



Federal Communications Commission
Washington, D.C. 20554

July 17, 2015

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RE: Petition for Eligible Entity Status, Telecinco, Inc., Station WORA-TV, Mayaguez, Puerto Rico (Fac. ID No. 64865), LMS File No. 0000003621.

Dear Counsel:

This is with respect to the Petition for Eligible Entity Status ("Petition") filed on July 9, 2015, by Telecinco, Inc., ("Licensee"), licensee of station WORA-TV, Mayaguez, Puerto Rico ("Station").¹ The Petition requests that the Station be deemed an "eligible facility" for purposes of the incentive auction. In the Appendix to the Eligibility PN, dated June 9, 2015, WORA-TV had File No. BLCDDT-20081118AFU listed as its eligible facility. The Petition requests that its eligible facility be changed to its distrusted transmission system ("DTS") facility, LMS File No. 0000003621. For the reasons discussed below we grant the Petition.

The DTS facility at issue was initially authorized in a construction permit on July 12, 2012, with an expiration date of July 12, 2015.² The Licensee filed a license to cover the authorized construction permit on July 8, 2015.³ The Petition states that construction was completed and operation commenced on April 20, 2015; however, due to a miscommunication the Licensee was not notified when construction was completed and it failed to file a timely application for license to cover its construction permit by the Pre-Auction Licensing Deadline – May 29, 2015.⁴ The Petition includes a declaration, signed under penalty of perjury by Mr. Alejandro Luciano, Director of Engineering for Telecinco, Inc., confirming the miscommunication as well as the date construction was completed.⁵ The Petition also contends that the timing of its request, as well as the potential adverse impact on viewers should the DTS facility is not protected, outweighs any adverse impact on the incentive auction.⁶

In the *Incentive Auction R&O* the Commission exercised its discretion to extend protection to modified facilities of full power and Class A stations that were authorized by construction permits granted on or before April 5, 2013.⁷ The Commission determined that the equities in favor of protecting such facilities, including the technical, financial and other resources incurred by licensees to implement such

¹ Petition for Eligible Entity Status for WDVb-CD, Edison, NJ filed by LocusPoint WDVb Licensee, LLC (Jun. 15, 2015).

² File No. BPCDDT-20120515AFP.

³ LMS File No. 0000003621

⁴ Petition at 2.

⁵ Petition at 5.

⁶ Petition at 2-4.

⁷ Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12-268, Report and Order, 29 FCC Rcd 6567, 6660, para. 207 (2014) ("*Incentive Auction R&O*").

modifications, outweighed any adverse impact that protection may have on the Commission's repacking flexibility.⁸ In light of the short period of time that has passed since the Pre-Auction Licensing Deadline, coupled with the fact that the Station was both constructed and operating pursuant to its authorized construction permit prior to May 29, 2015, we find that the Commission's underlying rationale for protecting modified facilities that were authorized by construction permits granted on or before April 5, 2013 still applies and grant of the Petition is warranted.⁹

Accordingly, for the foregoing reasons, the Petition for Eligible Entity Status filed by Telecinco, Inc. **IS GRANTED**. For purposes of the incentive auction, Station WORA-TV, LMS File No. 0000003621 will be deemed the "eligible facility" and is thereby eligible for protection in the repacking process and relinquishment in the reverse auction.¹⁰ The Licensee **MUST FILE** its Pre-Auction Technical Certification Form (FCC Form 2100, Schedule 381) for its eligible facility by **July 24, 2015**.¹¹

Sincerely,



Barbara A. Kreisman
Chief, Video Division
Media Bureau

⁸ *Incentive Auction R&O*, 29 FCC Rcd at 6661, para. 209 (2014)(comparing the facility contour of each Station with a facilities modification construction permit authorized on or before April 5, 2012, with the Station's licensed facility on February 22, 2012, and concluding that protection of the facilities specified in the construction permits, rather than the facilities licensed as of February 22, 2012, would not significantly impact flexibility in the repacking process).

⁹ *Id.* at 6660-61, paras. 207-09.

¹⁰ This will be reflected in the final baseline to be released by the Office of Engineering and Technology ("OET") containing the final list of eligible stations. *Incentive Auction R&O*, 29 FCC Rcd at 6635, para. 145 (directing OET to release a detailed summary of baseline coverage area and population served by each television station to be protected in the repacking process); *see Id.* at 6643, para 164 (establishing the method for determining coverage are of DTS facilities).

¹¹ *Media Bureau Announces Incentive Auction Eligible Facilities and July 9, 2015 Deadline for Filing Pre-Auction Technical Certification Form*, Public Notice, DA 15-679, p. 4 (rel. Jun. 9, 2015)(stating that upon grant of a Petition for Eligible Entity Status the Media Bureau will notify the petitioner of the date by which it must file its Pre-Auction Technical Certification Form).