

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Application of)	File No. 0000052106
Word of God Fellowship, Inc.)	Facility ID No. 167032
(KDTS-LD))	
)	
For Construction Permit for)	
Displacement Relief)	

To: Chief, Video Division, Media Bureau

RESPONSE TO INFORMAL OBJECTION

Word of God Fellowship, Inc. (“WOGF”), licensee of television station KDTS-LD, San Francisco, California (Fac ID 167032) (“KDTS-LD”), by counsel, hereby submits its response to the Informal Objection filed by New York Spectrum Holding Company LLC (“NY Spectrum”) against WOGF’s above-referenced application for a construction permit for a station that was displaced as part of the incentive auction and repacking process (the “Displacement Application”). In support thereof, WOGF states as follows:

I. INTRODUCTION

NY Spectrum’s KMMC-LD and WOGF’s KDTS-LD are members of a group of eight stations that filed mutually exclusive applications during the FCC’s Special Displacement Window (“MX Group 7”). Rather than seek to work with the members MX Group 7 to reach a mutually beneficial resolution or, in the alternative, participate in an auction to resolve the mutual exclusivity, NY Spectrum instead seeks to improperly exclude KDTS-LD from MX Group 7 based on a clearly erroneous interpretation of the FCC’s rules and procedures. The crux of NY Spectrum’s argument is that because KDTS-LD is displaced by a station that was not

involuntarily reassigned to a new channel as part of the post-auction transition, KDTS-LD should not have been eligible to file an application in the special displacement window. NY Spectrum is mistaken.

There can be no doubt that KDTS-LD is subject to displacement “as a result of the incentive auction and repacking process.” The application that caused the displacement of KDTS-LD was filed during a window created as part of the incentive auction and repacking process for the express purpose of creating a stable database of full power stations in advance of the LPTV Special Displacement Window. Indeed, the Commission itself has recognized that KDTS-LD was displaced as a result of the incentive auction and repacking process. NY Spectrum has offered no valid basis for the Media Bureau to depart from its initial conclusion regarding KDTS-LD’s eligibility.

II. FACTUAL BACKGROUND

1. KDTS-LD is a low power television station that currently broadcasts on RF Channel 8 pursuant to an authorization issued by the FCC on January 1, 2011.¹
2. KVIE(TV), Sacramento, CA (Fac ID No. 35855) (“KVIE”) is a noncommercial full power television station currently authorized to operate on RF Channel 9.²
3. KVIE was not assigned to a new channel as part of the post-incentive auction transition. However, on November 28, 2017, during the limited window for non-repacked stations to file minor modification applications, the licensee of KVIE filed a minor modification application proposing to both change KVIE’s antenna position and increase KVIE’s power.³

¹ See File No. BLDVL-20110107ADR.

² See File No. BXLEDT-20100913ABW.

³ See File No. 0000035686 (the “KVIE Displacement App”).

4. As a result of the changes proposed in the KVIE Displacement App, KDTS-LD will be displaced.⁴

5. On April 10, 2018, WOGF timely filed a displacement application for KDTS-LD.⁵

III. ARGUMENT

WOGF properly filed the KDTS Displacement App during the FCC’s Special Displacement Window because KDTS-LD is displaced as a result of the incentive auction and repacking process. NY Spectrum and WOGF agree that to be eligible to file during the Special Displacement Window, a low power station must “be subject to displacement by a full power or Class A television station on the repacked television band (channels 2-36) as a result of the incentive auction and repacking process.”⁶ The sole question, then, is whether an application filed during the FCC’s limited window for non-repacked stations to file minor modification applications was sufficiently related to the “incentive auction and repacking process” that a station displaced by such application was eligible to file in the Special Displacement Window. The only logical answer to this question is “Yes.”

Although the FCC has repeatedly used the term “incentive auction and repacking process” and the related term “incentive auction or the repacking process” in Orders and Public

⁴ See, e.g., FCC, Pending and Granted Applications Study, <https://data.fcc.gov/download/incentive-auctions/LPTV-Data/Pending%20and%20Granted%20Applications%20Study.zip>.

⁵ See File No. 0000052106 (the “KDTS Displacement App”).

⁶ *Incentive Auction Task Force and Media Bureau Announce Post-Incentive Auction Special Displacement Window*, Public Notice, 33 FCC Rcd. 1234 ¶ 8 (IATF and MB 2018) (“*Special Window Notice*”) (citing 47 CFR § 73.3700(g)(1); *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd. 6567 ¶ 659 (2014) (“*Incentive Auction R&O*”).

Notices related to the broadcast television incentive auction,⁷ it has never defined these terms. Rather, the Commission delegated to the Media Bureau the authority “to announce the terms of the limited displacement window.”⁸ In exercising that authority, it is clear that the Commission intended for the Special Displacement Window to extend not only to LPTV stations displaced by a full power or Class A station involuntarily assigned to a new channel as part of the post-auction transition, but also to those LPTV stations displaced by a full power or Class A station that filed a minor modification during the limited period during which the FCC lifted its freeze on such applications.

It is readily apparent from the Media Bureau’s October 2017 Public Notice announcing a temporary lifting of the freeze on the filing of modification applications for full power and Class A stations that any such applications were part of the “incentive auction and repacking process.”⁹ As an initial matter, the Media Bureau filed the *2017 Freeze Lifting PN* in only two dockets: MB Docket No. 16-306 (“Post-Incentive Auction Transition”) and 12-268 (“Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions”). These dockets not only were part of the “incentive auction and repacking process”—they defined it. Moreover, the Media Bureau explained in the *2017 Freeze Lifting PN* that the purpose of lifting the freeze on full power modifications before the Special Displacement Window was two-fold: (1) to reduce the likelihood that LPTV stations were displaced “by full power station that file applications after the freeze is lifted” and (2) to “permit the staff to include more complete and

⁷ See, e.g., *Incentive Auction R&O* ¶¶ 244, 659, 673; *Special Window Notice* ¶ 8.

⁸ *Incentive Auction R&O* ¶ 659.

⁹ *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*, Public Notice, DA 17-1033 (rel. Oct. 19, 2017) (the “*2017 Freeze Lifting PN*”).

informative data in the Displacement Public Notice for LPTV/translator station use in choosing a new channel and/or transmitting location.”¹⁰ Put another way, the Media Bureau determined that it was in the public interest to provide an opportunity for full power stations not assigned to new channels to modify their facilities as part of the “incentive auction and repacking process.”

The narrow interpretation of “incentive auction and repacking process” advanced by NY Spectrum would run directly counter to the Media Bureau’s goal in issuing the *2017 Freeze Lifting PN*. Under NY Spectrum’s interpretation, in its effort to provide clarity in advance of the Special Displacement Window, the Media Bureau would only create more uncertainty by creating new displacements that could not be resolved until the Media Bureau lifted its freeze on LPTV displacement applications sometime in the future. Such a result would be illogical and contrary to the Media Bureau’s desire to “create a stable database of full power and Class A facilities” *before* the LPTV Special Displacement Window.

Finally, the Channel Study that the Incentive Auction Task Force and the Media Bureau prepared in advance of the Special Displacement Window confirmed their understanding that a station displaced by an application filed during while the freeze on full power and Class A modification applications was lifted was eligible to participate in the Special Displacement Window. The screen shot below from the file “Potentially Displaced LPTV Stations Map – Pending and Granted” confirms that the Commission identified KDTS-LD as displaced due to the 2.63654% additional interference it would receive from KVIE:

¹⁰ *Id.* ¶¶ 2, 6.

Data T... Stations	Fac Id	Call Sign	Protected	Agg IX Pct	IX Pct	Displaced	Pairwise Di..	Agg Displac..
	132732	K41MM-D	False	0	0	False	False	False
	135827	KTDJ-LD	False	0	0	False	False	False
	136749	WRBJ-TV	True	0	0	False	False	False
	136750	WZRB	True	0	0	False	False	False
	136751	WNYA	True	0	0	False	False	False
	159007	WRPT	True	0	0	False	False	False
	162016	KMDE	True	0	0	False	False	False
	162115	KWKS	True	0	0	False	False	False
	166319	KRBK	True	0	0	False	False	False
	166331	KVSN-DT	True	0	0	False	False	False
	166332	KDCU-DT	True	0	0	False	False	False
	166510	KPJR-TV	True	0	0	False	False	False
	166511	KCWV	True	0	0	False	False	False
	166512	WWJX	True	0	0	False	False	False
	166534	KOHD	True	0	0	False	False	False
	166546	KSQA	True	0	0	False	False	False
	166986	W16CM-D	False	26.84597	0	True	True	True
	167001	WCDN-LD	False	0.01372	0	True	True	False
	167009	KDAX-LD	False	0	0	False	False	False
	167020	KDHU-LD	False	0.00296	0	False	False	False
	167028	WELL-LD	False	99.29838	0	True	True	True
	167032	KDTS-LD	False	2.63654	0	True	True	True
	167038	KQVE-LD	False	1.9907	0	True	True	False

IV. CONCLUSION

For the foregoing reasons, the Commission should reject NY Spectrum’s unreasonably narrow interpretation in the Informal Objection and allow KDTS-LD to remain a part of MX Group 7.

Respectfully submitted,

WORD OF GOD FELLOWSHIP, INC.

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CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2018, I caused a copy of the foregoing Response to Informal Objection to be served by email upon the following:

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