

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20024

In the Matter of: )  
)  
Auction of FM Broadcast Construction ) DA 06-1810  
Permits Scheduled for March 7, 2007 )  
FM Auction No. 70 ) AU Docket 06-170

To: The Commission

COMMENTS

Kevin M. Fitzgerald, (hereinafter "Petitioner"), respectfully presents "Comments" in response to the Public Notice released by the Commission on September 21, 2006, in DA 06-1810 which solicits comments concerning auction procedures for Auction 70.

FINAL PAYMENT FILING SCHEDULE

In previous auctions the final payment of money owed by the winning bidders was not due until the Audio Division was prepared to grant the construction permit application. It appears that per Docket 05-211, FCC 06-4, the final payment IS NOW DUE WITHIN 20 DAYS OF THE CLOSE OF THE AUCTION PUBLIC NOTICE.

Currently, a winning bidder is required to file a long form application within 30 days of the public notice announcing the close of the auction. Then the long form application is processed by the Audio Division. If there are no issues, such as border coordination or FAA permitting, then a Construction Permit can be issued. This process (based on reviewing history in the CDBS) takes between 45 and 75 days. If border or FAA issues are in play, with regard to the long form application, a GRANTED Construction Permit can take over one year to be issued. It should be noted that a significant number of long form applications are delayed by border or FAA issues. The

FCC has established a new policy where the final 80% payment for auction applications is due 20 days after the close of the auction, this policy is not fair to long form applications which have border or FAA issues. This 20 day payment schedule may be appropriate for services in the Wireless Telecommunications Service but is not fair to broadcast applicants who have to deal with border and FAA issues. On top of all this is the FAA proposing to require FAA review of all FCC broadcast applications. The FAA may formally prohibit the construction of facilities involving certain FM frequencies which fail to pass a computer program which is totally unrealistic in its calculations. It is likely that some frequencies may never be built or may be delayed by months or years because of the new FAA procedures. This would be grossly unfair to Auction winners who would have to pay for allotments that could never be built or which would be delayed by many months or years. In light of these FAA actions, the FCC should make Auction 70 payment procedures the same as they were in Auctions 37 and 62 where the final payment is due within 10 days of the listing of the Long Form applications on a list as being grantable by the FCC's Audio Division.

Please seriously consider this proposal with regards to procedures for Auction 70.

Thank You for your considerations.

Respectfully submitted,

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