



PUBLIC NOTICE

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WINDOW OPENED TO OCTOBER 30, 2009, TO PERMIT AMENDMENT OF APPLICATIONS FOR NONCOMMERCIAL EDUCATIONAL STATIONS IN PENDING, CLOSED MIXED GROUPS

By: Chief, Media Bureau

On December 2, 2008, the Commission released a *Memorandum Opinion and Third Order on Reconsideration* resolving eight petitions for reconsideration of the *Second Report and Order* in MM Docket No. 95-31, Reexamination of the Comparative Standards for Noncommercial Educational Applicants.¹ As discussed in *MOTOR*, there remain pending a number of closed groups of non-reserved channel mutually exclusive construction permit applications for noncommercial educational (“NCE”) and commercial FM, FM translator, and television stations (“Mixed Groups”).² In *MOTOR*, the Commission afforded each Mixed Group NCE applicant a one-time opportunity to amend its application for the sole purpose of applying for a commercial broadcast station. The staff will dismiss unamended applications prior to auction.³ The Commission directed the Media Bureau to open a window for these amendments.

Pending Applications. Amendment Filing Procedures. Attachment A to this Public Notice identifies the applications in each of the Mixed Groups.⁴ An applicant for an NCE station in a Mixed Group must submit an amendment, in triplicate, with the Commission’s Secretary, Marlene Dortch, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., Room TW-A325, Washington, D.C. 20054. Any such amendment should also be e-mailed to james.bradshaw@fcc.gov. The applicant must explicitly state that the applicant had previously applied for an NCE station and now seeks to amend its pending application to apply for a commercial station.

¹ Reexamination of the Comparative Standards for Noncommercial Educational Applicants, MM Docket No. 95-31, *Notice of Proposed Rulemaking*, 10 FCC Rcd 2877 (1995); *Further Notice of Proposed Rulemaking*, 13 FCC Rcd 21167 (1998); *Report and Order*, 15 FCC Rcd 7386 (2000); *Memorandum Opinion and Order*, 16 FCC Rcd 5074 (2001); *Second Report and Order*, 18 FCC Rcd 6691(2003) (“*Second Report and Order*”); *Memorandum Opinion and Third Order on Reconsideration*, 23 FCC Rcd 17423 (2008) (“*MOTOR*”).

² Originally, the Commission expected to resolve the mutually exclusive applications for these pending mixed groups in Closed Broadcast Auction No. 25, which the Commission conducted in 1999. In the *Second Report and Order*, the Commission decided to dismiss the pending applications for NCE stations in the mixed groups. However, to better serve the public interest and to avoid the harsh result of dismissal based on subsequently adopted processing rules, in *MOTOR* the Commission reconsidered this processing policy.

³ See *MOTOR*, 23 FCC Rcd at 17427-28. See also 47 C.F.R. § 73.5002(b) (NCE applications subject to dismissal if there is any mutually exclusive application for a commercial station).

⁴ The Commission identified 19 pending, closed mixed application groups in *MOTOR*. Subsequently, the staff dismissed the only application for an NCE station in three of the pending television mixed groups, pursuant to the applicant’s request. Consequently, these three television groups are not listed on Attachment A.

To be effective, amendments must be received no later than October 30, 2009. Only applicants for NCE stations listed in Attachment A will be allowed to amend their pending applications. Amendments for purposes other than applying for a commercial broadcast station will not be accepted during this window. Except as indicated above, no other sections of, or questions on, the pending application may be amended. There is no fee associated with filing the amendment.

After the close of the filing period, any application for an NCE station that fails to submit an amendment and that remains mutually exclusive with any application for a commercial station will be dismissed with prejudice.

Applications for Michael Rice AM Stations. Amendment Filing Procedures. By Public Notice released July 3, 2001, the Media Bureau and the Wireless Telecommunications Bureau announced, *inter alia*, a supplemental AM Auction No. 32 filing window for the two AM stations formerly licensed to entities controlled by Michael Rice (the “Rice Stations”).⁵ **Attachment B** to this Public Notice lists the seven entities that timely filed applications for the AM facility at 640 KHz, Terre Haute, Indiana, and the six entities that timely filed applications for the AM facility at 1230 KHz, Terre Haute, Indiana.

As noted in *MOTOR*, one of the entities applying for each of the Rice Stations, Word Power, Inc., indicated that it was applying for NCE stations. Thus, once Word Power, Inc. applied for the two Rice Stations as an NCE, the two mutually AM groups also became Mixed Groups.⁶ The Commission also offered this limited opportunity to Word Power, Inc., to amend its two pending applications for the sole purpose of applying for a commercial broadcast station.⁷

To amend its pending application to apply for a commercial station, Word Power, Inc. must submit an amendment, in triplicate, with the Commission’s Secretary, Marlene Dortch, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W. Room TW-A325, Washington, D.C. 20054. Any such amendment should also be e-mailed to james.bradshaw@fcc.gov. Word Power, Inc. must explicitly state that it had previously applied for an NCE station and now seeks to amend its pending application to apply for a commercial station.

To be effective, amendments must be received no later than October 30, 2009. Only Word Power, Inc. will be allowed to amend its pending applications. Amendments for purposes other than applying for a commercial broadcast station will not be accepted during this window. Except as indicated above, no other sections of, or questions on, the pending applications may be amended. After the close of the window, any application for an NCE station that remains mutually exclusive with any application for a commercial station will be dismissed with prejudice.

Contacts: James Bradshaw or Lisa Scanlan, Audio Division, Media Bureau, (202) 418-2700.

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⁵ Permanent and Interim Authority Procedures Announced for Applications for Stations Formerly Licensed to Entities Controlled by Michael Rice, *Public Notice*, 16 FCC Rcd 12832 (MB/WTB 2001) (“*Rice Window Notice*”). The stations at issue are: (1) WBOW(AM), Terre Haute, Indiana, 640 KHz and (2) WBUZ(AM), Terre Haute, Indiana, 1230 KHz.

⁶ See *MOTOR*, 23 FCC Rcd at 17429-30. Until resolution of the mixed group issue, the two mutually exclusive AM groups for the two Rice Stations could not be included in AM Auction No. 32. The AM Auction No. 32 auction event closed on December 12, 2002.

⁷ *Id.* at 17431.