

Federal Communications Commission

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it is found to be defective or not in substantial compliance with the Commission's rules.

[52 FR 37779, Oct. 9, 1987]

§21.27 Public notice period.

(a) At regular intervals, the Commission will issue a public notice listing:

(1) The acceptance for filing of applications and major amendments thereto;

(2) Significant Commission actions concerning applications;

(3) The filing of certifications of completion of construction;

(4) The receipt of applications for minor modifications made pursuant to §21.41;

(5) Information which the Commission in its discretion believes of public significance; and

(6) Special environmental considerations as required by part 1 of this chapter.

(7) The BTAs designated for licensing through the competitive bidding process and the filing date for short-form applications for those areas;

(8) The auction winners in the competitive bidding process;

(b) A public notice will not normally be issued for any of the following applications:

(1) For authorization of a minor technical change in the facilities of a proposed or authorized station where such a change would not be classified as a major amendment to a pending application, as defined by §21.23, or as a minor modification to a license pursuant to §21.41;

(2) For temporary authorization pursuant to §21.25;

(3) For an authorization under any of the proviso clauses of section 308(a) of the Communications Act of 1934 (47 U.S.C. 308(a));

(4) For consent to an involuntary assignment or transfer of control of a radio authorization; or

(5) For consent to a voluntary assignment or transfer of control of a radio authorization, where the assignment or transfer does not involve a substantial change in ownership or control.

(c) Except as otherwise provided in this part (e.g., §21.41), no application that has appeared on public notice will be granted until the expiration of a pe-

riod of thirty days following the issuance of the public notice listing the application, or any major amendment thereto, or until the expiration of a period of thirty days following the issuance of a public notice identifying the tentative selectee of a random selection process, whichever is later.

(d) Notwithstanding any other provisions of this part, effective as of September 17, 1998, there shall be one one-week window, at such time as the Commission shall announce by public notice, for the filing of applications for high-power signal booster station, response station hub and I channels point-to-multipoint transmissions licenses, during which all applications shall be deemed to have been filed as of the same day for purposes of §§21.909, 21.913 and 74.939(l) of this chapter. Following the publication of a public notice announcing the tendering for filing of applications submitted during that window, applicants shall have a period of sixty (60) days to amend their applications, provided such amendments do not result in any increase in interference to any previously proposed or authorized station, or to facilities proposed during the window, absent consent of the applicant for or conditional licensee or licensee of the station that would receive such interference. At the conclusion of that sixty (60) day period, the Commission shall publish a public notice announcing the acceptance for filing of all applications submitted during the initial window, as amended during the sixty (60) day period. All petitions to deny such applications must be filed within sixty (60) days of such second public notice. On the sixty-first (61st) day after the publication of such second public notice, applications for new or modified response station hub, booster station and I channels point-to-multipoint transmissions licenses may be filed and will be processed in accordance with the provisions of §§21.909, 21.913 and 74.939(l) of this chapter. Notwithstanding §21.31, each application submitted during the initial window shall be granted on the sixty-first (61st) day after the Commission shall have given such public notice of its acceptance for filing, unless prior to such date either a party in interest timely files a formal petition to deny

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or for other relief pursuant to § 21.30(a), or the Commission notifies the applicant that its application will not be granted. Where an application is granted pursuant to the provisions of this paragraph, the conditional licensee or licensee shall maintain a copy of the application at the transmitter site or response station hub until such time as the Commission issues a license.

[52 FR 37779, Oct. 9, 1987, as amended at 54 FR 10327, Mar. 13, 1989; 60 FR 36552, July 17, 1995; 61 FR 26674, May 28, 1996; 63 FR 65101, Nov. 25, 1998; 64 FR 4054, Jan. 27, 1999]

§ 21.28 Dismissal and return of applications.

(a) Except as provided under paragraph (c) of this section and under § 21.29, any application may be dismissed without prejudice as a matter of right if the applicant requests its dismissal prior to designation for hearing or prior to selection of the comparative evaluation procedure of § 21.35. An applicant's request for return of its application after it has been accepted for filing will be considered to be a request for dismissal without prejudice. Requests for dismissal shall comply with the provisions of § 21.29 as appropriate.

(b) A request to dismiss an application without prejudice will be considered after designation for hearing, after selection of the comparative evaluation procedure of § 21.35, or after selection as a tentative selectee in a random selection proceeding, only if:

(1) A written petition is submitted to the Commission and, in the case of applications designated for hearing or comparative evaluation, is properly served upon all parties of record;

(2) The petition is submitted before the issuance date of a public notice of Commission action denying the application; and

(3) The petition complies with the provisions of § 21.29 (whenever applicable) and demonstrates good cause.

(c) Except as provided under § 21.29, an application designated for inclusion in the random selection process may be dismissed without prejudice as a matter of right if the applicant requests its dismissal at least 2 days prior to a random selection proceeding. An applicant's request for return of its applica-

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tion after it has been accepted for filing will be considered to be a request for dismissal without prejudice. Requests for dismissal shall comply with the provisions of § 21.29 as appropriate.

(d) The Commission will dismiss an application for failure to prosecute or for failure to respond substantially within a specified time period to official correspondence or requests for additional information. Dismissal will be without prejudice prior to designation for hearing, selection of the comparative evaluation procedure of § 21.35, or tentative selection by the random selection process, but may be with prejudice for unsatisfactory compliance with § 21.29, or after designation for hearing, selection of the comparative evaluation process, or selection as a tentative selectee in a random selection proceeding.

(e) The Commission will dismiss an application filed by a cable television company which fails to comply with the provisions of § 21.912 of this part.

(f) A Multipoint Distribution Service application will be dismissed if the applicant seeks to change ownership or control, except in the case of a *pro forma* change of ownership or control (bankruptcy, death, or legal disability).

[44 FR 60534, Oct. 19, 1979, as amended at 50 FR 5993, Feb. 13, 1985; 55 FR 46009, Oct. 31, 1990; 58 FR 11797, Mar. 1, 1993]

§ 21.29 Ownership changes and agreements to amend or to dismiss applications or pleadings.

(a) Except as provided in paragraph (b) of this section, applicants or any other parties in interest to pending applications shall comply with the provisions of this section whenever:

(1) They participate in any agreement (or understanding) which involves any consideration promised or received, directly or indirectly, including any agreement (or understanding) for merger of interests or the reciprocal withdrawal of applications; and

(2) The agreement (or understanding) may result in either:

(i) A proposed substantial change in beneficial ownership or control (*de jure* or *de facto*) of an applicant such that the change would require, in the case of an authorized station, the filing of a