

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C.

AU-DOCKET No. 10-31

COMMENTS ON COMPETITIVE BIDDING

PROCEDURES FOR AUCTION 88

COMES NOW, SI BROADCASTING, applicant for Channel 251 A at Santa Isabel, Puerto Rico. Facility ID 77830. File No. BPH-19950901MB, by its Attorney. Timely Comments are very respectfully filed before February 25, 2010.

Before any operation can start in Ch. 251 A, four (4) radio stations are required to change frequency. One of the stations will relocate its antenna and transmitter site, from the Island of Culebra to the Island of Puerto Rico. The expenses for the frequency change of two radio stations must be paid by the promoters of the frequency change. Channel 251 A arises out of an allocation rulemaking proceeding, and as such, the applicant is responsible for actions that might affect his decision regarding participation in the auction. The burden is on potential applicant.

It is unknown the status with respect to the negotiations or agreements between the involved radio stations and if the changes will be completed before July 2010. Have they reached an agreement as to the reasonable cost? What is the status of the changes? What will happen if the involved radio stations do not come into agreement as to the reasonable expenses to be paid? What will happen if any of the involved radio stations cannot come up with the necessary funds for the frequency changes immediately when required, taking into consideration the distressed economical situation of the radio industry? The frequency changes will cost Hundreds of Thousands of Dollars. Will this situation be resolved by July 2010? Information received by word of mouth indicates that no work has commenced nor agreements have been reached so far. To complicate matters, radio station WPRM-FM involved in the frequency change, recently lost its tower and is operating from an auxiliary tower. In order to erect a new tower and install the new antenna required for the frequency change, new construction permits are required and endorsement from the Department of Natural Resources is necessary. A process that can take several months or years in Puerto Rico.

It is a situation where the FCC may have to intervene in an Administrative proceeding to establish the reasonable amounts to be paid for the frequency changes, something that is reasonable to be expected. If the FCC intervenes to establish the reasonable costs to be paid, a proceeding will have to be established where reviews and appeals may be filed as part of the due process of law.

Applicants to the Auction may be very reluctant to participate under the prevailing uncertainties, much more so when large sums of money are involved. The minimum bid has been established at \$100,000 Dollars. Each applicant must deposit \$100, 000 before the auction in order to participate. At the end of the auction, the balance must be paid within a short period of time. The winner could be subject to years of waiting, before operation of the new facility can start, if it does so. A large sum of money can be tied up for years, funds that if borrowed, will be paying high interest rates. If not borrowed, money not earning interests in savings or yielding investments.

There are so many questions that cast uncertainties for the applicant. More so, when applicant is solely held responsible by the FCC, for investigating and evaluating all technical factors that may have a bearing on the construction permit for the broadcast facility being auctioned. Applicant is responsible for assuring himself that, if he wins, he will be able to build and operate the facility. He also has to proceed with due diligence.

Finally, what will happen to the winning applicant, if after paying and in the long run the frequency changes are never accomplished? Is there the possibility that the construction permits granted for the frequency changes be cancelled by the FCC? Such actions would render useless Channel 251A at Santa Isabel, Puerto Rico and the grant to the winning bidder.

It is very respectfully requested that auction for Ch. 251 A at Santa Isabel, P.R. be postponed. Until the uncertainties are cleared, the applicant is not in a position to eliminate or minimize the present risks. The risks are monumental, taking into consideration the complexities of the process for the frequency changes and the enormous sums of funds to be risked by applicant.

February 16, 2010.

Signed: José David Soler Esq.

JOSE DAVID SOLER ESQ.

FRN 0018099879

LEGAL COUNSEL FOR SI

BROADCASTING

P.O. BOX 316

COAMO, P.R. 00769-0316

787-398-0129