



PUBLIC NOTICE

Federal Communications Commission
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News Media Information 202 / 418-0500
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SETTLEMENT PERIOD ANNOUNCED FOR CLOSED GROUPS OF PENDING LOW POWER FM MUTUALLY EXCLUSIVE APPLICATIONS FILED IN WINDOWS I, II, AND III

The Media Bureau, pursuant to Section 73.872(e) of the Commission's rules,¹ announces a settlement period for the mutually exclusive Low Power FM ("LPFM") new station applicants listed in Attachment A. Requests for approval of universal settlements that are filed by October 31, 2003, and that satisfy all requirements set forth below will receive expedited processing.

Processing Guidelines: Attachment A lists by state and group number each of the mutually exclusive LPFM applications filed in Windows I, II, or III² of the four-part national filing window. Settlement proposals must be filed jointly by all applicants listed in the pertinent mutually exclusive group. No partial settlements will be entertained.

This universal settlement period is designed to facilitate the rapid licensing of new LPFM stations.³ During this filing period, the Commission will waive Section 73.871⁴ to permit settling applicants to file major change amendments specifying new FM channels. This limited waiver policy will allow settling applicants to use all available FM channels to resolve technical conflicts and obtain construction permits. The Media Bureau has reactivated its LPFM channel-finder tool to help applicants identify available alternative frequencies. This utility is available at the following site: http://www.fcc.gov/mb/audio/lpfm_channel_finder.html. This waiver opportunity for Windows I, II, and III filers will end at the close of this settlement filing period. No other major change amendments will be accepted. Minor amendments also may be filed as part of a settlement. Applicants are encouraged to use time-share agreements and technical amendments to eliminate conflicts.

¹ 47 C.F.R. § 73.872(e).

² At a later date, the Media Bureau will release a separate public notice for mutually exclusive LPFM applications filed in Window IV.

³ See, e.g., *Window Opened to Permit Settlements for Closed Groups of Mutually Exclusive Broadcast Applications*, Public Notice, 16 FCC Rcd 17091 (rel. Sept. 27, 2001).

⁴ 47 C.F.R. § 73.871.

To provide settling applicants with maximum flexibility, the Commission will waive Section 73.3525(a)(3)⁵ to permit the receipt of consideration in excess of legitimate and prudent expenses. As a result, no applicant will be required to satisfy the related certification and disclosure requirements of Sections 73.3525(a)(3), (4) and (5). Settling applicants must comply with the Commission's general settlement rules in all other respects.⁶ Applicants must submit a joint request for approval of settlement and a copy of the settlement agreement. Each applicant also must submit an affidavit that satisfies the requirements of Sections 73.3525(a)(1), (2) and (6). Time-share proposals must be in writing, signed by each time-share proponent, and submitted as part of the settlement proposal.⁷ Each time-share proponent must propose to operate its LPFM station for at least ten (10) hours per week.

In the event that the staff determines that a settlement complies with the Commission's rules, it will issue a Public Notice accepting for filing all applications proposed for grant. Petitions to deny these applications may be filed within thirty (30) days of this Public Notice.⁸ In the event that a settlement is not approved, any amendment that would improve the comparative position of an applicant will be returned.⁹

Requests for approval of settlement must be filed in original and two copies, plus one additional copy for each applicant that is a party to the settlement. (Example: In a four-application settlement group, the settling applicants should submit one original plus 6 (2 + 4) copies of their joint settlement.). Applicants should cross-reference and briefly describe amendments filed electronically as part of a settlement request. Applicants should include copies of paper-filed amendments. Settlements must be filed with Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., Room TW-A325, Washington, D.C. 20554. In addition, applicants may submit courtesy copies to Stephen Svab, Audio Division, Room 2-A824.

Paper and Electronic Filing. The Commission accepted both the electronic and paper application formats of FCC Form 318, Application for Construction Permit for a Low Power FM Broadcast Station, during Windows I and II.¹⁰ Applicants that originally filed on paper may file amendments during the upcoming settlement period either by using the Media Bureau's electronic filing system or manually submitting a paper attachment. Paper amendments must be filed in original and two copies.

⁵ 47 C.F.R. § 73.3525(a)(3).

⁶ *See id.* § 73.3525.

⁷ *See id.* § 73.872(c) and (e).

⁸ *See id.* § 73.870(d).

⁹ *See id.* § 73.871(b).

¹⁰ *See, e.g., Low Power FM Filing Window Instructions, FCC Makes Available Electronic Filing for the May 30, 2000 – June 5, 2000 Window for Low Power FM New Station Construction Permit Applications, Public Notice, DA 00-1175 (rel. May 26, 2000).*

If an application was originally filed electronically, it must be amended electronically via the Consolidated Database System (CDBS) online electronic forms filing system, located at the following site: <http://www.fcc.gov/mb/elecfile.html>.¹¹ Electronic filers should simply access their electronic application. Applicants filing electronic amendments to applications that were originally filed on paper should follow these same procedures, except that such applicants must first create a new account at the electronic filing site.

When the staff has completed the processing of universal settlements filed in response to this Notice, the Commission will issue a Public Notice of all mutually exclusive Window I, II, and III applications that remain on file and which are acceptable for filing. This Public Notice also will identify the tentative selectee or those applications tied for the highest point total in each group.¹² This Notice will include applications for which no settlement was filed, and those for which the submitted settlement was not approved.

Contacts: Stephen Svab (202) 418-2700 (legal); James Bradshaw (202) 418-2700 (engineering), Electronic Filing (202) 418-2MMB.

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¹¹ Amendments will not be accepted via e-mail.

¹² *See id.* § 73.872.