Government to complement, assist and support a national policy that will most effectively make public telecommunications services available to all citizens of the United States.”)).

translators to be operated out-of-core indefinitely until they are displaced by a winning bidder that actually builds out and uses the spectrum acquired at auction for mobile broadband service; and (3) provide qualified noncommercial educational television stations²¹ a selection priority over other low power television stations in the displacement relief process after the repacking.²² All of these proposals are consistent with the “secondary” spectrum status of non-replacement translators, and the Commission should not hesitate to adopt them.

Minimizing the likelihood that translators will be displaced in the repacking — especially in rural, remote, and tribal areas — is necessary to uphold public television stations’ mission of universal service. Public television stations are committed to offering all Americans, including minority and tribal communities, vibrant and diverse broadcast television services. PTV’s experience is consistent with data submitted by Univision Communications Inc. (“Univision”) demonstrating that minority viewers disproportionately receive their television services exclusively for free over-the-air.²³ Like Univision, PTV is concerned that these communities would be at a unique disadvantage if the repacking diminishes broadcasters’ ability to provide important television services, including services received through translators. As PTV explained in its comments, however, viewers who receive their television services over-the-air are not the only viewers who could be left in the dark in the repacking if translator services are

²¹ Under the Satellite Television Extension and Localism Act of 2010, a “qualified noncommercial educational television station” includes “any full-power television broadcast station that . . . is licensed by the Commission as a noncommercial educational broadcast station and is owned and operated by a public agency, nonprofit foundation, nonprofit corporation, or nonprofit association; and . . . has as its licensee an entity that is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto.” 47 U.S.C. § 338(k)(6).

²² See PTV Comments, at 10-15.

²³ See Comments of Univision Communications Inc., Docket No. 12-268, at 3-4.

taken off the air.²⁴ Viewers who subscribe to cable, satellite, and other pay-television programming services also would lose access to their local television services because many public television stations use translators to deliver a good-quality signal to these carriers' receive facilities.

II. THE COMMENTS ILLUSTRATE THE NEED TO MINIMIZE DISRUPTION TO THE PUBLIC'S TELEVISION SERVICES WHEN IMPLEMENTING THE REPACKING.

The record makes clear that the Commission must strike the right balance in this first-ever incentive auction and repacking process in order to avoid disrupting the local television services that viewers depend on to receive important news, emergency alerts, and informational programming. Specifically, the Commission should minimize disruptions to the public's television services by:

- A. Making further efforts to allow stations to voluntarily bid to relocate operations to the VHF band with predictable channel placement and over-the-air viewership;
- B. Using the NAB's list of proposed repacking expenses to calculate tiers of estimated relocation costs of stations who are forced to relocate in the repacking; and
- C. Rejecting AT&T's proposal to restrict use of channels adjacent to the mobile broadband downlink guard band to stations operating at power levels of 50 kW or below.

The following sections address each of these issues in greater detail.

²⁴ For example, using over-the-air signals Blue Ridge PBS in Roanoke, Virginia feeds 190 MVPD headends, Wisconsin Public Television in Madison, Wisconsin feeds nearly 140 MVPD headends, and UNC-TV in North Carolina feeds over 160 MVPD headends. PBS Engineering & Technology Advisory Committee survey, 2011-12.

A. PTV Agrees with KLCS and the Walt Disney Company That Additional Efforts Are Needed to Avoid Disruptions to Television Services Within the VHF Band.

PTV agrees with KLCS and the Walt Disney Company (“Disney”) that the NPRM’s proposals could have the unintended effect of discouraging stations from considering a bid to relocate to the VHF band. As public broadcaster KLCS explains in its comments, channel assignment is an important variable as a station considers whether to bid to move to the VHF band. Particularly in light of the high noise floor in the VHF band and other challenges that stations with digital allotments in the VHF band have experienced, stations need information about channel assignment to understand the trade-offs that they would experience in a move to the VHF band.²⁵ Stations understandably will be reluctant to bid to move to a VHF channel if there is a risk that unanticipated reception problems could undermine the delivery of services to their viewers. PTV’s comments therefore encouraged the Commission to provide UHF to VHF bidders the flexibility to limit their bids to a high VHF channel (7-13).²⁶ Because this approach would provide potential bidders with somewhat greater certainty regarding future channel placement, it would help stations to anticipate and evaluate the drawbacks associated with a move from the UHF to the VHF band.

PTV also agrees with Disney that it will be particularly difficult for the Commission to replicate the coverage area and population served of television stations that currently operate in the UHF band and voluntarily agree to move to the VHF band. This is because VHF channels are far less suitable for digital television station operations. To help incentivize broadcasters to relocate from a current UHF channel to a VHF channel that is

²⁵ See Comments of KLCS-TV, Los Angeles, California, Docket No. 12-268, at 2.

²⁶ See PTV Comments, at 35.

technically inferior, PTV supports Disney’s proposal to permit a station that relocates to the VHF band “to operate and receive interference protection at technical parameters that replicates its over-the-air viewership at the start of the incentive auction process.”²⁷

B. By Basing Estimated Reimbursement Costs on the NAB’s List of Expected Repacking Expenses, the Commission Can Minimize Disruptions for Stations That Are Forced to Relocate in the Repacking.

To ensure that stations required to move channels in the repacking are made financially whole and can afford to continue their normal television operations, PTV encourages the Commission to base any tiered estimates of a station’s relocation costs on the items listed in Appendix A of the NAB’s comments.²⁸ Some of the expenses included in this Appendix, such as grant-related expenses, are particularly important for public television stations that operate under grants from the Corporation for Public Broadcasting, the National Telecommunications and Information Administration, and other state and private entities.

PTV strongly opposes the alternative approach proposed by Sprint Nextel Corporation (“Sprint Nextel”), which would require *all* television broadcasters, regardless of whether they will be required to move to a new channel in the repacking, to “provide the Commission with an inventory of their equipment and facilities that would be impacted by [the] repacking, along with a preliminary estimate of their repacking costs” no later than six months before the reverse auction commences.²⁹ Under Sprint Nextel’s proposal, the Commission then would need to “engage third party experts to evaluate these inventories and provide the Commission with independent estimates on the cost of broadcaster relocation . . . extrapolating

²⁷ Comments of the Walt Disney Company, Docket No. 12-268, at 20.

²⁸ Comments of the National Association of Broadcasters, Docket No. 12-268, Appendix A (List of Broadcaster Spectrum Repacking Expenses).

²⁹ Comments of Sprint Nextel Corporation, Docket No. 12-268, at 11.

these figures to estimate total relocation costs under a variety of scenarios and in different markets.³⁰

Sprint's proposal is unnecessarily complicated and onerous for broadcasters and the Commission alike. Contrary to Sprint Nextel's assertions, many individual licensees have not undertaken the burdensome process of calculating their potential relocation costs because they do not want to shoulder this expense if they will not be forced to relocate in the repacking. In addition, such estimates are difficult to calculate if the station does not have more information about its future channel placement. This is because the costs of moving from channel 40 to channel 38, for example, are much different than the costs of moving from channel 40 to channel 14 due to dramatically different equipment needs. The wide variability of necessary equipment and resulting costs for various channel change scenarios was detailed by Harris Corporation during the Broadcaster Relocation Fund Workshop hosted by the Commission in June 2012.³¹

In addition, adoption of Sprint Nextel's proposal likely would delay the reverse auction. It would take time and resources for the Commission staff to develop the required inventory and estimated expense form, and once this process is complete, this form would be subject to analysis under the Paperwork Reduction Act as an agency request for new information.³² Because the necessity of requiring nearly 2,000 broadcast television station licensees to respond to a burdensome information request is questionable when only a minority

³⁰ *Id.*

³¹ *See* TV Broadcaster Relocation Fund Workshop (June 25, 2012), <http://wireless.fcc.gov/incentiveauctions/learn-program/resources.html>.

³² Government requests for new information must meet several requirements under the Paperwork Reduction Act. *See* 44 U.S.C. § 3506. As part of this process, the public must be provided an opportunity to comment on whether, for example, the "proposed collection of information is necessary for the proper performance of the functions of the agency, including that the information has practical utility," and there are ways to "minimize the burden of the collection of information on those who are to respond." *Id.* § 3506(c)(2)(A).

of these stations may ultimately be relocated in the repacking,³³ the Office of Management and Budget is likely to scrutinize this new information collection request closely. Moreover, even assuming that these steps can be completed and that broadcasters will be able to provide the requested information six months before the reverse auction begins, it may take more than six months for the Commission to engage independent third-party experts and for these experts to analyze the information submitted by every broadcast television licensee.

Given the significant and unnecessary burdens that Sprint Nextel's approach would place on broadcasters and the Commission, and the likelihood that it could result in delaying the start of the reverse auction, PTV urges the Commission to reject Sprint Nextel's recommendation. Instead, the Commission should adopt PTV's proposal, which would provide stations a choice of either submitting their own estimates directly to the Commission or relying on the Commission's tiered estimates, based on the inventory of expenses compiled in Appendix A of NAB's comments.³⁴ As PTV's comments explained, this process would be much more efficient, transparent, and fair.

C. AT&T's Proposal to Restrict Use of Channels Adjacent to the Mobile Broadband Downlink Guard Band to Stations Operating at Power Levels of 50 kW or Below Would Significantly Disrupt the Public's Existing Broadcast Television Services.

Without statutory justification, AT&T asks the Commission to restrict the use of channels adjacent to the mobile broadband downlink guard band to stations operating at power

³³ See Federal Communications Commission, News Release, "Broadcast Station Totals As of December 30, 2012" (Jan. 11, 2013); Comments of the National Association of Broadcasters, Docket No. 12-268, at v (estimating "that approximately 400-500 stations can be repacked within the \$1.75 billion budget").

³⁴ See PTV Comments, at 28; Comments of the National Association of Broadcasters, Docket No. 12-268, Appendix A.

levels of 50 kW or below based on its view that “a six-megahertz guard band is insufficient to keep high-power TV stations from interfering with downlink operations.”³⁵ PTV opposes this proposal, which is contrary to the plain language of the Spectrum Act and would cause significant disruptions to the public’s broadcast television services.

The Spectrum Act requires that the guard bands be large enough “to prevent harmful interference between licensed services outside the guard bands” and no larger.³⁶ Either a larger guard band is needed to prevent harmful interference, or it is not. Handicapping a portion of the broadcast television spectrum in order to, in effect, create a larger guard band for mobile broadband services would be inappropriate and undermine congressional intent to ensure that viewers who receive a station’s signal today will continue to receive such station once the repacking is complete.

AT&T’s proposal would result in significant disruptions to the public’s existing broadcast television services by increasing the number of stations that would be forced to relocate in the repacking, thereby increasing the relocation costs that must be paid from the auction proceeds. Because, as AT&T acknowledges, television stations commonly operate at power levels above 50 kW,³⁷ a large number of additional stations would need to move to new channels in the repacking if AT&T’s proposal is adopted. These additional moves would make it more difficult for the Commission to preserve every television station licensee’s coverage area and population served, as required under the Spectrum Act. These additional channel moves also

³⁵ Comments of AT&T Inc., Docket No. 12-268, at 38; *see id.*, at 5, 13, 22, 77.

³⁶ Spectrum Act, § 6407(b).

³⁷ Comments of AT&T Inc., Docket No. 12-268, at 22.

would increase the total amount of relocation costs that must be reimbursed out of the limited TV Broadcaster Relocation Fund. Consequently, the Commission should reject AT&T's proposal.

In connection with the repacking and implementation of the TV Broadcaster Relocation Fund, PTV reiterates its view that the Commission should help minimize disruptions to the nation's public television service by: (i) providing stations at least three years to complete the transition to new channel assignments; (ii) prioritizing noncommercial educational licensees in the event that the relocation fund is insufficient; (iii) avoiding any extended off-air time for repacked television stations; and (iv) undertaking a nationwide consumer education campaign that informs viewers of the steps they must take to retain access to their broadcast television services.³⁸

III. PTV OPPOSES CTIA'S REQUEST TO ADD FIXED AND MOBILE ALLOCATIONS THROUGHOUT THE UHF AND VHF TELEVISION SPECTRUM.

CTIA asks the Commission to amend the Table of Allocations to add new allocations for mobile broadband services to be co-primary with broadcast television services in the entire range of the UHF and VHF bands.³⁹ As explained in PTV's comments, this proposal is contrary to the intent of the Spectrum Act, which authorizes the Commission to reclaim only a portion of the broadcast television spectrum for mobile broadband services using the specified mechanism of a one-time incentive auction.⁴⁰ By adding new allocations for mobile broadband services throughout the UHF and VHF television spectrum, all or nearly all of the broadcast television spectrum could be repurposed at a future date for mobile broadband operations,

³⁸ See generally PTV Comments, at 23-31.

³⁹ Comments of CTIA – The Wireless Association, Docket No. 12-268, at 16-17.

⁴⁰ See PTV Comments, at 36-37.

thereby circumventing the clear intent of Congress. To avoid this result, the Commission should continue to allocate separate bands for broadcast television and mobile broadband use.

CONCLUSION

The record in this proceeding demonstrates not only the complicated, interrelated nature of the incentive auction and repacking process, but also the need to strike the right balance to ensure that all viewers continue to have universal access to the important services that public television stations provide. As the Commission continues to consider how best to fulfill the Spectrum Act's mandate to "make all reasonable efforts" to preserve local television service, PTV looks forward to working with the Commission to ensure that the nation's public television stations continue to serve as a source of alternative telecommunications services for all Americans.

Respectfully submitted,

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