Feb. 3, 2015

Federal Communications Commission
445 12th Street SW
Washington DC 20054

RE: PN No. 14-252 Comments

In the Comment PN (AU Docket No. 14-252), the Commission provides information regarding a potential channel sharing agreement between broadcasters that would allow one broadcaster to bid to relinquish its existing channel rights and share a channel with another broadcaster. Should a broadcaster that chooses this option be selected as a winning bidder in the Reverse Auction, this broadcaster is allowed three (3) months to implement the channel sharing agreement and relocate operations to the new channel. The Comment PN also states that “parties to a channel sharing agreement bear the consequences of any defects in the agreement or the failure of either party to perform pursuant to its terms.”

Accordingly, given the short implementation timeframe, a broadcaster may desire to retain independent channel rights (either within their pre-auction band or a lower band via the reverse auction) in order to mitigate any potential negative consequences of any defects in the agreement or the failure of either party of a channel sharing agreement to perform pursuant to its terms. A broadcaster could decide to retain the independent channel rights as per the reassignment (repacking) process, or by participating in the auction and bid on moving to a lower band. However, by allowing such a broadcaster the option to implement a channel sharing agreement in lieu of relocation to the assigned post-auction channel, the Commission will facilitate the clearance of additional spectrum while allowing the broadcaster to mitigate the risks associated with the implementation of a channel-sharing agreement.

A non-winning Reverse Auction participant may also desire to implement a channel sharing agreement for financial considerations. For example, a non-winning UHF broadcaster may be assigned a post-auction channel which would cause impairment within the 600 MHz band. The wireless licensee that is assigned an impaired block via
the Forward Auction may then seek to clear the impaired block by negotiating with the UHF broadcaster(s) which causes the impairment(s). Allowing the non-winning broadcaster to implement a channel sharing agreement would provide a means for the broadcaster to continue operations as per the channel sharing agreement while allowing for additional spectrum use by the wireless carrier.

A winning Reverse Auction participant which is assigned to a lower channel (either High-VHF or Low-VHF) is allotted 39 months to construct and implement the facilities required to transition to the new channel assignment. During this period, the pre-auction broadcast channel assignment may be impairing the use of a particular frequency block by a winning wireless carrier. However, if the broadcaster were allowed to implement a channel sharing agreement, the broadcaster would be more inclined to negotiate terms with the wireless carrier for an expedited relinquishment of channel rights, thus clearing of the reassigned wireless spectrum at an earlier date.

Accordingly, NGEN Wireless poses the following question to the Commission. Will the Commission allow a broadcaster to implement a channel sharing agreement when that broadcaster (a) is not a winning bidder in the Reverse Auction, or (b) enters the Reverse Auction and is the winning bidder with a bid to move to either a high-VHF or a low-VHF channel? By allowing a broadcaster to implement a channel sharing agreement as per these conditions, the Commission will facilitate the clearance of additional wireless spectrum within the 600 MHz band, and facilitate the expedited clearance of 600 MHz spectrum which is reassigned as per the auction process.

Respectfully submitted,

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