

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
MATINEE RADIO, LLC)	
)	
Application for Construction Permit For Station KRTS(FM), Marfa, Texas)	File No. BNPH-20050103AAU Facility ID No. 164217
)	
Application for Construction Permit For Station KKUL-FM, Groveton, Texas)	File No. BNPH-20050103AAW Facility ID No. 164216
)	
Application for Construction Permit For Station KNOS(FM), Albany, Texas)	File No. BNPH-20050103AAX Facility ID No. 164214
)	
Application for Construction Permit For Station KTXO(FM), Goldsmith, Texas)	File No. BNPH-20050103AAY Facility ID No. 164215
)	
Application for Construction Permit For Station KANM(FM), Magdalena, New Mexico)	File No. BNPH-20050103AAZ Facility ID No. 164213

MEMORANDUM OPINION AND ORDER

Adopted: February 15, 2013

Released: February 15, 2013

By the Commission:

1. In this *Memorandum Opinion and Order*, we deny the Application for Review (“AFR”) filed by Matinee Radio, LLC (“Matinee”), applicant for five new FM broadcast stations in FM Broadcast Auction No. 37 (“Auction 37”).¹ Matinee seeks review of the decision of the Media Bureau (“Bureau”) dated August 22, 2005, in which the Bureau denied Matinee’s Request for Declaratory Ruling that an auction applicant’s eligibility for a New Entrant Bidding Credit (“NEBC”) is frozen as of the deadline for the filing of a Form 175 in which it claims that credit cannot be diminished or lost by the subsequent acquisition of an attributable interest in media of mass communications by the applicant or its attributable interest holders, and that Matinee was accordingly entitled to a 35 percent NEBC for its winning bids in Auction 37.² The Bureau cited both existing case precedent and Auction 37 public notices to find that the

¹ The above-captioned long-form applications were filed for the five permits for which Matinee was the winning Auction 37 bidder. Matinee seeks the difference between the 35 percent new entrant bidding credit it claims and the amount of the bids it paid, net of a 25 percent credit. Matinee subsequently assigned the permit for KRTS(FM) to Marfa Public Radio Corporation (File No. BAPH-20070911AAW) in 2007, and assigned the permits for KKUL-FM, KNOS(FM), KTXO(FM), and KANM(FM) to Tango Radio, LLC, in 2008. See File Nos. BAPH-20080808ACT (KKUL-FM), BAPH-20080808ACR (KNOS(FM)), BAPH-20080808ACS (KTXO(FM)), and BAPH-20080808ACQ (KANM(FM)).

² *Matinee Radio, LLC*, Letter, 20 FCC Red 13713 (MB 2005) (“*Staff Decision*”).

post-filing acquisition of an attributable interest in a radio station by two of Matinee's attributable interest holders reduced its NEBC eligibility, and that Matinee had notice of that policy at the time that it participated in Auction 37.

2. Upon review of the Application for Review and the entire record, we conclude that Matinee has not demonstrated that the Bureau erred. The Bureau, in the *Staff Decision*, properly decided the matters raised, and we uphold its decision for the reasons stated therein.

3. ACCORDINGLY, IT IS ORDERED that, pursuant to Section 5(c)(5) of the Communications Act of 1934, as amended,³ and Section 1.115(g) of the Commission's rules,⁴ the Application for Review IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

³ 47 U.S.C. § 155(c)(5).

⁴ 47 C.F.R. § 1.115(g).