

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

In the Matter of)
)
AUCTION OF FM BROADCAST)
CONSTRUCTION PERMITS) AU Docket No. 06-101
SCHEDULED FOR JANUARY 10, 2007)
)

To: Chief, Wireless Telecommunications Bureau
And
Chief, Media Bureau

PETITION FOR RECONSIDERATION

Houston Christian Broadcasters, Inc. (hereafter “HCBI”), the Sister Sherry Lynn Foundation, Inc. (hereafter “SSL”), and Revival Christian Ministries, Inc. (hereafter “Revival”), jointly (hereafter the “Petitioners”) hereby request partial reconsideration of the joint action by the Wireless Telecommunications Bureau and the Media Bureau (hereafter the “Bureaus”) in incorporating FM Channels MM-FM-068, Perry, Florida; MM-FM-318, Parowan, Utah; MM-FM-063, Cedar Key, Florida, and MM-FM-040, Tecopa, California, in the channels to be included in Auction 68 in Report No. AUC-06-68-A (Auction No. 68), DA 06-997, released August 24, 2006.¹ The Petitioners request that these channels be removed from the Auction 68 listing. In support of this request the following is respectfully submitted for the consideration of the Bureaus.

¹ This Petition is timely filed with 30 days of the release date of the Public Notice. See, 47 C.F.R. 1.106.

I. BACKGROUND

1. HCBI timely filed a viable, serious, and legitimate FCC Form 175 Application for the use of MM-FM-318, at Parowan, Utah, in connection with FM Auction 37. See Attachment A hereto. The application was “rejected” by the Commission based on the facts that HCBI proposed the use of the channel as a noncommercial station, and that there was allegedly a legitimate application filed for a commercial use of that channel. See Attachment B hereto. There was no settlement period allowed by the Commission to facilitate a resolution of the mutual-exclusivity between the applications.

2. SSL timely filed a viable, serious, and legitimate FCC Form 175 Application for the use of MM-FM-068, Perry, Florida, in connection with FM Auction 62. See Attachment C hereto. The application was “rejected” by the Commission based on the facts that SSL proposed the use of the channel as a noncommercial station, and that there was allegedly a legitimate application filed for a commercial use of that channel. See Attachment B hereto. There was no settlement period allowed by the Commission to facilitate a resolution of the mutual-exclusivity between the applications.

3. Revival timely filed viable, serious, and legitimate FCC Form 175 Applications for the use of MM-FM-063, Cedar Key, Florida, and MM-FM-040, Tecopa, California, in connection with FM Auction 37. See Attachment D hereto. The applications were “rejected” by the Commission based on the facts that Revival proposed the use of the channels as noncommercial stations, and that there were allegedly legitimate applications filed for a commercial use of those channels. See Attachment B hereto. There was no settlement period allowed by the Commission to facilitate a resolution of the mutual-exclusivity between the applications.

4. As it turns out, none of the applications that were filed for the commercial use of these channels were legitimate applications, and each of the applications was ultimately dismissed by the Commission. Thus, the Bureaus propose to put the channels back out for expressions of interest in connection with Auction 68, even though Petitioners have previously expressed an interest in utilizing the channels for noncommercial stations in connection with the previously referenced prior auctions.

II. CONSTRUCTION PERMITS FOR NONCOMMERCIAL FM STATIONS SHOULD BE ISSUED TO THE PETITIONERS RATHER THAN THE CHANNELS BEING INCLUDED IN AUCTION 68.

5. The Commission concluded in the *Second Report and Order in Reexamination of the Comparative Standards for Noncommercial Educational Applicants* that any application for an NCE station that is mutually exclusive with any application for a commercial broadcast station will be returned as unacceptable for filing unless the mutual-exclusivity between the commercial application and noncommercial application was resolved in some manner.² This procedure has been codified at 47 C.F.R. § 73.5002(b), wherein it is provided that:

If any application for a noncommercial educational broadcast station, as described in 47 U.S.C. § 397(6), is mutually exclusive with applications for commercial broadcast stations, and the applicants that have the opportunity to resolve the mutual exclusivity pursuant to subsection (c) and (d) of this section fail to do so, the application for noncommercial educational broadcast station, as described in 47 U.S.C. § 397(6), will be returned as unacceptable for filing, and the remaining applications for commercial broadcast stations will be processed in accordance with competitive bidding procedures.

In the case of each of the channels for which the Petitioners filed noncommercial applications, the mutual-exclusivity between that application and the corresponding commercial application was resolved by the commercial applicant failing to prosecute its

² 18 FCC Rcd 6691, 6700 (2003).

application to a grant. However, rather than granting the Petitioners' application in each case in accordance with the *Second Report and Order*, the Bureaus have chosen to merely put the channels into the Auction 68 "pot" and throw them out for new applications. These could include new applications for noncommercial stations as well as commercial stations.

6. The Bureaus, and the Commission, should honor their longstanding "first come, first served" policy in connection with such matters. They should withdraw the MM-FM-318, Parowan, Utah, MM-FM-068, Perry, Florida, and MM-FM-063, Cedar Key, Florida, and MM-FM-040, Tecopa, California, allotments from Auction 68, and issue construction permits to the Petitioners for the utilization thereof as noncommercial stations.

Respectfully submitted.

Houston Christian Broadcasters, Inc.

Sister Sherry Lynn Foundation, Inc.

Revival Christian Ministries, Inc.

By: _____
Jeffrey D. Southmayd

Their Attorney

SOUTHMAYD & MILLER
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WASHINGTON, D.C. 20036
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jdsouthmayd@msn.com

Date: September 12, 2006

ATTACHMENT A

FCC Auctions Form 175

Application to participate in an FCC auction

[FCC](#) > [WTB](#) > [Auctions](#) > [Form 175](#)
[FORM 175 HOME](#) • [SEARCH](#) • [SUPPORT](#)

 Approved by OMB
 3060-0600 ([Notice to Applicants](#))

 Logon: **FRN 0006238380**
[\(Logoff\)](#)

Form 175 Application

Auction 37

HOUSTON CHRISTIAN BROADCASTERS, INC.

FCC Account ID	0371834011	Contact Name	JEFFREY D SOUTHMAYD
FRN Number	0006238380	Email	JDSOUTHMAYD@MSN.COM
Address	2424 SOUTH BOULEVARD	Address	1220 19TH STREET NW SUITE 400
City, State ZIP	HOUSTON, TX 77098-5196	City, State ZIP	WASHINGTON, DC 20036
Classification	Corporation	Phone	(202) 331-4100
Bidding Credit	0.0%	Fax	(888) 557-3686
Applicant Status	Noncommercial Educational		

Authorized Bidders

JEFFREY D SOUTHMAYD, BRUCE MUNSTERMAN

Application Certifier

BRUCE MUNSTERMAN, PRESIDENT

Dates

Initial Submission	Aug 5 2004 6:34PM	Last Update	Aug 5 2004 6:34PM
Resubmission			

Attachments

Description	Submission Date
175 EXHIBIT	Aug 2 2004 9:21PM
NCE FEE WAIVER	Aug 3 2004 9:36AM

Permits

Market	Channel	Class	Location	Coordinates
FM278	228	A	CARRIZO SPRINGS, TX	28° 31' 12.0" N, 99° 54' 52.0" W
FM280	257	A	CORRIGAN, TX	30° 59' 47.0" N, 94° 49' 36.0" W
FM285	228	C3	GEORGE WEST, TX	28° 15' 46.0" N, 98° 12' 24.0" W
FM287	251	A	GROVETON, TX	31° 3' 30.0" N, 95° 7' 36.0" W
FM288	243	A	INGRAM, TX	30° 4' 30.0" N, 99° 14' 6.0" W
FM290	291	A	KERRVILLE, TX	30° 1' 54.0" N, 99° 9' 1.0" W
FM292	226	A	LEAKEY, TX	29° 43' 42.0" N, 99° 45' 48.0" W
FM293	282	C3	LOVELADY, TX	31° 9' 51.0" N, 95° 27' 9.0" W
FM294	230	A	LUFKIN, TX	31° 20' 48.0" N, 94° 43' 30.0" W
FM295	228	A	MARFA, TX	30° 18' 38.0" N, 104° 1' 10.0" W
FM296	259	A	MASON, TX	30° 45' 0.0" N, 99° 14' 0.0" W
FM297	285	A	MERIDIAN, TX	31° 59' 7.0" N, 97° 41' 22.0" W
FM298	282	C2	OLNEY, TX	33° 8' 47.0" N, 98° 52' 0.0" W
FM299	263	A	REFUGIO, TX	28° 21' 0.0" N, 97° 16' 30.0" W

FM301	236	A	RIO GRANDE CITY, TX	26° 25' 47.0" N, 98° 49' 25.0" W
FM302	295	C2	ROCKSPRINGS, TX	30° 2' 44.0" N, 100° 19' 0.0" W
FM309	242	A	YORKTOWN, TX	29° 2' 30.0" N, 97° 26' 30.0" W
FM310	274	A	ZAPATA, TX	26° 54' 30.0" N, 99° 16' 18.0" W
FM311	280	A	ZAPATA, TX	26° 54' 30.0" N, 99° 16' 18.0" W
FM312	271	C3	CASTLE DALE, UT	39° 12' 48.0" N, 111° 1' 18.0" W
FM313	296	C2	HUNTINGTON, UT	39° 19' 36.0" N, 110° 57' 50.0" W
FM316	264	C2	MONROE, UT	38° 37' 21.0" N, 112° 7' 29.0" W
FM317	291	C1	MONTICELLO, UT	37° 52' 17.0" N, 109° 20' 32.0" W
FM318	300	C2	PAROWAN, UT	37° 50' 30.0" N, 112° 49' 30.0" W
FM320	253	A	TORREY, UT	38° 18' 0.0" N, 111° 25' 12.0" W
FM321	237	C3	WELLINGTON, UT	39° 32' 33.0" N, 110° 44' 5.0" W

[Return](#)

ATTACHMENT B

**FCC FM Broadcast Auction
Form 175 Rejected List (Initial)**

Auction ID: 37

ATTACHMENT C



(Sorted by Applicant)

Date of Report: 9/13/2004

The following entries have been rejected:

FCC Account #	Name	Error Description
0370930303	American Family Association	Noncommercial Educational
0371727056	American Handicapped Defense Union, Inc.	Noncommercial Educational
0371234579	Associated Students	Noncommercial Educational
0371650037	Capital Public Radio, Inc.	Noncommercial Educational
0371702416	Cathedral of the Cross	Noncommercial Educational
0371839547	CENTRAL ILLINOIS RADIO FELLOWSHIP, INC	Noncommercial Educational
0371725297	Christian Ministries of the Valley	Noncommercial Educational
0371711075	Community Housing Coalition, Inc.	Noncommercial Educational
0371441329	Community Radio, Inc.	Noncommercial Educational
0371614436	Divine Word Communications	Noncommercial Educational
0371245461	Educational Media Foundation	Noncommercial Educational
0370921249	FAITH BRAODCASTING, INC.	Noncommercial Educational
0371455314	Family Stations, Inc.	Noncommercial Educational
0371228232	Great Plains Christian Radio, Inc.	Noncommercial Educational
0371834011	HOUSTON CHRISTIAN BROADCASTERS, INC	Noncommercial Educational
0372142091	Illinois State University	Noncommercial Educational
0371718184	Jazz UpFront Communications, Inc.	Noncommercial Educational
0371739199	Marfa Radio, Inc.	Noncommercial Educational

FCC FM Broadcast Auction
Form 175 Rejected List (Initial)
Auction ID: 37

ATTACHMENT C



(Sorted by Applicant)

Date of Report: 9/13/2004

The following entries have been rejected:

FCC Account #	Name	Error Description
0371204327	Minn-Iowa Christian Broadcsting, Inc	Noncommercial Educational
0371826196	NATIVE AMERICAN CHRISTIAN VOICE, INC.	Noncommercial Educational
0371341134	Relevant Media, Inc.	Noncommercial Educational
0370913128	Revival Christian Ministries, Inc.	Noncommercial Educational
0371635448	THE SISTER SHERRY LYNN FOUNDATION	Noncommercial Educational
0371452287	Tracy Broadcasting Corporation	Current Defaulter
0371558257	World-Wide Missions, Inc.	Noncommercial Educational
0371537415	YUKON WIRELESS, INC.	Noncommercial Educational

FCC FM Broadcast Auction

Auction ID: 62

Rejected Applications

(Sorted by Applicant)

Date of Report: 11/02/2005 10:19 AM ET

The following applicants have an Initial filing phase status of "Rejected."



FRN	Name
0013882519	Democracy Now! Productons, Inc.
0004365219	The Praise Network, Inc.
0007272685	THE SISTER SHERRY LYNN FOUNDATION, INC.
0011287828	Western Family Television, Inc.
0005043542	WRVM, Inc.

ATTACHMENT C

File Number: 0002275854
Status: Submitted
Date Received: 8/12/2005, 10:39 AM

Applicant Information

Applicant Name

Entity Name: THE SISTER SHERRY LYNN FOUNDATION, INC.
Jurisdiction of Formation: OK

Applicant Legal Classification and Status

Legal Classification: Corporation
Applicant Status:
Noncommercial Educational Election: Yes

Applicant Address

Address Line 1: 1101 NORTH 81 HIGHWAY
Address Line 2:
City: MARLOW
State: OK
Zip Code: 73055

Responsible Party

Name: SHERRY L AUSTIN MS
Title: PRESIDENT
Telephone Number : (580) 658-9292
Email Address:

Contact Information

Name: JEFFREY D SOUTHMAYD
Telephone Number: (386) 672-4672
Fax Number: (888) 557-3686
Email Address: JDSOUTHMAYD@MSN.COM
Address Line 1: 3501 KILGALLEN COURT
Address Line 2:
City: ORMOND BEACH
State: FL
Zip Code: 32174

Authorized Bidders

Bidder 1: JEFFREY D SOUTHMAYD
Bidder 2: SHERRY L AUSTIN
Bidding Option: Electronic

Permit Selection

Selected Permits19 Selected Permits out of 171 Available Permits (Preferred Coordinates are **boldfaced**)

Name	Description
1 MM-FM069-C3	Perry FL
Lat: 29° 59' 47.0" N	
Long: 83° 39' 33.0" W	
2 MM-FM277-A	Breckenridge TX
Lat: 32° 44' 34.0" N	
Long: 98° 54' 32.0" W	
3 MM-FM297-A	Meridian TX
Lat: 31° 59' 7.0" N	
Long: 97° 41' 22.0" W	
4 MM-FM361-A	Ashland AL
Lat: 33° 13' 15.0" N	
Long: 85° 49' 35.0" W	
5 MM-FM370-A	Lost Hills CA
Lat: 35° 38' 19.0" N	
Long: 119° 48' 26.0" W	
6 MM-FM372-C1	Burlington CO
Lat: 39° 18' 18.0" N	
Long: 102° 16' 6.0" W	
7 MM-FM375-A	Silverton CO
Lat: 37° 48' 42.0" N	
Long: 107° 40' 0.0" W	
8 MM-FM377-A	Columbia City FL
Lat: 30° 4' 12.0" N	
Long: 82° 41' 42.0" W	
9 MM-FM396-C3	Cheboygan MI
Lat: 45° 34' 45.0" N	
Long: 84° 15' 5.0" W	
10 MM-FM406-A	Boulder MT
Lat: 46° 14' 18.0" N	
Long: 112° 7' 6.0" W	
11 MM-FM409-A	Darby MT
Lat: 46° 1' 18.0" N	
Long: 114° 10' 42.0" W	
12 MM-FM411-C2	Ennis MT
Lat: 45° 21' 12.0" N	
Long: 111° 44' 6.0" W	
13 MM-FM436-C3	Alva OK
Lat: 36° 48' 6.0" N	
Long: 98° 40' 0.0" W	
14 MM-FM454-A	Hunt TX
Lat: 30° 7' 18.0" N	
Long: 99° 25' 39.0" W	
15 MM-FM456-A	Leakey TX
Lat: 29° 43' 42.0" N	

Long: 99° 45' 48.0" W

16 MM-FM458-A Mason TX

Lat: 30° 45' 0.0" N

Long: 99° 14' 0.0" W

17 MM-FM459-A Mertzon TX

Lat: 31° 15' 30.0" N

Long: 100° 49' 0.0" W

18 MM-FM460-A New Boston TX

Lat: 33° 27' 41.0" N

Long: 94° 31' 0.0" W

19 MM-FM482-A Dubois WY

Lat: 43° 32' 36.0" N

Long: 109° 37' 48.0" W

New Entrant Eligibility

Bidding Credit Eligibility

Credit Level: **Not Seeking**

Agreements

Agreements with Other Parties and Joint Bidding Arrangements

Agreements? **No**

Agreements

Ownership

Detail for Disclosable Interest Holder: DFWU, INC.

Disclosable Interest Holder Type and Name

Disclosable Interest Holder Name: **DFWU, INC.**
Disclosable Interest Holder Type: **Entity**
Entity Type: **Corporation**
FRN: **0005963228**

Disclosable Interest Holder Address

Address Line 1: **1101 NORTH 81 HIGHWAY**
Address Line 2:

City: MARLOW
State: OK
Zip Code: 73055

Type of Interest in Applicant

Direct Ownership Interest in Applicant
Officer
Director

Key Management Personnel

Other: SHERRY AUSTIN IS THE SOLE SHAREHOLDER, OFFICER AND DIRECTOR IN DFWU, INC., THE LICENSEE OF COMMERCIAL BROADCAST STATIONS KFXI (FM), MARLOW, OK; KIXO(FM), SULPHUR, OK; AND KVLH(AM), PAUL'S VALLEY, OK

Type of Ownership Interest in Applicant

Common Stock: Voting

Disclosable Interest Held in Applicant

Percent of Interest Held in Applicant: 100.00%
Jurisdiction of Formation: Oklahoma

Detail for Disclosable Interest Holder: THE SISTER SHERRY LYNN FOUNDATION, INC.

Disclosable Interest Holder Type and Name

Disclosable Interest Holder Name: THE SISTER SHERRY LYNN FOUNDATION, INC.
Disclosable Interest Holder Type: Entity
Entity Type: Corporation
FRN: 0007272685

Disclosable Interest Holder Address

Address Line 1: 1101 NORTH 81 HIGHWAY
Address Line 2:
City: MARLOW
State: OK
Zip Code: 73055

Type of Interest in Applicant

Direct Ownership Interest in Applicant
Officer
Director

Key Management Personnel

Other: SHERRY LYNN AUSTIN IS THE PRESIDENT AND SOLE DIRECTOR

Type of Ownership Interest in Applicant

Other: SOLE OFFICER AND DIRECTOR

Disclosable Interest Held in Applicant

Percent of Interest Held in Applicant: 100.00%
Jurisdiction of Formation: Oklahoma

Detail for FCC Regulated Business: DFWU, INC.**FCC Regulated Business**

FCC Regulated Business Name: **DFWU, INC.**
Principal Business: **BROADCASTING**
FRN: **0005963228**

Percent of Interest Held by the Applicant

Percent of Interest Held: **100.00%**

Detail for FCC Regulated Business: THE SISTER SHERRY LYNN FOUNDATION, INC.**FCC Regulated Business**

FCC Regulated Business Name: **THE SISTER SHERRY LYNN FOUNDATION, INC.**
Principal Business: **BROADCASTING**
FRN: **0007272685**

Percent of Interest Held by the Applicant

Percent of Interest Held: **100.00%**

Certify & Submit**Certification Information**

Former Defaulter? **No**
Certifier Name: **SHERRY L AUSTIN MS**
Certifier Title: **PRESIDENT**

Submission Information

Application Submitted: **8/12/2005, 10:39 AM**
File Number: **0002275854**

Attachment List

Type	Description	Upload Date
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ATTACHMENT D

Approved by OMB
3060-0600 ([Notice to Applicants](#))

Logon: **FRN 0005043062**
([Logoff](#))

Form 175 Application

Auction 37

Revival Christian Ministries, Inc.

FCC Account ID	0370913128	Contact Name	Sam Girona
FRN Number	0005043062	Email	sgirona@usa.com
Address	PO Box 4594	Address	PO Box 4594
City, State ZIP	Hartford, CT 06147	City, State ZIP	Hartford, CT 06147
Classification	Corporation	Phone	(860) 209-7417
Bidding Credit	25.0%	Fax	(860) 683-8724
Applicant Status	Noncommercial Educational, Minority Owned Business		

Authorized Bidders

SAM GIRONA, JEFFREY D SOUTHMAYD

Application Certifier

SAM GIRONA, PRESIDENT

Dates

Initial Submission Aug 6 2004 9:13AM Last Update Aug 6 2004 10:27AM

Resubmission

Attachments

Description	Submission Date
NONCOMMERCIAL LICENSE APPLICANT WAIVER	Aug 6 2004 9:12AM
OWNERSHIP, MEDIA AND INTERESTS	Aug 6 2004 10:27AM

Permits

Market	Channel	Class	Location	Coordinates
FM031	269	A	HAMILTON CITY, CA	39° 49' 52.0" N, 122° 2' 31.0" W
FM034	235	A	MARICOPA, CA	35° 5' 1.0" N, 119° 26' 0.0" W
FM040	291	A	TECOPA, CA	35° 50' 48.0" N, 116° 13' 24.0" W
FM063	261	A	CEDAR KEY, FL	29° 8' 12.0" N, 83° 2' 6.0" W
FM141	232	A	BREWSTER, MA	41° 46' 31.0" N, 70° 0' 38.0" W
FM239	248	A	DELHI, NY	42° 15' 23.0" N, 74° 58' 35.0" W

FM241	275	A	NARROWSBURG, NY	41° 38' 0.0" N, 74° 59' 46.0" W
FM242	223	A	OLD FORGE, NY	43° 42' 42.0" N, 74° 58' 24.0" W
FM244	243	A	SPECULATOR, NY	43° 29' 50.0" N, 74° 21' 44.0" W
FM246	294	A	WINDSOR, NY	42° 3' 4.0" N, 75° 30' 18.0" W

[Return](#)