



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 15-116
Released: January 28, 2015

MEDIA BUREAU DESIGNATES MAY 29, 2015 AS PRE-AUCTION LICENSING DEADLINE

May 29, 2015 Deadline Also Applicable to Class A Television Stations Converting to Digital

The Media Bureau, acting pursuant to delegated authority, designates **May 29, 2015**, as the Pre-Auction Licensing Deadline by which full power and Class A facilities must be licensed in order to be eligible for protection in the repacking process that will be part of the television incentive auction.¹ In the *Incentive Auction R&O*, the Commission concluded that all full power and Class A facilities that were licensed as of February 22, 2012, are entitled to mandatory protection.² The Commission also concluded that the public interest would be served by extending discretionary protection to certain categories of facilities that were not licensed as of February 22, 2012; however, with limited exception, it required that these facilities be licensed by the Pre-Auction Licensing Deadline.³ Although some of the facilities discussed in the *Incentive Auction R&O* that are subject to discretionary protection have already been licensed, there are still authorized facilities in the following categories that remain unlicensed at this time.

- (1) Full power facilities authorized in outstanding construction permits issued to effectuate a channel substitution for a licensed station.⁴ This includes construction permits for stations seeking to relocate from channel 51 pursuant to voluntary relocation agreements with Lower 700 MHz A Block licensees.⁵
- (2) Modified facilities of full power and Class A stations that were authorized by construction permits granted on or before April 5, 2013, the date of the Media Bureau's *Freeze PN*, or that

¹ See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, Report and Order, 29 FCC Rcd 6567, 6656, para. 195 and n.646 (2014) (“*Incentive Auction R&O*”) (“delegat[ing] authority to the Media Bureau to issue a Public Notice specifying the Pre-Auction Licensing Deadline”); 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) (Spectrum Act). The Pre-Auction Licensing Deadline will also determine which facilities are eligible for voluntary relinquishment of spectrum usage rights in the incentive auction. *Incentive Auction R&O*, 29 FCC Rcd at 6718, para. 355. The term “licensed” encompasses both licensed facilities and those subject to a pending license to cover application (i.e., FCC Form 302-DTV or 302-CA).

² *Id.* at 6652-53, paras. 185-86.

³ *Id.* at 6655-56, paras. 194-95.

⁴ *Id.* at 6657-59, paras. 198-203.

⁵ Rulemaking petitions and applications for construction permits to relocate from channel 51 are not subject to the current freeze on the filing of channel substitution rulemaking petitions and certain facility modification applications. *Id.* at 6659, para 203 and n. 658.

have been authorized by construction permits that were granted after April 5, 2013 and are in compliance with the *Freeze PN*.⁶

- (3) Class A stations' initial digital facilities that were not initially licensed until after February 22, 2012, including those that were not authorized until after the *Freeze PN*.⁷

Accordingly, all facilities in these discretionary protection categories, with limited exception for stations affected by the destruction of the World Trade Center,⁸ must be licensed or have an application for a license to cover the construction permit on file by **May 29, 2015**, in order for these facilities to be protected in the repacking process. Furthermore, this constitutes notice of the last opportunity before the Pre-Auction Licensing Deadline for all full power and Class A licensees to modify their licenses to fix errors they have made in providing us their operating parameters and to have those modifications protected in the repacking process. Such modifications will be protected so long as a modification application that complies with the *Freeze PN* is filed and granted, and a license to cover application is filed, by **May 29, 2015**.⁹

We also emphasize that, in order for a Class A digital facility to be afforded protection in the repacking process, it must be licensed by the Pre-Auction Licensing Deadline.¹⁰ While Class A licensees may wait until the September 1, 2015, digital transition deadline to complete construction and license their digital facilities,¹¹ those that do not have their digital facilities licensed by **May 29, 2015**, will be

⁶ *Id.* at 6660-62, paras. 207-11; *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 (2013) (“*Freeze PN*”).

⁷ *Incentive Auction R&O*, 29 FCC Rcd at 6663-65, paras. 216-18.

⁸ Licensees affected by the destruction of the World Trade Center may elect to protect either their licensed Empire State Building facility or a proposed new facility at One World Trade Center so long as that new facility has been applied for and authorized in a construction permit granted by the Pre-Auction Licensing Deadline. *Id.* at 6665-66, paras. 219-20. Licensees must file a letter with the Commission making their election no later than May 29, 2015. *Id.* at 6665, n. 690. A copy of the letter should also be emailed to Kevin Harding, Associate Division Chief, Video Division, Media Bureau at kevin.harding@fcc.gov.

⁹ *Id.* at 6662, para. 211. The Media Bureau will release a subsequent Public Notice listing the facilities licensed by the Pre-Auction Deadline, as reflected in the Commission's records, and thereby eligible for protection in repacking or relinquishment in the incentive auction. Licensees will be required to certify in a Pre-Auction Technical Certification Form (FCC Form 2100, Schedule 381) that they have reviewed their authorization and underlying database technical information for their eligible facility, and to confirm that all information is correct with respect to actual operations or identify any discrepancies. *Id.* at 6651, n. 615; *see also* 79 Fed. Reg. 72000 (Dec. 4, 2014)(requesting comment on proposed FCC Form 2100, Schedule 381).

¹⁰ *Incentive Auction R&O*, 29 FCC Rcd at 6664, para. 217.

¹¹ *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*, MB Docket No. 03-185, Second Report and Order, 26 FCC Rcd 10732, 10753-54, para. 45 (2011)(*LPTV DTV Second R&O*). In the *Incentive Auction R&O* the Commission clarified that it was *not* modifying the Class A digital transition deadline. *Incentive Auction R&O*, 29 FCC Rcd at 6665, para 218 (emphasis added). Class A licensees may seek one extension of time to complete their digital transition facilities by submitting an application for extension of construction permit by **May 1, 2015**. *LPTV DTV Second R&O*, 26 FCC Rcd at 10740, para. 15; *see also* 47 C.F.R. § 74.788(c). The filing or grant of an extension application does not relieve Class A stations of the requirement that they license their digital facilities by the Pre-Auction Licensing Deadline in order for those facilities to be eligible for protection.

afforded protection based only on the coverage area and population served by their analog facilities, consistent with the *Incentive Auction R&O*.¹²

For additional information on this Public Notice, contact Evan Morris, Evan.Morris@fcc.gov, or Kevin Harding, Kevin.Harding@fcc.gov of the Video Division, Media Bureau, at (202) 418-1600. Press inquiries should be directed to Janice Wise, (202) 418-8165.

--FCC--

¹² *Incentive Auction R&O*, 29 FCC Rcd at 6664-65, para. 218 and n. 688.