



PUBLIC NOTICE

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FM Auction No. 37 Postponed

Report No. AUC-01-37-H (Auction No. 37)

By this Public Notice, the Wireless Telecommunications Bureau and the Mass Media Bureau (collectively, the “Bureaus”) hereby announce the postponement of Auction No. 37 for vacant non-reserved band FM allotments, which was previously scheduled to begin on December 5, 2001.

On July 3, 2001, the United States Court of Appeals for the District of Columbia Circuit in *National Public Radio, Inc. et al., v. FCC*, Nos. 00-1246, 00-1255 (decided July 3, 2001) (“*NPR*”) vacated the portion of the Commission’s *Noncommercial Report and Order*, 15 FCC Rcd 7386 (2000), that required noncommercial educational (“NCE”) entities that applied for authorizations in the non-reserved spectrum to participate in auctions with mutually exclusive commercial applicants.¹ Each of the vacant non-reserved FM band allotments included in Auction No. 37 is potentially impacted by *NPR*. Accordingly, the Bureaus announce that they will postpone Auction No. 37 while the Commission formulates its response to the *NPR* decision. Therefore, the previously announced filing window for FCC Form 175 submissions is cancelled, and Auction No. 37 FCC Form 175 applications will not be accepted as previously scheduled.² Further information, including a revised FM Auction No. 37 schedule, will be announced in forthcoming Commission notices.

For additional information concerning this proceeding, contact Kathy Garland, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau at (717) 338-2888; Kenneth Burnley, Legal Branch, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau at (202) 418-0660; or Lisa Scanlan, Audio Services Division, Mass Media Bureau at (202) 418-2700.

¹ *Comparative Standards for Noncommercial Educational Applicants*, MM Docket 95-31, *Notice of Proposed Rulemaking*, 10 FCC Rcd 2877 (1995); *Further Notice of Proposed Rulemaking*, 13 FCC Rcd 21167 (1998); *Report and Order*, 15 FCC Rcd 7386 (2000) (“*Noncommercial Report and Order*”); *Memorandum Opinion and Order*, 16 FCC Rcd 5074 (2001). See also *Implementation of 309(j) of the Communications Act – Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Services*, MM Docket No. 97-234, GC Docket No. 92-52 and GEN Docket No. 90-264, *Notice of Proposed Rulemaking*, 12 FCC Rcd 22363 (1997), *First Report and Order*, 13 FCC Rcd 15920 (1998), *reconsid. denied*, 14 FCC Rcd 8724 (1999), *aff’d Orion Communications, Ltd. v. FCC*, 213 F. 3d 761 (D.C. Cir. 2000).

² “Auction for FM Broadcast Construction Permits Postponed until December 5, 2001,” *Public Notice*, DA 01-619 (released March 7, 2001).