



# PUBLIC NOTICE

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## **MEDIA BUREAU FREEZES THE FILING OF MINOR CHANGE APPLICATIONS FOR LPTV/TRANSLATOR STATIONS**

**MB Docket No. 16-306**

**GN Docket No. 12-268**

1. Effective immediately, the Media Bureau will no longer accept for filing applications for minor changes for low power television and TV translator stations (referred to collectively as “LPTV/translator stations”).<sup>1</sup> This action will help to provide a stable database for eligible LPTV/translator stations to identify and apply for available channels in an upcoming displacement window.

2. As described in detail in previously released public notices,<sup>2</sup> the Commission has directed the Media Bureau to announce a Special Displacement Window for operating<sup>3</sup> LPTV/translator stations that are displaced by the post-incentive auction repack to clear the new wireless 600 MHz band.<sup>4</sup> In addition, the Commission directed that 60 days prior to the opening of the Special Displacement Window, a public notice should be issued to provide data identifying locations and channels where LPTV/translator

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<sup>1</sup> See 47 CFR § 74.787(b). The filing of LPTV/translator applications for new digital stations, major changes, displacement and digital companion channels 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); *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); *Freeze on the Filing of Applications for Digital Replacement Translator Stations and Displacement Applications*, Public Notice, 29 FCC Rcd 6063 (MB 2014); and *Freeze on the Filing of Applications for Digital Companion Channels*, Public Notice, 32 FCC Rcd 566 (MB 2017). Applications for digital flash cut filed by existing analog LPTV/translator stations will continue to be accepted for filing.

<sup>2</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); *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*); and *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, 32 FCC Rcd 3860, 3862, para. 5 (2017).

<sup>3</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>4</sup> See *LPTV Procedures Public Notice*, 32 FCC Rcd at 3863, para. 6.

stations likely cannot propose displacement facilities because of the presence of other non-displaced LPTV/translator stations, full power and Class A television stations, and land mobile operations.<sup>5</sup>

3. Thus, the Media Bureau deems it appropriate to freeze the acceptance of minor change applications at this time to protect the opportunity for displaced LPTV/translator stations to obtain a new channel from the limited number of channels likely to be available for application after repacking. The Media Bureau will continue to process pending minor change applications. Following completion of the special window for displaced LPTV/translator stations, we will announce when we will again begin accepting minor change applications.

4. The Media Bureau will consider, on a case-by-case basis, requests for waiver of the filing limitation imposed by this Public Notice when a minor change application is necessary or otherwise in the public interest for technical or other reasons to maintain quality service to the public. As with any request for waiver of our rules, such a request will be granted only on a showing of good cause and when grant of the waiver will serve the public interest.<sup>6</sup>

5. 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>

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

7. For additional information or questions, please contact Hossein Hashemzadeh (technical), [Hossein.Hashemzadeh@fcc.gov](mailto:Hossein.Hashemzadeh@fcc.gov) (202) 418-1658 or Shaun Maher (legal), [Shaun.Maher@fcc.gov](mailto:Shaun.Maher@fcc.gov) (202) 418-2324 of the Video Division, Media Bureau.

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<sup>5</sup> *Id.*

<sup>6</sup> See 47 CFR § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. See *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166. Waiver of the Commission's rules is appropriate only if both (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest. See *id.*

<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).