



Virginia Association of Broadcasters Legal Review



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IMPORTANT

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October 26, 2011

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FCC TO CONSIDER ENHANCED DISCLOSURE IN UPCOMING OPEN MEETING

At the FCC's next open meeting, scheduled for tomorrow, Thursday, October 27, 2011, the Commission will consider, among other things, certain issues lingering from the long-dormant "localism" proceeding.

As you know, the Commission in late 2007 adopted a number of wide-ranging rules related to broadcast localism. For example, the "enhanced disclosure" rules adopted in 2007 would require broadcasters to complete cumbersome standardized program-related forms each quarter and to make their local public inspection files available on the Internet. These rules have been under legal challenge by the broadcast industry at the Commission and in federal court. The rules have not been in effect due to the ongoing litigation.

At the October 27 meeting, the FCC is expected to adopt an *Order on Reconsideration of the 2007 Enhanced Disclosure Report and Order* ("Order") and a *Further Notice of Proposed Rulemaking* ("Notice") related to the proposals adopted in 2007. The *Future of Media* report, which was prepared by Commission staff and released earlier this year, recommended that the standardized "enhanced disclosure" form be discarded. According to new reports, the *Order* is expected to vacate the rules adopted in 2007. Moreover, based on the public notice announcing the meeting schedule, it appears the Commission may propose in the *Notice* to require stations to maintain some portion of their public inspection files on a website to be hosted by the FCC.

Details of the *Order* and *Notice* are not yet publicly available. We will be monitoring the Commission's October 27 meeting and will provide stations with more information following the meeting.

* * * * *

PETITION ASKS FCC TO ALLOW FLEXIBILITY FOR NON-RESERVED BAND FM STATIONS

The FCC recently received a *Petition for Rulemaking* ("*Petition*") requesting that the Commission amend its rules to allow non-reserved band FM stations some of the same flexibility and contour protection that the rules provide to reserved band noncommercial educational facilities. Such a rulemaking would have potential benefits for commercial broadcast stations if the Commission adopts rules to simplify the construction permit application process as requested in the *Petition*. The highlights of the requests in the *Petition* are discussed below.

First, the *Petition* calls for the FCC to eliminate the "Proposed Allotment or Assignment Coordinates" requirements for non-reserved band FM minor modification

applications within the FCC's construction application form (FCC Form 301). The *Petition* argues that the current application process is burdensome for commercial non-reserved band facility licensees and permittees who must identify a fully-spaced allotment site which may or may not be relevant to the actual antenna location. No other radio broadcast service is required to identify such a site.

The *Petition* next calls for an important change to the rules regarding contour protection. The *Petition* proposes that the rules be amended to require an applicant submitting a minor modification application to the FCC to protect only the *actual facilities* of neighboring co-channel and adjacent channel facilities, rather than hypothetical maximum facilities. In other words, the FCC would consider the *actual* antenna height and effective radiated power levels of neighboring co-channel and adjacent channel stations.

Finally, the *Petition* proposes removing a section of the rules regarding minimum distance separation requirements to afford greater flexibility to non-reserved band FM stations. The current rules impose minimum distance separation standards which, the *Petition* argues, were adopted decades ago out of an abundance of caution. The *Petition* argues that the FCC should now relax its rules given the availability of technology and an improved understanding of how directional antennas actually work.

It remains to be seen whether the FCC will initiate a rulemaking regarding the *Petition's* proposals. We will continue to keep you apprised of any developments.

* * * * *

AUCTION OF FM BROADCAST CONSTRUCTION PERMITS SCHEDULED FOR MARCH 27, 2012

The FCC has announced the auction of certain FM broadcast construction permits to begin on March 27, 2012. The specific vacant FM allotments up for auction are listed in Attachment A to this *Legal Memorandum*. There is only one Virginia construction permit involved. That construction permit is for a Class A station in Iron Gate, Virginia, with a proposed minimum opening bid of \$25,000.

* * * * *

FCC TO PERMIT ENERGY-SAVING TRANSMITTER TECHNOLOGY FOR AM STATIONS

The FCC recently announced that it will permit AM stations to use transmitter technologies that reduce power consumption, known as Modulation Dependent Carrier Level ("MDCL") control technologies or algorithms. Accordingly, the Commission has established procedures for AM broadcasters to seek a rule waiver in order to use MDCL

technology on a voluntary basis to save power. The FCC reports that MDCL technology can reduce power consumption of an AM transmitter by 20 to 40 percent, with largely imperceptible effects on audio quality.

Upon approval of a waiver request, the FCC will issue the station a modified license, indicating that a waiver has been granted to permit use of a specific MDCL technology causing transmitter power to drop below 90 percent of the station's licensed power. If you have specific questions about obtaining a waiver for use of MDCL technology, please consult with your communications counsel.

* * * * *

If you should have any questions concerning the information discussed in this memorandum, please contact your communications counsel or any of the undersigned.

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This Legal Review should in no way be construed as legal advice or a legal opinion on any specific set of facts or circumstances. Therefore, you should consult with legal counsel concerning any specific set of facts or circumstances.

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Auction 93 — FM Broadcast
DA 11-1513
Attachment A

Construction Permit	Market		Channel	Class	Coordinates								Bidding Units	Upfront Payment	Minimum Opening Bid
	State	City			Latitude				Longitude						
MM-FM543-A *	LA	Bordeloville	280	A	31	10	18	N	91	43	9	W	3,500	\$3,500	\$3,500
MM-FM763-A **	AR	Elaine	238	A	34	22	52	N	90	45	56	W	10,000	\$10,000	\$10,000
MM-FM765-A **	AR	Saint Paul	287	A	35	48	14	N	93	37	0	W	20,000	\$20,000	\$20,000
MM-FM779-C0 **	CO	Dinosaur	262	C0	40	3	26	N	108	39	46	W	5,000	\$5,000	\$5,000
MM-FM800-C2 **	MI	Crystal Falls	280	C2	45	57	22	N	88	33	46	W	10,000	\$10,000	\$10,000
MM-FM802-C3 **	MI	Fife Lake	240	C3	44	35	51	N	85	20	31	W	25,000	\$25,000	\$25,000
MM-FM805-A **	MS	Calhoun City	272	A	33	51	18	N	89	18	41	W	5,000	\$5,000	\$5,000
MM-FM806-C3 **	MT	Alberton	288	C3	47	1	45	N	114	45	20	W	20,000	\$20,000	\$20,000
MM-FM810-C **	ND	Medina	222	C	46	53	36	N	99	17	54	W	10,000	\$10,000	\$10,000
MM-FM812-C1 **	ND	Sarles	290	C1	48	54	25	N	99	3	39	W	3,500	\$3,500	\$3,500
MM-FM825-A **	OH	Ashtabula	241	A	41	52	38	N	80	47	49	W	20,000	\$20,000	\$20,000
MM-FM834-A **	SD	Mission	264	A	43	18	24	N	100	39	24	W	1,500	\$1,500	\$1,500
MM-FM835-A **	TN	Byrdstown	255	A	36	30	23	N	85	0	32	W	7,500	\$7,500	\$7,500
MM-FM836-A **	TN	Linden	267	A	35	39	45	N	87	44	25	W	5,000	\$5,000	\$5,000
MM-FM839-A **	TX	Buffalo	278	A	31	21	9	N	95	59	47	W	2,500	\$2,500	\$2,500
MM-FM860-A **	WA	Waitsburg	272	A	46	17	41	N	117	59	47	W	10,000	\$10,000	\$10,000
MM-FM862-C3 **	WI	Rhineland	243	C3	45	39	43	N	89	13	25	W	10,000	\$10,000	\$10,000
MM-FM867-C2	AK	Fairbanks	224	C2	64	55	20	N	147	42	49	W	35,000	\$35,000	\$35,000
MM-FM868-C2	AK	Fairbanks	232	C2	64	55	20	N	147	42	49	W	35,000	\$35,000	\$35,000
MM-FM869-C0	AK	Port Lions	221	C0	57	53	35	N	152	55	50	W	5,000	\$5,000	\$5,000
MM-FM870-A	AL	Rockford	286	A	32	52	15	N	86	6	4	W	20,000	\$20,000	\$20,000
MM-FM871-C3	AR	Alzheimer	251	C3	34	9	0	N	91	56	0	W	45,000	\$45,000	\$45,000
MM-FM872-A	AR	Bearden	224	A	33	43	24	N	92	36	54	W	10,000	\$10,000	\$10,000
MM-FM873-A	AR	Dermott	289	A	33	30	58	N	91	23	4	W	7,500	\$7,500	\$7,500
MM-FM874-C3	AR	Lake Village	278	C3	33	17	4	N	91	13	3	W	25,000	\$25,000	\$25,000
MM-FM875-A	AR	Pine Bluff	257	A	34	10	23	N	91	58	32	W	35,000	\$35,000	\$35,000
MM-FM876-C3	AR	Pine Bluff	267	C3	34	8	0	N	91	56	45	W	45,000	\$45,000	\$45,000
MM-FM877-C3	AR	Strong	296	C3	33	14	0	N	92	18	0	W	25,000	\$25,000	\$25,000
MM-FM878-A	AZ	Ash Fork	259	A	35	16	13	N	112	32	31	W	750	\$750	\$750
MM-FM879-C3	AZ	Peach Springs	281	C3	35	33	46	N	113	27	12	W	1,500	\$1,500	\$1,500
MM-FM880-B	CA	Blythe	247	B	33	37	2	N	114	35	20	W	15,000	\$15,000	\$15,000
MM-FM881-A	CA	Cloverdale	274	A	38	44	22	N	123	0	32	W	100,000	\$100,000	\$100,000
MM-FM882-A	CA	Desert Center	288	A	33	39	15	N	115	27	0	W	750	\$750	\$750
MM-FM883-A	CA	Ridgecrest	229	A	35	37	30	N	117	40	12	W	15,000	\$15,000	\$15,000
MM-FM884-A	CA	Willow Creek	258	A	40	57	29	N	123	42	23	W	5,000	\$5,000	\$5,000
MM-FM885-A	CA	Willows	292	A	39	25	56	N	122	4	50	W	10,000	\$10,000	\$10,000
MM-FM886-C3	CO	De Beque	247	C3	39	24	45	N	108	5	26	W	60,000	\$60,000	\$60,000
MM-FM887-C3	CO	Fruita	268	C3	39	6	52	N	108	51	9	W	45,000	\$45,000	\$45,000
MM-FM888-C2	CO	Gunnison	265	C2	38	37	0	N	107	1	0	W	5,000	\$5,000	\$5,000
MM-FM889-C3	CO	Hotchkiss	258	C3	38	46	3	N	107	42	17	W	15,000	\$15,000	\$15,000
MM-FM890-C3	CO	Walden	226	C3	40	42	1	N	106	31	21	W	750	\$750	\$750
MM-FM891-A	FL	Sugarloaf Key	289	A	24	37	30	N	81	32	30	W	20,000	\$20,000	\$20,000
MM-FM892-A	GA	Americus	295	A	32	4	51	N	84	15	20	W	20,000	\$20,000	\$20,000
MM-FM893-A	GA	Milner	290	A	33	9	44	N	84	4	51	W	750	\$750	\$750
MM-FM894-A	GA	Morgan	228	A	31	32	15	N	84	35	58	W	5,000	\$5,000	\$5,000
MM-FM895-A	GA	Ty Ty	249	A	31	34	1	N	83	40	7	W	750	\$750	\$750
MM-FM896-A	IA	Sanborn	264	A	43	10	53	N	95	39	23	W	10,000	\$10,000	\$10,000
MM-FM897-A	ID	Dubois	243	A	44	15	50	N	112	9	0	W	750	\$750	\$750
MM-FM898-C3	ID	McCall	238	C3	44	54	30	N	116	6	0	W	5,000	\$5,000	\$5,000

Construction Permit	Market		Channel	Class	Coordinates								Bidding Units	Upfront Payment	Minimum Opening Bid
	State	City			Latitude				Longitude						
MM-FM899-A	IL	Augusta	253	A	40	8	34	N	91	2	51	W	7,500	\$7,500	\$7,500
MM-FM900-A	IN	Culver	252	A	41	13	4	N	86	25	21	W	35,000	\$35,000	\$35,000
MM-FM901-A	KS	Phillipsburg	237	A	39	47	32	N	99	19	55	W	2,500	\$2,500	\$2,500
MM-FM902-C3	LA	Cameron	296	C3	29	47	48	N	93	19	30	W	750	\$750	\$750
MM-FM903-A	LA	Colfax	267	A	31	27	53	N	92	49	44	W	10,000	\$10,000	\$10,000
MM-FM904-C3	LA	Franklin	295	C3	29	39	30	N	91	29	9	W	45,000	\$45,000	\$45,000
MM-FM905-A	LA	Haynesville	288	A	33	0	12	N	93	8	19	W	7,500	\$7,500	\$7,500
MM-FM906-A	LA	Homer	272	A	32	42	41	N	92	56	35	W	10,000	\$10,000	\$10,000
MM-FM907-C3	LA	New Llano	252	C3	31	12	18	N	93	16	11	W	750	\$750	\$750
MM-FM908-A	MI	Alpena	289	A	45	5	30	N	83	21	48	W	10,000	\$10,000	\$10,000
MM-FM909-A	MI	Onkama	227	A	44	21	48	N	86	12	18	W	10,000	\$10,000	\$10,000
MM-FM910-C1	MN	Baudette	233	C1	48	42	52	N	94	35	32	W	5,000	\$5,000	\$5,000
MM-FM911-C3	MO	Bunker	292	C3	37	31	10	N	91	19	38	W	10,000	\$10,000	\$10,000
MM-FM912-C3	MO	Deerfield	264	C3	37	43	1	N	94	36	22	W	35,000	\$35,000	\$35,000
MM-FM913-C2	MS	Cleveland	225	C2	33	45	12	N	90	42	45	W	60,000	\$60,000	\$60,000
MM-FM914-A	MS	Drew	237	A	33	44	17	N	90	39	29	W	20,000	\$20,000	\$20,000
MM-FM915-A	MS	Mound Bayou	270	A	33	52	49	N	90	42	24	W	20,000	\$20,000	\$20,000
MM-FM916-A	MS	Vardaman	258	A	33	46	13	N	89	15	26	W	10,000	\$10,000	\$10,000
MM-FM917-C1	MT	Cut Bank	265	C1	48	39	28	N	111	47	29	W	7,500	\$7,500	\$7,500
MM-FM918-C1	ND	Tioga	281	C1	48	20	26	N	102	59	55	W	15,000	\$15,000	\$15,000
MM-FM919-C1	ND	Williston	253	C1	48	8	22	N	103	53	24	W	15,000	\$15,000	\$15,000
MM-FM920-C2	NM	Carrizozo	261	C2	33	28	30	N	105	46	18	W	10,000	\$10,000	\$10,000
MM-FM921-C1	NM	Cloudcroft	250	C1	33	0	49	N	105	35	15	W	35,000	\$35,000	\$35,000
MM-FM922-A	NM	Las Vegas	296	A	35	36	33	N	105	9	31	W	5,000	\$5,000	\$5,000
MM-FM923-C3	NM	Tularosa	274	C3	33	4	30	N	106	1	6	W	20,000	\$20,000	\$20,000
MM-FM924-A	NV	Battle Mountain	253	A	40	38	18	N	116	56	6	W	2,500	\$2,500	\$2,500
MM-FM925-C3	NV	Fernley	231	C3	39	37	0	N	119	8	51	W	25,000	\$25,000	\$25,000
MM-FM926-C	NV	Silver Springs	273	C	39	30	0	N	118	40	48	W	60,000	\$60,000	\$60,000
MM-FM927-A	OH	Cridersville	257	A	40	45	20	N	84	6	39	W	750	\$750	\$750
MM-FM928-C2	OK	Alva	289	C2	36	47	6	N	98	33	1	W	7,500	\$7,500	\$7,500
MM-FM929-A	OK	Broken Bow	285	A	34	6	21	N	94	38	9	W	15,000	\$15,000	\$15,000
MM-FM930-C3	OK	Cheyenne	247	C3	35	37	25	N	99	40	11	W	750	\$750	\$750
MM-FM931-A	OK	Covington	290	A	36	18	26	N	97	31	31	W	5,000	\$5,000	\$5,000
MM-FM932-A	OK	Pittsburg	232	A	34	41	15	N	95	42	19	W	15,000	\$15,000	\$15,000
MM-FM933-A	OK	Red Oak	227	A	34	50	34	N	95	7	42	W	5,000	\$5,000	\$5,000
MM-FM934-C3	OK	Tipton	233	C3	34	32	30	N	99	14	10	W	15,000	\$15,000	\$15,000
MM-FM935-C3	OK	Tishomingo	259	C3	34	12	34	N	96	33	45	W	25,000	\$25,000	\$25,000
MM-FM936-A	OR	Grants Pass	257	A	42	25	25	N	123	26	25	W	35,000	\$35,000	\$35,000
MM-FM937-A	OR	Keno	253	A	42	7	30	N	121	55	42	W	25,000	\$25,000	\$25,000
MM-FM938-A	OR	Malin	263	A	42	0	36	N	121	24	24	W	25,000	\$25,000	\$25,000
MM-FM939-C2	OR	Terrebonne	293	C2	44	14	50	N	120	58	39	W	750	\$750	\$750
MM-FM940-A	PA	Sheffield	286	A	41	42	42	N	79	0	56	W	15,000	\$15,000	\$15,000
MM-FM941-C	SD	Lead	232	C	44	38	57	N	104	15	47	W	25,000	\$25,000	\$25,000
MM-FM942-A	SD	Murdo	283	A	43	53	24	N	100	43	6	W	750	\$750	\$750
MM-FM943-C	SD	Rosebud	257	C	43	13	1	N	100	47	33	W	10,000	\$10,000	\$10,000
MM-FM944-C3	TX	Benjamin	237	C3	33	44	27	N	99	48	54	W	2,500	\$2,500	\$2,500
MM-FM945-A	TX	Centerville	267	A	31	14	17	N	96	5	34	W	7,500	\$7,500	\$7,500
MM-FM946-C3	TX	Cisco	261	C3	32	30	55	N	98	50	25	W	10,000	\$10,000	\$10,000
MM-FM947-A	TX	Comanche	280	A	31	53	50	N	98	36	12	W	7,500	\$7,500	\$7,500
MM-FM948-A	TX	Dickens	240	A	33	37	18	N	100	50	10	W	750	\$750	\$750
MM-FM949-C1	TX	Eldorado	258	C1	30	45	45	N	100	54	13	W	7,500	\$7,500	\$7,500
MM-FM950-A	TX	Giddings	240	A	30	15	33	N	97	1	33	W	10,000	\$10,000	\$10,000

Construction Permit	Market		Channel	Class	Coordinates								Bidding Units	Upfront Payment	Minimum Opening Bid
	State	City			Latitude				Longitude						
MM-FM951-C2	TX	Hamlin	283	C2	32	56	7	N	99	55	19	W	15,000	\$15,000	\$15,000
MM-FM952-A	TX	Junction	284	A	30	22	55	N	99	42	15	W	1,500	\$1,500	\$1,500
MM-FM953-A	TX	Kingsland	284	A	30	40	3	N	98	28	29	W	20,000	\$20,000	\$20,000
MM-FM954-C3	TX	Llano	293	C3	30	46	21	N	98	47	20	W	10,000	\$10,000	\$10,000
MM-FM955-C3	TX	McCamey	233	C3	31	11	56	N	102	1	42	W	1,500	\$1,500	\$1,500
MM-FM956-C3	TX	Mullin	224	C3	31	33	24	N	98	39	55	W	15,000	\$15,000	\$15,000
MM-FM957-C2	TX	Rule	288	C2	33	10	29	N	99	49	26	W	10,000	\$10,000	\$10,000
MM-FM958-C3	TX	Santa Anna	288	C3	31	37	38	N	99	20	3	W	20,000	\$20,000	\$20,000
MM-FM959-C2	TX	Seymour	222	C2	33	34	49	N	99	18	1	W	3,500	\$3,500	\$3,500
MM-FM960-C2	TX	Shamrock	225	C2	35	26	58	N	100	6	45	W	7,500	\$7,500	\$7,500
MM-FM961-A	UT	Fountain Green	260	A	39	37	42	N	111	38	28	W	10,000	\$10,000	\$10,000
MM-FM962-A	UT	Manila	228	A	40	59	17	N	109	43	19	W	750	\$750	\$750
MM-FM963-A	UT	Mona	225	A	39	46	39	N	111	51	41	W	20,000	\$20,000	\$20,000
MM-FM964-A	VA	Iron Gate	270	A	37	48	14	N	79	48	23	W	25,000	\$25,000	\$25,000
MM-FM965-C3	VT	Canaan	231	C3	45	1	20	N	71	25	5	W	5,000	\$5,000	\$5,000
MM-FM966-A	VT	Poultney	223	A	43	31	6	N	73	14	6	W	25,000	\$25,000	\$25,000
MM-FM967-A	WA	Goldendale	240	A	45	46	12	N	120	43	48	W	1,500	\$1,500	\$1,500
MM-FM968-A	WA	Port Angeles	271	A	48	6	54	N	123	26	36	W	7,500	\$7,500	\$7,500
MM-FM969-A	WI	Crandon	276	A	45	34	18	N	88	53	54	W	5,000	\$5,000	\$5,000
MM-FM970-A	WV	White Sulphur Springs	227	A	37	49	48	N	80	11	51	W	20,000	\$20,000	\$20,000
MM-FM971-C	WY	Byron	221	C	44	38	8	N	109	1	20	W	20,000	\$20,000	\$20,000
MM-FM972-A	WY	Centennial	248	A	41	19	3	N	105	59	55	W	15,000	\$15,000	\$15,000

* Construction permit offered in Auction 70, but the winning bidder defaulted.

** Construction permit offered but unsold in Auction 91.