

Darold K. Smith
c/o MS Communications, LLC
9911 W. Pico Blvd., 8th Floor
Los Angeles, CA 90035
310-552-7970

March 23, 2005

Secretary
Federal Communications Commission
Washington, DC 20554

RE: Petition to remove LPTV application BNPTTL-
20000831AMI from Auction 81, Group MX241

Ladies and Gentlemen:

Attached please find a copy of the letter from the FCC dated 12/7/2001. It states that the settlement agreement was accepted and the applications were no longer mutually exclusive.

I have attached a copy of this FCC letter. Based upon this letter, my application should no longer be part of Auction 81 and should be removed.

Respectfully submitted

s/s Darold K. Smith
Applicant

MX 241



Federal Communications Commission
Washington, D.C. 20554

DEC 07 2000

Kenneth E. Hardman, Esq.
Moir and Hardman
1015 Eighteenth Street, N.W.
Suite 800
Washington, DC 20036-5204

Re: Applications for New Low Power
Television Facilities

Darold K. Smith
File No. BNPTTL-20000831AMI
FIN: 127877

Mark Silberman
File Nos. BNPTTL-20000831BZK
FIN: 129835

Dear Counsel:

This letter concerns the above-referenced applications for a new low power television facility filed in the limited auction filing window that closed August 31, 2000.

You have submitted a settlement agreement to resolve the mutual exclusivity among these applications (MX Group M376). Pursuant to the settlement agreement, the applicants have agreed to accept interference from each other's proposed facilities. Upon review of your settlement agreement and related documents, we find that it complies with Section 311(c) of the Communications Act and Section 73.3525 of the Commission's Rules.

As for application File Nos. BNPTTL-20000810AMI and BZK, within 30 days of the date of this letter, the applicants must submit a complete FCC Form 346 (June 2000 version) for each file number, pursuant to the procedures set forth in the Commission's rules.¹ Along with an FCC Form 346, the applicant must also submit the required application filing fee of \$570.00 for an FCC Form 346 and an FCC Form 159, Remittance Advice.²

¹ See 47 U.S.C. § 8; 47 C.F.R. §§ 0.401(b), 1.1104, 1.1109, 1.1110, 73.5005(d), 73.3512.

² See 47 C.F.R. § 1.1104 and the Mass Media Bureau Application Fee Filing Guide available at the following Internet location: <http://www.fcc.gov/fees/2000mmbguide.pdf>

If you choose to file your FCC Form 346 in paper form, you should check the appropriate response to Question 5 of Section I (either "new station," "major modification of construction permit" or "major change in licensed facility") and include your previously-assigned file number in the space provided in Question 5(a) of Section I of the Form. To send by mail, send an original and two copies of the FCC Form 346 application and an original FCC Form 159 to: Federal Communications Commission, Mass Media Services, P.O. Box 358185, Pittsburgh, Pennsylvania 15251-5190.³ To hand carry, in person or by courier, deliver an original and two copies of the FCC Form 346 application to: Mellon Bank, Three Mellon Bank Center, 525 William Penn Way, 27th Floor, Room 153-2713, Pittsburgh, Pennsylvania 15259-0001 (Attention: Wholesale Lockbox Shift Supervisor).

You may also file your FCC Form 346 application electronically. For electronic application filers, an FCC Form 159 in payor form should also be sent to the Federal Communications Commission in the manner set forth above. Instructions for use of the electronic filing system are available in the CDBS User's Guide, which can be accessed from the electronic filing web site at:

<http://www.fcc.gov/mmb>

For assistance with electronic filing, call the Mass Media Bureau Help Desk at (202) 418-2MMB.

The staff will return applications not submitted in accordance with the procedures described above. The staff will dismiss, without further processing, the previously filed technical submissions of any applicant that fails to submit the complete FCC Form 346 and/or pay the requisite filing fee by the deadline set forth herein.⁴

The staff will study the submitted FCC Form 346 applications for acceptability. It will subsequently announce applications determined to be acceptable for filing and for which the staff is prepared to grant. Petitions to deny these FCC Form 346 applications must be filed within 15 days following the release of the public notice announcing acceptance of the applications at issue.⁵ Interested parties should monitor these public notices.

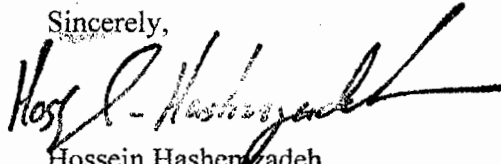
³ See 47 C.F.R. §§ 0.401(b), 1.1104.

⁴ See 47 C.F.R. § 73.5005. Pursuant to procedures adopted in the *Broadcast Auction First Report and Order*, non-mutually exclusive applicants filing FCC Form 346 applications may change the technical proposals specified in their previous filing. However, such non-mutually exclusive applicants may not specify in the FCC Form 346 application a change in the proposed facility that constitutes a major change from the facility specified earlier, nor may applicants create new mutual exclusivity or application conflict. See *Broadcast Auction First Report and Order*, 13 FCC Rcd at 15991.

⁵ See 47 C.F.R. § 73.5006.

For additional information, contact Shaun Maher (legal) or Hossein Hashemzadeh (technical) of the Video Services Division at (202) 418-1600.

Sincerely,

A handwritten signature in black ink, appearing to read "Hossein Hashemzadeh", with a long horizontal flourish extending to the right.

Hossein Hashemzadeh
Supervisory Engineer
Television Branch
Video Services Division
Mass Media Bureau