



# PUBLIC NOTICE

**FEDERAL COMMUNICATIONS COMMISSION**  
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**DA 09-849**  
**April 17, 2009**

## **Auction 79 Freezes Announced for FM Minor Change Applications and Certain Rulemaking Filings**

The Media Bureau announces that it will not accept FM commercial and noncommercial educational (“NCE”) minor change applications during the Auction 79 Form 175 application filing window. This window will open on June 16, 2009, and close on June 25, 2009. The Media Bureau also announces a freeze, effective immediately, on the filing of applications proposing to modify the reference coordinates of any of the 122 vacant non-reserved band FM allotments scheduled for Auction 79, or petitions and counterproposals that propose a change in channel, class, community, or reference coordinates for any of the 122 vacant non-reserved band FM allotments scheduled for Auction 79. These allotments are listed in Attachment A of the *Auction 79 Procedures Public Notice*.<sup>1</sup> Any application, petition or counterproposal that either proposes any change to, or fails to fully protect an Auction 79 FM allotment, or preferred site coordinates specified in an applicant’s Form 175 application, will be dismissed.<sup>2</sup> This freeze will automatically terminate the day after the filing deadline for Auction 79 long form applications. These temporary freezes are designed to avoid conflicts between the frozen filings and auction proposals, and promote a more certain and speedy auction process.

In Auction 79, scheduled to begin on September 1, 2009, the Media and Wireless Telecommunications Bureaus will make available through competitive bidding procedures 122 vacant non-reserved band allotments in the FM broadcast service. FM minor change applications, which can now be filed on a first-come first-served basis, must protect the reference coordinates of each of these allotments. As part of the pre-auction procedures, an auction participant must file Form 175, Application to Participate in an FCC Auction. In conjunction with its Form 175 submission, an auction participant also may specify preferred site coordinates, and thereby gain protection for a potential transmitter site.<sup>3</sup>

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<sup>1</sup> *Auction of FM Broadcast Construction Permits Scheduled for September 1, 2009; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Auction Procedures for Auction 79*, Public Notice, DA 09-810 (WTB/MB rel. April 17, 2009) (“*Auction 79 Procedures Public Notice*”). Bidders are also cautioned that currently pending petitions for rulemaking and open rulemaking proceedings may affect the 122 FM allotments scheduled for Auction 79. See *Auction 79 Procedures Public Notice*, “Due Diligence,” Section I.B.3.

<sup>2</sup> 47 C.F.R. § 1.401(e).

<sup>3</sup> See *Implementation of Section 309(j) of the Communications Act – Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses*, 13 FCC Rcd 15920, 15975 and n.153 (1998) (“*Broadcast First Report and Order*”), on recon., Memorandum Opinion and Order, 14 FCC Rcd 8724 (1999), on further recon., Memorandum Opinion and Order, 14 FCC Rcd 14521 (1999).

However, absent a freeze during the Form 175 filing period, an existing station could file a minor change proposal that would be mutually exclusive with an auction applicant's new station proposal at its preferred site, thereby subjecting the minor change application to auction procedures. This freeze also will include reserved band minor change applications to avoid potential conflicts between these filings and Form 175 applications.<sup>4</sup>

For additional information, contact James Bradshaw or Rudy Bonacci, Audio Division, Media Bureau at (202) 418-2700.

By: Chief, Media Bureau

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<sup>4</sup> Such conflicts may arise when the Commission's minimum distance separation requirements for FM facilities are applied to proposals specifying operation on channels in the "border" between the reserved and non-reserved bands (Channels 218-223) or on intermediate frequency (IF) channels, *i.e.*, channels that are separated by 53 or 54 channels. *See* 47 C.F.R. §§ 73.207 and 73.507.