



PUBLIC NOTICE

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DA 04-3596
November 17, 2004

AM Auction No. 84 Singleton Applications

Media Bureau Announces Form 301 Application Deadline and Ten-Day Petition to Deny Period

By this *Public Notice*, the Media Bureau establishes certain filing deadlines for the AM Auction No. 84 applications listed in Attachment A-2 to this *Public Notice* and for petitions to deny these applications. On November 6, 2003, the Media Bureau and the Wireless Telecommunications Bureau (collectively the “Bureaus”) released a public notice announcing a January 26-30, 2004, AM auction filing window for applications for new AM stations and major modifications to authorized AM facilities.¹ The Media Bureau has determined that the applications listed in Attachment A-2 are not mutually exclusive with any other applications submitted in the filing window. These applicants must follow the procedures set forth below. This is the final singleton list for AM Auction No. 84 proposals.

Required Forms: The singleton applicants listed in Attachment A-2 must submit a complete FCC Form 301 application between November 18, 2004, and January 18, 2005, pursuant to the procedures set forth in the Commission’s rules.² Applicants must simultaneously submit the

¹ See *Public Notice*, “AM New Station and Major Modification Auction Filing Window; Minor Modification Application Freeze,” 18 FCC Rcd 23016 (MB/WTB 2003) (“*Auction 84 Filing Window Public Notice*”).

² See 47 U.S.C. § 8; 47 C.F.R. §§ 0.401(b), 1.1104, 1.1109, 1.1110, 73.5005(d), 73.3512. Generally, applicants whose short form applications are determined to be non-mutually exclusive must file the appropriate long form applications within thirty days of public notice identifying such non-mutually exclusive applications. See e.g. 47 C.F.R. § 73.5005(d). Given the significant volume of AM applications filed in response to the *Auction 84 Filing Window Public Notice*, we hereby extend the 30-day period for the filing of long form applications. See *Implementation of Section 309(j) of the Communications Act-Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Services Licenses (“Broadcast First Report and Order”)*, 13 FCC Rcd 15920, 15984 (1998), *recon denied*, 14 FCC Rcd 8724 (1999), *modified*, 14 FCC Rcd 12541 (1999) (retaining discretion to extend the 30-day period for the filing of long form applications upon good cause showing).

required application filing fee for a construction permit for a new commercial AM radio station or for a major change in an authorized AM station and a FCC Form 159, Remittance Advice.³

The facilities proposed in Form 301 must comply with all applicable AM rules. Applicants must demonstrate that the proposed facilities protect existing stations and earlier filed applications, and that the daytime and nighttime facilities comply with principal city coverage requirements.⁴ Any differences between the tech box proposal filed during the AM Auction No. 84 filing window and the complete FCC Form 301 must be minor changes as defined in 47 C.F.R. §73.3571.⁵

Noncommercial Educational Applicants: Applicants designated by an asterisk in Attachment A-2 checked the box labeled “noncommercial educational” in response to the “Applicant Status” question on the profile page of their originally submitted FCC Form 175 applications. Thus, these applicants seek a noncommercial educational (“NCE”) station license. As a result of this election, these applicants will be required to demonstrate “that they meet all . . . Commission eligibility requirements for NCE stations.”⁶

These NCE AM applicants must file electronically FCC Form 301. In accordance with Section 1.1114(c) of the Commission’s rules, these Form 301 applications are exempt from application filing fees.⁷ Section 73.503(a) states that a noncommercial educational broadcast station “will be licensed only to a nonprofit educational organization and upon showing that the station will be used for the advancement of an educational program.”⁸ To establish NCE eligibility, these AM NCE applicants must supplement their Form 301 filings with answers to questions 2 through 5, Section II – Legal and Financial of FCC Form 340, Application for Construction Permit for Reserved Channel Noncommercial Educational Broadcast Station, March 2001 edition. Responses to questions 2 through 5 of the FCC Form 340, including any requisite exhibits, must be filed as an attachment to the Form 301 submission.

Inconsistent, conflicting or multiple applications: Several applicants have previously filed FCC Form 301 applications covering the same facilities for which new or major change technical

³ Effective August 10, 2004, this fee is \$3,310.00. See schedule of charges at 47 C.F.R. § 1.1104. Method and form of payment is addressed in 47 C.F.R. §§ 1.1109, 1.1110. See also the Media Services Application Fee Filing Guide and the FCC Form 301 instructions.

⁴ See 47 C.F.R. §§ 73.24, 73.37, and 73.182.

⁵ See 47 C.F.R. § 73.5005. Pursuant to procedures adopted in the *Broadcast Auction First Report and Order*, singleton applicants filing FCC Form 301 applications may change the technical proposals specified in their previous filing. However, such singleton applicants may not specify in the FCC Form 301 application a change in the proposed facility that constitutes a major change from the facility specified earlier, nor may applicants create new mutual exclusivities or application conflicts. See *Broadcast Auction First Report and Order*, 13 FCC Rcd at 15991.

⁶ See *Reexamination of the Comparative Standards for Noncommercial Educational Applicants, Second Report and Order*, 18 FCC 6691, 6699-6700 ¶¶ 22-24 (2003).

⁷ Applicants that did not check the “noncommercial educational” applicant status box must submit the required filing fees with their applications.

⁸ 47 C.F.R. § 73.503(a).

proposals were submitted in the most recent AM filing window. In these cases, the submission of a complete FCC Form 301 application for proposals listed in Attachment A-2 may violate the prohibition on the filing of inconsistent, conflicting or multiple applications.⁹ In order to avoid the return of an application filed in response to this *Public Notice*, applicants may simultaneously request the dismissal of the prior-filed application conditioned on the grant of the FCC Form 301 filed in response to this *Public Notice*.

How to file: Applicants must file complete FCC Form 301 applications electronically through the Media Bureau's Consolidated Database System (CDBS) online electronic forms system. For information regarding electronic application filing, refer to *Public Notice, Mass Media Bureau Implements Consolidated Database System (CDBS) Electronic Filing of FCC Forms 301, 302, 314, 315, 316, and 347* (released April 28, 2000). When filing the complete FCC Form 301, applicants must select "Long Form Application for AM Auction No. 84" on the Pre-form for Form 301 (Question 2 – Application Purpose). In addition, the CDBS file number previously issued to the tech box submission filed in the AM Auction No. 84 filing window must be entered on the Pre-form in the field "Eng. Proposal File Number." Instructions for use of the electronic filing system are available in the CDBS User's Guide, which can be accessed from the electronic filing web site at:

<http://www.fcc.gov/mb/elecfile.html>

For assistance with electronic filing, call the Audio Division Help Desk at (202) 418-2662.

The staff will return applications not submitted in accordance with the procedures described above. The staff will dismiss, without further processing, a previously filed Form 301 tech box submission of any applicant listed in Attachment A-2 that fails to submit the complete FCC Form 301 by January 18, 2005.

Petition to Deny Filing Period: The staff will study the submitted FCC Form 301 applications for acceptability. It will subsequently announce applications determined to be acceptable for filing by public notice in the daily "Broadcast Applications" reports. Petitions to deny an FCC Form 301 application must be filed within 10 days after the release of the pertinent notice of acceptance.¹⁰ Interested parties should monitor these Broadcast Applications public notices.

For additional information, contact Susan Crawford or Ann Gallagher (engineering), Lisa Scanlan or Tom Nessinger (legal) of the Audio Division at (202) 418-2700.

This Public Notice contains the following Attachment:

Attachment A-2: AM Auction No. 84 Singleton Applications

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⁹ See 47 C.F.R. §§ 73.3518 and 73.3520.

¹⁰ See 47 C.F.R. § 73.5006.

