



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
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AM Auction No. 84, MX Group 84-39 Reconfigured Due to Settlements and Technical Resolutions; Subgroups Listed

On November 6, 2003, the Media Bureau and the Wireless Telecommunications Bureau (collectively the “Bureaus”) announced a five-day period, from January 26, 2004, to January 30, 2004, for the filing of applications for new AM stations and major modifications to authorized AM stations.¹ By Public Notice dated June 15, 2005,² the Bureaus provided a list of all applications received during the filing window that were mutually exclusive (“MX”) with other applications submitted in the filing window.³ In the *MX Public Notice*, applicants in several of the listed MX groups were given the opportunity to eliminate their mutual exclusivity with other applicants by means of settlement or technical modification to their proposals.

As listed in the *MX Public Notice*, AM Auction 84 MX Group 84-39 consisted of 116 applications. Following the settlement and technical resolution filing opportunity, the staff evaluated and processed those submissions, then reconfigured into subgroups the pending tech box applications in MX Group 84-39 that remained mutually exclusive.

By this Public Notice, the Media Bureau provides, as Attachment A, a list of all pending applications from MX Group 84-39 that are currently mutually exclusive with at least one other

¹ *AM New Station and Major Modification Auction Filing Window; Minor Modification Application Freeze; Notice and Filing Requirements Regarding January 26 – 30, 2004 Window for Certain AM Construction Permits Applications; Notice Regarding Freeze on the Acceptance of AM Minor Change Construction Permit Applications from January 12 to January 30, 2004*, Public Notice, 18 FCC Rcd 23016 (2003).

² *AM Auction No. 84 Mutually Exclusive Applicants Subject to Auction; Settlement Period Announced for Certain Mutually Exclusive Application Groups; September 16, 2005 Deadline Established for Section 307(b) Submissions*, Public Notice, 20 FCC Rcd 10563 (MB/WTB 2005) (“*MX Public Notice*”), as extended by *Auction No. 84 Settlement Period and Section 307(b) Submission Deadline Extended to October 31, 2005*, Public Notice, 20 FCC Rcd 14492 (MB/WTB 2005).

³ In determining mutual exclusivity the staff applied the following rule sections: 47 C.F.R. §§ 73.37, 73.182, 73.183(b)(1). See also *Review of the Technical Assignment Criteria for the AM Broadcast Service*, Report and Order, 6 FCC Rcd 6273 (1991), *recon granted in part and denied in part*, 8 FCC Rcd 3250 (1993) and *Nelson Enterprises, Inc.*, Memorandum Opinion and Order, 18 FCC Rcd 3414 (2003) (clarifying standards to establish mutual exclusivity between window-filed AM applications).

application within this MX group. This list of the remaining subgroups of MX Group 84-39 is provided as a one-time only report as to the status of this MX group as of the date of this Public Notice, in order to assist MX Group 84-39 applicants in complying with their obligations under the Commission's *ex parte* rules.⁴ The Media Bureau makes no representation as to the continuing accuracy of the list provided as Attachment A to this Public Notice.

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

This Public Notice contains the following Attachment:

Attachment A: AM Auction No. 84 MX Group 84-39 Subgroups

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⁴ 47 C.F.R. §§ 1.1200 *et seq.* We note that, under our *ex parte* rules, auction filing window applicants are not deemed to be parties with respect to each other's applications merely because their applications are mutually exclusive. Accordingly, absent other factors, e.g., the filing of an opposition or objection to another applicant's tech box showing or waiver request, an applicant in an MX group or subgroup may make *ex parte* presentations about its own application. See 47 C.F.R. § 1.1202(d)(1) and Note 1.