PUBLIC NOTICE

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SUPPLEMENTS AND SETTLEMENTS TO PENDING CLOSED GROUPS OF NONCOMMERCIAL EDUCATIONAL BROADCAST APPLICATIONS DUE BY JUNE 4, 2001

SETTLEMENT CAPS WAIVED UNTIL JUNE 4, 2001

ABRIDGED FORMS 340 AND 349 RELEASED FOR USE IN CLAIMING POINTS

On February 28, 2001 the Commission affirmed and clarified its comparative selection policies for applicants seeking to build noncommercial educational ("NCE") broadcast stations. Memorandum Opinion and Order, Reexamination of the Comparative Standards for Noncommercial Educational Applicants, MM Docket No. 95-31, FCC 01-64 (February 28, 2001); summarized in 66 Fed. Reg. 15353 (March 19, 2001) ("MO&O"). Under those policies, the Commission will resolve conflicts among mutually exclusive applications by use of a "point system." The Commission directed the staff, for a limited period, to waive monetary limits to facilitate settlements among existing groups of mutually exclusive applicants, and finalized the process for selecting among non-settling applicants. In this Public Notice, the Mass Media Bureau provides additional information for applicants in the approximately 500 pending NCE licensing proceedings identified in Appendix D of the Commission's decision. Each of these groups is "closed;" i.e., the Commission will not accept additional applications in any of the groups. We are aware of additional pending applications that are not considered "closed," and also of applicants that want to file future applications to build noncommercial educational broadcast stations. We will consider such applications and provide an opportunity for such applicants to claim points in the first relevant NCE filing window, which we expect to open after resolving the "closed" groups.

The MO&O established actions that closed group applicants must take by a "supplement date", which we hereby announce will be June 4, 2001, approximately 45 days after the rule clarifications become effective. **On or before June 4, 2001 pending closed group applicants must file either a settlement (which can exceed the monetary settlement caps set forth in 47 C.F.R. Section 73.3525(a)(3)) or a supplement claiming the points to which they are entitled under the new rules. Those filing neither a settlement agreement nor a supplement claiming points by June 4, 2001 will be dismissed.**

We recommend that all affected applicants obtain a copy of the MO&O, which is available on our internet home page www.fcc.gov in the headlines section under the date "02/28/2001". Mutually exclusive applicants listed in Appendix D should contact each other to ascertain whether a settlement may now be possible, and if a settlement cannot be reached rapidly, applicants should prepare supplements to claim points. Mutual exclusivity for radio groups may have changed as a result of the Commission's decision in Streamlining of Radio Technical Rules, MM Docket No. 98-93 (November 1, 2000), and Appendix D does not reflect these changes. More specifically, in that proceeding the Commission adopted less preclusive second adjacent interference protection standards in Section 73.509 and 74.1204 to conform NCE FM and

FM translator proposals to commercial standards. Under the new rules, a station's 100 dBu contour generally defines its second adjacent channel interfering contour. Radio applicants with second adjacent channel conflicts should determine whether these rule changes eliminate technical conflicts with any other applications. Applicants seeking to modify closed groups based on the new second adjacent channel interference standard should file engineering showings prominently labeled "Showing Regarding Second Adjacent Channel" by the June 4, 2001 supplement deadline.

Settlements: We will waive limitations on the amount of consideration only for settlement agreements that are received at the Commission's Office of the Secretary on or before June 4, 2001. Settlements may be filed immediately. Two types of settlements will be acceptable: universal settlements for both radio and television applicants and technical solutions in the case of radio applicants only. A universal settlement resolves all applications in the mutually exclusive group. A technical solution is one in which an applicant removes itself from the group to achieve a grant by making minor engineering changes to its own application, without affecting the viability of any of the other applicants to compete for a second station. We will not entertain partial settlements. If a settlement involves more than one group, the settlement must be consistent with these guidelines and must resolve all groups. We refer applicants to paragraph 98 of the MO&O for more information about settlements.

Supplements: Applicants not filing qualifying settlements must file supplements to provide information needed to compare mutually exclusive applications. We will be unable to consider any pending "closed group" application that does not contain the new information. Thus we will conclude that any applicant failing to file either a supplement or settlement on or before June 4, 2001 is no longer interested in obtaining a permit and dismiss its application. Full service FM and TV applicants will use relevant sections of FCC Form 340 (June 2000 version or later) to submit supplements. FM Translator applicants will use relevant sections of FCC Form 349 to submit supplements. For the applicants' convenience, we have produced abridged versions of these forms, containing only the form sections and instructions needed to claim points. Applicants may use these abridged "point supplements," which are attached to this notice, to amend applications filed prior to adoption of the point system. These supplement forms are also available via the internet at http://www.fcc.gov/formpage.html. For additional information about claiming points, we refer applicants to the MO&O (especially paragraphs 28 through 32 which identify the reference dates applicants should use to determine the number of points for which they qualify and the limited extent to which applicants may be able to enhance some of their points prior to those dates). The applicant's points as of the date it files its supplement (up to June 4, 2001) will establish its maximum position for non-technical matters. With respect to technical matters, the applicant's maximum position will be established as of the earlier of the "B" cut-off date for the closed group or April 21, 2000 (the date of the Report and Order in this proceeding, if no "B" cut-off notice was issued). The applicant will not gain any points for enhancements made after the relevant date(s). The applicant will, however, lose points for changes made after the relevant date(s) that detract from its proposal. With respect to population information, applicants should use the 2000 Census, if available by June 4, 2001.

How to File: We will accept point supplements for applicants in closed groups beginning on April 18, 2001 (the effective date of the rule clarifications in the MO&O) and ending on June 4, 2001. We are currently accepting settlements, and will continue to accept settlements that exceed expenses until June 4, 2001. It is important that applicants provide the correct file number, city and state of the application being supplemented or settled, so that we can associate the supplemental submissions with the original application and the proper mutually exclusive group. FM and FM translator applicants should also include the "group number" that appears in Appendix D of the MO&O. Electronic filing of these forms is not available, and thus applicants will submit paper forms.

Applicants must file an original and three copies of all point supplements, Section 307(b) information, engineering proposals to resolve mutual exclusivity, and/or settlement agreements on or before

June 4, 2001 with the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., Room TW-A325, Washington, D.C. 20554. In addition, radio applicants can deliver a courtesy copy to James Crutchfield, Audio Services Division, Room 2-B450. Applicants with multiple pending proposals must file separate submissions for each station, with each submission able to stand on its own. In the case of universal settlements, it is sufficient for applicants to file three copies for the settling group plus one additional copy for each settling station, rather than the usual three copies per station. (Example: In a settlement of a group with four members, the settling applicants may submit 7 (3 + 4) copies of their joint settlement, rather than 12 (3 x 4) copies). Applicants will submit documentation of their point claims to the Commission and to a locally available public file. An applicant satisfies its certification that it has submitted documentation to the Commission by attaching that documentation to its supplement or by concurrently submitting the documentation to the Commission's reference room for inclusion in the application file.

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