

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Auction of LPTV and TV Translator Digital) AU Docket No 08-22
Companion Channels (Auction 85))
)
To: Office of the Secretary
Attention: Wireless Telecommunications Bureau
Auctions and Spectrum Division

REQUEST FOR REMOVAL OF MX GROUP 283

1. The Broadcast Maximization Committee (“BMC”), which consists primarily of a group of consulting engineers and other representatives of the broadcast industry, and Minority Media and Telecommunications Council (“MMTC”) request that the Commission remove MX Group 283 from the upcoming Auction 85. BMC and MMTC also request that the Commission freeze the auction of Channels 5 and 6 for any services in the future. This action is necessary in order to ensure that Channels 5 and 6 remain available for future FM broadcast use as proposed by the Commission (MB Docket No. 07-294) after the digital television transition.¹

2. BMC and MMTC² each filed comments and reply comments in the Diversity Proceeding related to the Commission’s solicitation of proposals for the use of TV Channels 5 and 6 for FM broadcasting.³ In its comments, BMC offered a comprehensive plan for the use of Channels 5 and 6 (76-88 MHz), which included:

¹ See *Report and Order and Third Further Notice of Proposed Rule Making*, FCC 07-217, rel. March 5, 2008, 23 FCC Rcd 5922 (2008) (the “Diversity Proceeding”).

² MMTC filed as one of the members of the Diversity and Competition Supporters, which is a coalition of national organizations interested in advancing the cause of minority ownership.

³ *Id.* at ¶ 100.

- a) relocating the low power FM (“LPFM”) service to a portion of this band;
- b) expanding the noncommercial educational (“NCE”) service into a portion of this band; and
- c) reallocating all AM stations to the remaining available space in this spectrum over an expanded period of time with digital transmissions only.

As BMC demonstrated, the benefits flowing from these proposals are enormous for LPFM, NCE and AM stations. In addition, the proposals will greatly enhance the Commission’s localism, diversity and digital radio initiatives as well as having environmental benefits. MMTC offered its support for these proposals.

3. BMC also filed a Request for Freeze in the Diversity Proceeding requesting that the Commission immediately adopt a freeze on the filing of applications proposing new facilities or first time operation on Channels 5 and 6 and rule making petitions for new stations to utilize television Channels 5 and 6 pending the outcome of BMC’s proposal. BMC requested that this freeze apply to full power analog and digital television stations, as well as to analog and digital low power television (“LPTV”), Class A television, and television translator stations. A freeze will help to avoid impacting any additional television facilities beyond those currently authorized on Channels 5 and 6, should the Commission decide to use these channels in response to the various proposals submitted in the Diversity Proceeding, including BMC’s proposal. A copy of that freeze request is attached.

4. BMC and MMTC are only requesting here that MX Group 283 be excluded from this Auction until the use of Channels 5 and 6 in the Diversity Proceeding is resolved. In that group, two applicants have proposed to use Channel 6 for new LPTV stations in the Dallas, Texas area. BMC and MMTC have served the two applicants with

this freeze request so that they are on notice.⁴ Nevertheless, the Commission needs to act prudently and consistently by granting this request to remove MX Group 283 from Auction 85. This will ensure that, when the Commission ultimately decides how to utilize Channels 5 and 6 after the DTV transition, Dallas and Mesquite will not be precluded from having LPFM, NCE and the relocated AM stations that BMC proposes to populate this portion of the band. If the Commission does not remove MX Group 283 from Auction 85, it is not clear how the Commission plans to grant new Ch. 6 TV services and at the same time consider alternate uses for Ch. 6 in this region.

5. In conclusion, there are a number of reasons that warrant (i) the removal of MX Group 283 from Auction 85 and (ii) a freeze on the filing of applications and petitions for rule making to use Channels 5 and 6. The most important is the impact on the various proposals to use Channels 5 and 6. BMC's proposal will permit the expansion of the NCE service, provide LPFM stations with interference free operation, and allow the AM service to move to the more desirable FM band with digital operations. As BMC has demonstrated in its Comments and Reply Comments, the benefits flowing from these proposals are enormous for the LPFM, NCE and AM services, and for the public interest.

⁴ In addition, it is not clear how either party will be able to obtain a permit for Channel 6 in either Dallas or Mesquite because the Commission recently granted a permit to Station KZFW-LP in Dallas on Channel 6 and that permit will take priority over these two short form applications.

Respectfully submitted,

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September 10, 2008

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of September, 2008, I caused copies of the foregoing “**Request**” to be mailed via first-class postage prepaid mail to the following:

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**Federal Communications Commission**

The FCC Acknowledges Receipt of Comments From ...
**Broadcast Maximization Committee/Minority Media and
Telecommunications Council**
...and Thank You for Your Comments

Your Confirmation Number is: **'2008910322501 '**

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Docket: **08-22**

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