

Post-Auction Rules and Procedures for LPTV and TV Translator Stations

May 17, 2017

On May 12, 2017, the Commission issued a public notice summarizing the rules and procedures governing the post-auction transition for low power television, TV translator and replacement translator stations (LPTV Procedures PN).[1] The LPTV Procedures PN provides guidance to LPTV and TV translator stations on (i) the filing window for displaced stations, (ii) the displacement process, (iii) channel sharing, and (iv) procedures to apply for new digital-to-digital replacement translator stations (DTDRTs). The public notice also confirmed that the new digital transition deadline for LPTV and TV translator stations is July 13, 2021.

Timing of Displacement

The LPTV Procedures PN confirms that the deadline for LPTV and TV translator stations to vacate their current channels depends on the assigned use for those channels. Stations may continue operating on their pre-auction channels until: (1) for a station currently operating on channels 2-36, initiation of service by the displacing full power or Class A television station on its new channel; (2) for a station on a channel assigned for licensed wireless use, until the station receives notice from a 600 MHz Band wireless licensee of likely interference with its operations; and (3) for a station on channel 45, until July 13, 2020 (the end of the repack transition).

New 600 MHz licensees must notify the LPTV or TV translator stations of their intent to begin operations by a certified mail letter, return receipt requested. The notice must state the date that the wireless operator will begin operations or begin testing. This notice must be delivered at least 120 days in advance of that date.

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If a station must go silent, it should file a notice of Suspension of Operations within 10 days of going silent and a Request for Special Temporary Authority to remain silent within 30 days. These filings must be submitted through LMS. The license of any station that remains silent for 12 consecutive months will be forfeited, although the Commission does have some discretionary authority to reinstate a license in order to promote equity and fairness.

Displacement Window

Near the end of 2017, the Media Bureau will issue a public notice (the Displacement PN): (1) providing channel availability data to assist stations in locating a new channel; and (2) announcing a 30-day filing window (to begin no less than 60 days from the date of the public notice) during which *operating* LPTV and TV translator stations that are *displaced* by the incentive auction and repack can file displacement applications (Special Displacement Window). The Bureau considers a station to be operating if it was licensed or had a license application on file as of April 13, 2017 (even if the station is currently silent). A station is displaced if: (i) the post-auction technical parameters of a full power or Class A station in the repacked TV band (channels 2-36) displaces the station, or (ii) it is licensed on a frequency being repurposed for wireless operations or the wireless guard band (channels 37-51). Based on the FCC's current timeline, displaced stations should be prepared to file their applications in 1st quarter 2018.

Approximately 30 days before releasing the Displacement PN, the Bureau will issue a freeze on the filing of any minor change applications by LPTV or TV translator stations.

Displacement construction permits will have a three-year construction period. However, displaced analog stations may have less than a three-year construction period, depending on when the construction permit is issued, as they must cease analog operations and begin digital operations (or go silent) by July 13, 2021.

Limits on Modifications

Displacement applications must be filed using LMS and will be treated as minor modifications for which there is no filing fee. The current displacement rules will remain in effect during the Special Displacement Window (e.g., interference rules, transmitter site move of no more than 30 miles). However, the Bureau will consider waivers that request use of a channel that is being surrendered by full power and Class A stations in the incentive auction or repack. An application that seeks a channel that is being surrendered would be filed as a contingent application and the displaced station would have to accept a condition on its construction permit that it could not operate on the channel until the other station ceases operations. If a station can avoid displacement by making a minor modification to its current facility (e.g., power, antenna height), the Bureau encourages the station to file a minor modification as soon as possible and before the Special Displacement Window opens.

After the conclusion of the filing window, the Bureau will issue a public notice announcing the date that it will lift the freeze on the filing of digital companion channel and non-auction/repack related displacement applications. Displaced stations that cannot or do not file during the Special Displacement Window must wait until the freeze is lifted to file a displacement application.

Priority for Digital Replacement Translators

An application filed for an analog-to-digital replacement translator (DRT) or a new DTDRT will have priority over any other displacement applications or minor modification applications. DTDRT applications can be filed at any time beginning with the Special Displacement Window and ending one year after the auction transition period (July 13, 2021).

Only full power stations that have been reassigned may apply for a DTDRT. In its request for a DTDRT, the station must show that: (1) it has lost a portion of its pre-auction digital service area because of the repack; and (2) the proposed DTDRT will be used solely to fill in that loss area.

Mutual Exclusivity

All applications will be considered as filed on the last day of the Special Displacement Window. After the filing window closes, the Bureau will issue a public notice announcing any applications that are mutually exclusive. It will then open a settlement window to allow those stations to attempt to resolve the exclusivity through settlement or by an engineering amendment. Those applications that remain mutually exclusive after the settlement period will be subject to the Commission's competitive bidding rules.

Channel Sharing

The Commission recently adopted a Report and Order authorizing LPTV and TV translator stations to channel share. The LPTV Procedures PN provides additional details on steps the station(s) should take if displaced. If a sharer station or both the sharer and sharee are displaced, they must file a displacement application during the Special Displacement Window and attach a copy of their channel sharing agreement. If the sharee is displaced, it may file a minor modification application to specify operation from the sharer's site at any time.

If you have any questions about the LPTV Procedures PN or what this means for your LPTV or TV translator station, please contact one of our attorneys listed on this alert.

[1] 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, DA 17-442 (May 12, 2017).