

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Amendment of Parts 73 and 74 of the	)	MB Docket No. 03-185
Commission’s Rules to Establish Rules for Digital	)	
Low Power Television and Television Translator	)	
Stations	)	
	)	
Expanding the Economic and Innovation	)	GN Docket No. 12-268
Opportunities of Spectrum Through Incentive	)	
Auctions	)	
	)	
Amendment of Part 15 of the Commission’s Rules	)	ET Docket No. 14-175
to Eliminate the Analog Tuner Requirement	)	

**ORDER**

**Adopted: January 8, 2015**

**Released: January 8, 2015**

By the Chief, Media Bureau:

1. On December 22, 2014, Free Access & Broadcast Telemedia, LLC (Free Access) filed a “Motion to Toll the Comment and Reply Comment Deadlines in the Third Notice of Proposed Rulemaking” (Motion) requesting that the Commission delay the comment and reply comment deadlines in the above-captioned proceeding. For the reasons set forth below, we deny Free Access’ Motion.

2. On October 10, 2014, the Commission released a *Third Notice of Proposed Rulemaking* in this proceeding seeking comment on measures to facilitate the final conversion of low power television (LPTV) and TV translator stations to digital service and considering additional means to mitigate the potential impact of the incentive auction and the repacking process on LPTV and TV translator stations.<sup>1</sup> Specifically, the Commission tentatively concluded that it should: (1) extend the September 1, 2015 digital transition deadline for LPTV and TV translator stations; (2) adopt rules to allow channel sharing by and between these stations; and (3) create a “digital-to-digital replacement translator service for full power television stations that experience losses in their pre-auction service areas. The Commission also sought comment on: (1) use of the incentive auction optimization model to assist displaced LPTV and TV translator stations to identify new channels; (2) whether to permit digital LPTV stations to operate analog FM radio-type services on an ancillary and supplementary basis; (3) whether to eliminate the requirement that TV receivers include analog tuners; and (4) any additional measures it should consider to mitigate the impact of the incentive auction on LPTV and TV translator stations.<sup>2</sup>

3. On November 28, 2014, a summary was published in the Federal Register that specified a deadline of December 29, 2014 for filing comments on the *Third Notice* and a January 12, 2015 deadline

<sup>1</sup> See *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*, MB Docket No. 03-185, Third Notice of Proposed Rulemaking, 29 FCC Rcd 12536 (2014) (*Third Notice*).

<sup>2</sup> *Id.* at 12538-39, para. 4.

for filing reply comments.<sup>3</sup> Citing the fact that the comment dates were to fall shortly after a major holiday, the Media Bureau, on delegated authority, found it in the public interest to provide a two-week extension of the comment and reply comment deadlines.<sup>4</sup> The Bureau also found that “a short extension will enable interested parties sufficient opportunity to review and respond to the variety of issues raised by the Third Notice.”<sup>5</sup> Comments are now due January 12, 2014 and reply comments are due on January 26, 2014.

4. In its Motion, Free Access asks that the Commission delay the comment and reply comment deadlines “until two weeks after the Commission discloses for the record the underlying outputs related analysis resulting in the *Greenhill Report*.”<sup>6</sup> As discussed more fully below, the *Greenhill Report* is a report prepared by Greenhill & Co., LLC for the Commission “for use in explaining and promoting to [auction-eligible] broadcasters the Incentive Auction opportunities under the FCC’s Incentive Auction Report and Order issued in May 2014.”<sup>7</sup> Free Access points to paragraph 59 of the *Third Notice*, where the Commission sought comment on “additional measures we should consider in order to mitigate the impact of the incentive auction on LPTV and TV translator stations” and asked commenters “to describe in detail any perceived benefits and disadvantages of the measures advocated.”<sup>8</sup> Free Access maintains that it is “nearly impossible for it to posit benefit and disadvantages (a.k.a. benefit-costs) analysis in a timely fashion” without the *Greenhill Report* in the official record in this proceeding “along with the underlying assumptions and analysis of the impact on thousands of small-business Low Power Television licensees that will result based on the *Greenhill Report*’s conclusions (the “Base Case Outputs”).”<sup>9</sup> With respect to the requested “Base Case Outputs,” Free Access submits “a sample report [entitled “Individual DMA Impact Report Based on Greenhill Outputs] which we feel can quite easily be extracted [by the staff] for each DMA from the [Greenhill] analyses.”<sup>10</sup> Free Access goes on to request that the Commission generate this information and provide it to Free Access for its review.

5. We deny Free Access’ Motion. Although we consider Free Access’ Motion as a timely filed motion for extension of time to submit comments and reply comments in this proceeding,<sup>11</sup> it is the general policy of the Commission that extensions of time shall not be routinely given.<sup>12</sup> The Bureau has already extended the comment and reply comment dates in this proceeding, and we see no reason to extend them further. We also note, during the course of this proceeding, parties may continue to supplement the record with additional relevant material through the *ex parte* process.

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<sup>3</sup> See 79 Fed Reg. 70824 (11/28/14). The original deadline for filing comments, December 28, 2014, fell on a Sunday and, therefore, comments were originally due on December 29, 2014. See 47 C.F.R. § 1.4.

<sup>4</sup> See *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*, MB Docket No. 03-185, Order, DA 14-1727 (MB 2014) (*Extension Order*).

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

<sup>6</sup> Motion at 1-2 citing *Incentive Auction Opportunities for Broadcasters: Prepared by the Federal Communications Commission by Greenhill (Greenhill Report)*, available at <http://wireless.fcc.gov/incentiveauctions/learn-program/docs/ia-opportunities-book.pdf>.

<sup>7</sup> *Greenhill Report* at 1.

<sup>8</sup> Motion at 2, citing *Third Notice*, 29 FCC Rcd at 12558, para. 59.

<sup>9</sup> Motion at 2.

<sup>10</sup> Dec. 22, 2014 Letter from Sean Patty, EVP, Finance to Marlene H. Dortch, Secretary, FCC.

<sup>11</sup> See 47 C.F.R. § 1.46(b). Free Access’ Motion was filed December 22, 2014, more than 7 days before the January 12, 2015 comment filing deadline and is, therefore, timely filed.

<sup>12</sup> 47 C.F.R. § 1.46(a).

6. Moreover, Free Access' Motion demonstrates no logical correlation between the data underlying the *Greenhill Report* and the issues set forth in the *Third Notice* in this proceeding. What Free Access seems to be seeking is *Greenhill Report* data that demonstrates the impact of the incentive auction on LPTV and TV translator stations. The *Greenhill Report*, however, did not involve an analysis of LPTV and TV translator stations, but instead was crafted to explain the business opportunities presented by the reverse auction to eligible broadcasters and provide maximum and median high-end estimated potential auction compensation values for full power and Class A stations in each DMA. In estimating potential auction compensation values, the Commission considered a variety of assumptions and factors regarding potential net forward auction proceeds, a spectrum clearing target, auction-eligible stations' individual adjusted coverage population, and other matters.<sup>13</sup> These compensation values, however, were not based on DMA-by-DMA assumptions regarding auction participation, as Free Access clearly assumes,<sup>14</sup> and no such assumptions were made as part of the *Greenhill Report*. Thus, we do not see the relevance of the *Greenhill Report* to potential measures the Commission can take "to mitigate the impact of the incentive auction on LPTV and TV translator stations and to help preserve the important services they provide."<sup>15</sup>

7. Nevertheless, we are placing the *Greenhill Report* in the docket in this proceeding.<sup>16</sup> In doing so, however, we note that, as Free Access observes, this report has been readily accessible on the Commission's public website since October 1, 2014. Moreover, to the extent that Free Access seeks access to any data demonstrating the impact of the incentive auction on LPTV stations, the issue of such impact, which has been raised in the docket of the incentive auction proceeding, will be considered at a future date. Again, we find that Free Access has not adequately demonstrated a nexus between the LPTV proceeding and the requested data to warrant any further delay in this proceeding.

8. Accordingly, IT IS ORDERED, pursuant to Sections 0.61, 0.283, and 1.46 of the Commission's rules, 47 C.F.R. §§ 0.51, 0.283, and 1.46, that the Motion to Toll the Comment and Reply Comment Deadlines in the Third Notice of Proposed Rulemaking filed by Free Access & Broadcast Telemedia, LLC IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

William T. Lake  
Chief, Media Bureau

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<sup>13</sup> See *Greenhill Report* at 35.

<sup>14</sup> See the "Individual DMA Impact Report Based on Greenhill Outputs" submitted by Free Access, which would solicit, for each DMA, the number of stations participating in the auction, unaffected and repacked.

<sup>15</sup> *Third Notice*, 29 FCC Rcd at 12558, para. 59.

<sup>16</sup> The entire record in this proceeding is available on-line through the Commission's Electronic Comment Filing System available at: <http://apps.fcc.gov/ecfs>.