



PUBLIC NOTICE

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

News Media Information: 202-418-0500
Internet:
TTY: 888-835-5322

DA 17-1033
Released: October 19, 2017

**FREEZE ON THE FILING OF MODIFICATION APPLICATIONS TO BE LIFTED
TEMPORARILY TO PERMIT FILING OF APPLICATIONS TO EXPAND THE CONTOURS
OF FULL POWER AND CLASS A TELEVISION STATIONS THAT ARE NOT PART OF THE
POST INCENTIVE AUCTION REPACK PROCESS**

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

1. The Media Bureau will temporarily lift a freeze imposed on the filing and processing of certain full power and Class A station applications. This action will help ensure the utility of an upcoming application filing window for secondary stations displaced by the incentive auction repacking process by reducing the likelihood that facility modifications awarded in that displacement window might shortly thereafter be displaced again by applications of priority stations.

2. On April 5, 2013, the Media Bureau issued a Public Notice (*April 2013 Freeze Public Notice*) imposing limitations on the filing and processing of certain applications by full power and Class A television stations in light of the then forthcoming broadcast incentive auction.¹ The freeze remains in effect. Following the close of the Incentive Auction Second Filing Window, the Media Bureau will issue a public notice specifying a limited period during which the freeze will be lifted. As described below, temporarily lifting this freeze will decrease the possibility that low power television, television translator, and analog-to-digital replacement translator stations (referred to collectively as “LPTV/translator stations”) that seek to modify facilities during the upcoming Special Displacement Window available to LPTV/translator stations displaced by the incentive auction will subsequently be displaced again by full power stations that file applications after the freeze is lifted.

3. In the *April 2013 Freeze Public Notice* the Bureau announced that it would not accept for filing modification applications for changes to existing television service areas that would increase a full power television station’s noise-limited contour or a Class A station’s protected contour in one or more directions beyond the area resulting from the station’s authorized facilities as of that date.² The Bureau explained that these limitations were necessary to (1) create a stable database of full power and Class A facilities that would allow for development and analysis of potential repacking methodologies; and (2) avoid further expansion of broadcast television stations’ use of spectrum.³ The Bureau also announced that pending applications at variance with these limitations that were not amended to comply with the

¹ *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).

² *Id.* at 4365. Class A displacement applications that would increase the station’s protected contour similarly would not be accepted.

³ *Id.* at 4364-65.

limitations or that requested a waiver would be processed consistent with rules and policies adopted by the Commission in the Report and Order in the incentive auction rulemaking proceeding.⁴

4. The incentive auction closed with the issuance of the *Closing and Channel Reassignment Public Notice* on April 13, 2017, and the transition period is underway. During the transition period, the facilities of broadcast television stations that received new channel assignments in the post-incentive auction repacking process will be reauthorized and relicensed.⁵ This transition period required initial construction permit applications to be filed by July 12, 2017, and incorporated two filing windows for eligible full power and Class A stations to file for alternate channels and/or expanded facilities.⁶ The first priority filing window closed on Friday, September 15, 2017,⁷ and the second filing window will close on November 2, 2017.⁸

5. LPTV/translator stations were not eligible to participate in the incentive auction and were not protected during the repacking process.⁹ Accordingly, some LPTV/translator stations are subject to displacement. The Commission has directed the Media Bureau to announce a Special Displacement Window for operating displaced LPTV/translator stations to file displacement applications after full power and Class A television stations reassigned to new channels in the repacking process have had the opportunity to apply for their preferred facilities in one of the two filing windows.¹⁰ The timing of the Special Displacement Window after the two filing windows will “ensure a stable database for eligible LPTV/translator stations to identify and apply for available channels.”¹¹ Sixty days prior to the opening of the Special Displacement Window, a public notice will provide data identifying locations and channels where LPTV/translator 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 (Displacement Public Notice).¹² LPTV/translator stations are encouraged to file minor change

⁴ *Id.* at 4365. See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567 (2014), *aff’d*, *Nat’l Assoc. of Broadcasters, et al v. FCC*, 789 F.3d 165 (D.C. Cir. 2015).

⁵ 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*).

⁶ 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.

⁷ *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*, Public Notice, 32 FCC Rcd 5785 (2017); *Incentive Auction Task Force and Media Bureau Extend the Filing Deadline for the First Priority Filing Window for Eligible Full Power and Class A Television Stations*, Public Notice, 32 FCC Rcd 6827 (2017).

⁸ *Incentive Auction Task Force and Media Bureau Announce the Opening of the Second Filing Window for Eligible Full Power and Class A Television Stations—October 3 Through November 2, 2017*, Public Notice, 32 FCC Rcd 6989 (2017).

⁹ See *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) (*LPTV Procedures Public Notice*).

¹⁰ *Id.* at 3863, para. 6. “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).

¹¹ See *LPTV Procedures Public Notice*, 32 FCC Rcd at 3863-64, para. 7.

¹² *Id.*

applications to their existing facilities that bring those facilities into compliance with the interference rules and thereby avoid displacement as soon as possible. To create a stable database for stations filing in the Special Displacement Window, approximately 30 days before the release of the Displacement Public Notice we will issue a public notice freezing the filing of minor change applications by LPTV/translator stations.¹³

6. To help ensure the utility of the Special Displacement Window by reducing the likelihood that such channels are the subject of full power filings after the Special Displacement Window closes and the freeze is permanently lifted, it is necessary that we temporarily lift the freeze imposed in the *April 2013 Freeze Public Notice* for a limited period in advance of the Displacement Public Notice. This will allow full power and Class A television stations that were not assigned a new channel in connection with the incentive auction to file minor modification applications proposing facilities that change their contours. Stations that are not eligible to file modification applications in the first and second filing windows have been unable to propose changes that would extend their contours for over four years. Unless those stations have an opportunity to file applications prior to the Special Displacement Window, it is likely that some will do so when the freeze is permanently lifted after the Special Displacement Window closes, which may again displace LPTV/translator stations that receive construction permits through the Special Displacement Window. Temporarily lifting the filing limitations will permit the staff to include more complete and informative data in the Displacement Public Notice for LPTV/translator station use in choosing a new channel and/or transmitting location. Displaced LPTV/translator stations will thereby be able to more accurately identify available channels in their area by considering the adjustments of full power and Class A stations that are not subject to repack, as well as those that are made by repacked stations in the first priority and second windows.

7. Because we are temporarily lifting the freeze, applications that have been pending since April 5, 2013, which are at variance with the limitations in the *April 2013 Freeze Public Notice*, can now be processed. Applications submitted in response to this temporary filing opportunity will be processed on a first come/first served basis, i.e., the filing of an acceptable application “cuts-off” the filing rights of subsequent, conflicting applicants.¹⁴ Following the close of the Second Incentive Auction Filing Window, an additional public notice will be issued announcing the opening of the limited filing period during which the Commission will temporarily lift the freeze.

8. **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.

–FCC–

¹³ *Id.* at 3866, para 13.

¹⁴ *See* 47 CFR § 73.623(h).