



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

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September 9, 2013

MEDIA BUREAU ANNOUNCES FM TRANSLATOR AUCTION 83 FILING WINDOW AND FILING PROCEDURES

October 9, 2013 Deadline Set for Form 349 Applications for Certain Non-Mutually Exclusive Tech Box Proposals

Report No. AUC-03-83-F

Today, the Media Bureau (Bureau) opens a window for the filing of FCC Form 349 (Form 349) FM translator new station construction permit applications for the 104 “tech box” proposals listed in Attachment A. This action is in accordance with the procedures adopted in the *Fifth Order on Reconsideration* in the low power FM (LPFM) proceeding.¹ This window is limited to timely filed Auction 83 tech box proposals which the staff has identified as not mutually exclusive with any other tech box proposals that remain pending from the Auction 83 Filing Window.² These “singleton” applications are exempt from the Commission’s auction procedures.³

Required Form and Fees: Each applicant listed in Attachment A must submit a complete Form 349 by October 9, 2013 (the “Application Deadline”) for each of its listed tech box proposals.⁴

¹ See *Creation of a Low Power Radio Service*, Fifth Order on Reconsideration and Sixth Report and Order, 27 FCC Rcd 15402 (2012).

² See *FM Translator Auction Filing Window and Application Freeze*, Public Notice, 18 FCC Rcd 1565 (MB/WTB 2003). The filing window was subsequently extended to March 17, 2003. *FM Translator Auction Filing Window and Application Freeze Extended to March 17, 2003*, Public Notice, 18 FCC Rcd 3275 (MB/WTB 2003) (“Auction 83 Filing Window”).

³ See 47 U.S.C. § 309(j); 47 C.F.R. § 73.5005(d); *Implementation of Section 309(j) of the Communications Act -- Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses*, First Report and Order, 13 FCC Rcd 15920 (1998), Memorandum Opinion and Order, 14 FCC Rcd 8724 (1999), Memorandum Opinion and Order, 14 FCC Rcd 12541 (1999) (“*Broadcast Auction First Report and Order*”).

⁴ See 47 U.S.C. § 158; 47 C.F.R. §§ 0.401(b), 1.1104, 1.1109, 1.1110, 73.5005(d), 73.3512, 74.1233(d).

All applicants also must submit, if applicable, the required application filing fee and a FCC Form 159, Remittance Advice.⁵

How to File: Applicants must file complete Form 349 applications **electronically** through the Bureau’s Consolidated Database System (CDBS) online electronic forms filing system. When filing Form 349, applicants must select “Long Form Application for FM Translator Auction Window 83” on the Pre-form for Form 349 (Question 2 – Application Purpose). In addition, applicants must enter the CDBS file number previously issued to the associated Auction 83 tech box proposal in the field “Eng. Proposal File Number.” The “long form” applications and amendments filed during this window will be afforded cut-off protection against subsequently filed translator applications and amendments.⁶ Instructions on using 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/online-filing>

For technical assistance with electronic filing, call the Bureau CDBS Help Desk at (202) 418-2662.

Minor Amendments. An applicant may make minor amendments to the associated tech box proposal. This includes, but is not limited to, changes to power, height, directional pattern and channel that are considered “minor changes.”⁷ The Form 349 application may not create a new conflict to any pending Auction 83 tech box proposal, or to any prior-filed Form 349. Furthermore, any Form 349 proposal which differs from the most recent tech box proposal must include a Preclusion Showing for any Tech Box amendment specifying a transmitter site within 39 kilometers of any Appendix A Market grid and/or at any location within any Top-50 Spectrum Limited Market. Detailed instructions on completing Preclusion Showings are provided in prior Media Bureau public notices.⁸ Amendments to showings will be permitted during the filing window, provided that the final application amendment does not specify a “major change” from the initial Auction 83 Filing Window tech box proposal.⁹ An amended Preclusion Showing must be complete and sufficient. The staff will review only the last-filed Preclusion Showing to determine compliance with all application filing requirements. **Form 349 applications that fail to include a required Preclusion Showing will be dismissed. A Preclusion Showing filing may not be submitted, amended, corrected, completed, or resubmitted for further consideration after the Application Deadline. Moreover, a Preclusion Showing will not be treated as a matter subject to**

⁵ See Schedule of Charges at 47 C.F.R. § 1.1104. Method and form of payment are addressed in 47 C.F.R. §§ 1.1111, 1.1112. See also the Media Services Application Fee Filing Guide and the FCC Form 349 instructions. The general exemptions to charges are specified in 47 C.F.R. § 1.1116. Governmental entities are exempt from this fee requirement. Also exempt are applicants for noncommercial educational FM translator facilities, as defined in 47 C.F.R. § 74.1201(c). When filing a fee-exempt application, an applicant must complete Section I, item 3 of Form 349 and provide an explanation.

⁶ See *Broadcast Auction First Report and Order*, 13 FCC Rcd at 15991.

⁷ 47 C.F.R. § 74.1233(a).

⁸ See *Media Bureau Announces April 1 – April 19 Filing Window for FM Translator Auction 83 Preclusion Showings*, Public Notice, 28 FCC Rcd 2495 (MB 2013); *Media Bureau Provides Additional Guidance on Preclusion Showing Filing Requirements for Auction 83 FM Translator Applicants*, Public Notice, 28 FCC Rcd 2840 (MB 2013).

⁹ 47 C.F.R. § 74.1233(a).

amendment pursuant to Section 73.3522(a) of the Rules¹⁰ after the Application Deadline.

Furthermore, any Form 349, to the extent it differs from the underlying tech box proposal (as pending on June 16, 2013), is not protected from applications submitted during the October 2013 (LPFM) filing window.¹¹ Any Form 349 application filed during this window that differs from the June 16, 2013, version of the underlying tech box, and any authorization granted from that application may be subject to modification or cancellation as a result of conflicting LPFM window filings.

Application Dismissals. The staff will dismiss Form 349 applications not submitted in accordance with the procedures described above. A Form 349 application that, as of the Application Deadline, specifies a “major change”¹² to the facilities specified in the initial Auction 83 Filing Window tech box proposal and/or creates a new conflict to a pending Auction 83 tech box proposal will be dismissed.¹³ The staff also will dismiss, without further processing, any tech box proposal listed in Attachment A if the applicant fails to electronically submit a complete Form 349 application for such tech box proposal by the Application Deadline. The Application Deadline will be strictly enforced.¹⁴

Petition to Deny Filing Period. The staff will study the submitted “singleton” Form 349 applications for acceptability. It will subsequently issue CDBS-generated Public Notices entitled “Broadcast Applications” listing those applications determined to be acceptable for filing. A petition to deny the FCC Form 349 application must be filed within 15 days following the release of the pertinent Public Notice.¹⁵ Interested parties should monitor these CDBS Broadcast Applications Public Notices.

For additional information, contact Rob Gates or Larry Hannif-Ali of the Audio Division at (202) 418-2700. Press contact: Janice Wise, (202) 418-8165.

This Public Notice contains the following Attachments:

Attachment A: Singleton Tech Box Proposals Subject to October 9, 2013 Filing Deadline

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¹⁰ 47 C.F.R. § 73.3522(a).

¹¹ See *Media Bureau Announces Availability of the Revised FCC Form 318 and the Filing Procedures for October 15 – October 29, 2013 Low Power FM Filing Window*, Public Notice, 28 FCC Rcd 8854 (MB 2013).

¹² 47 C.F.R. § 74.1233(a).

¹³ See *Broadcast Auction First Report and Order*, 13 FCC Rcd at 15991.

¹⁴ See 47 C.F.R. §§ 73.5005, 74.1233(d).

¹⁵ See 47 C.F.R. §§ 73.5006(b), 74.1233(d)(4).