Federal Communications Commission
Washington, D.C. 20554

March 20, 2009

In Reply Refer to: 1800B3-BSH/LAS

Ann Arbor First Ventures, LP
3710 Rawlins Street, Suite 150
Dallas, TX 75219

Lexington Park Broadcasters, Inc.
P.O. Box 36
Dumont, NJ 07628

Barbara Lynch
1932 Grosse Avenue
Santa Rosa, CA 95404

Re: **AM Broadcast Auction 84**
MX Group 84-50

WAAM(AM), Oak Park, Michigan
Facility ID No. 72276
File Nos. BMJP-20040130APA
BMJP-20051031AFO

Applications for Major Change in Licensed AM Station

Ada, Michigan
Facility ID No. 160835
File No. BNP-20040129ATQ

Boyne Falls, Michigan
Facility ID No. 161212
File No. BNP-20040130ABH

Elk Rapids, Michigan
Facility ID No. 161216
File No. BNP-20040130ABI

Mancelona, Michigan
Facility ID No. 161214
File No. BNP-20040130ABJ

Harbor Springs, Michigan
Facility ID No. 161231
File No. BNP-20040130ABX

Applications for New AM Station Construction Permits

Dear Applicants:

We have before us the above-captioned mutually exclusive ("MX") AM construction permit applications.[1] Ann Arbor First Ventures, LP ("AAFV") proposes a major change in the licensed facility of Station WAAM(AM), Ann Arbor, Michigan, to change community of license from Ann Arbor to Oak Park, Michigan.[2] Lexington Park Broadcasters, Inc. ("Lexington Park") proposes a new AM station at Ada, Michigan. Barbara Lynch ("Lynch") proposes a new AM station at Boyne Falls, Michigan. Lynch also proposes new AM stations at Elk Rapids, Michigan; Mancelona, Michigan; and Harbor Springs, Michigan. These applications were included in MX Group 84-50 in AM Auction No. 84. We also have before us: (1) a Joint Request for Approval of Settlement Agreement and Withdrawal ("Settlement Agreement 50-S1") filed October 28, 2005, by AAFV and Lexington Park; (2) a Joint Request for Approval of Settlement Agreement and Withdrawal ("Settlement Agreement 50-S2") filed October 26, 2005, by AAFV and Lynch; and (3) a Form 301 long-form application filed by AAFV on October 31, 2005.[3] As discussed below, we approve both Settlement Agreements, dismiss the Lexington Park and Lynch applications, and dismiss AAFV's Form 301 long-form application and its tech box application, per AAFV's March 11, 2009, request.

Background. On June 15, 2005, the Media Bureau released a *Public Notice* containing a list of 802 MX AM Auction No. 84 window-filed Form 301 tech box applications.[4] The *AM MX Public Notice* defined three categories of MX applications, detailed the filings required for each category, and specified a September 16, 2005, deadline for submitting the required filings to the Commission. This filing deadline was extended to October 31, 2005, because of Hurricane Katrina.[5] MX Group 84-50 was listed as a Category I MX group, eligible for settlement. Category I applicants were required to file a settlement agreement, an engineering solution resolving all mutual exclusivities, or a Section 307(b) showing by the filing deadline.

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[1] A seventh application in MX Group 84-50, filed by Barbara Lynch, Hilton Head, South Carolina (File No. BNP-20040130AAW), as well as an eighth application filed by Barbara Lynch, Eminence, Missouri (File No. BNP-20040130ABE), and a ninth application filed by Barbara Lynch, Southport, South Carolina (File No. BNP-20040130ABK), were all dismissed on November 3, 2005, at the request of the applicant. A tenth application, filed by Great Northern Broadcasting System, Inc., Acme, Michigan (File No. BNP-20040128AKW), was dismissed on January 29, 2007. *See AM Auction No. 84 Mutually Exclusive Applications Dismissed for Failing to File or Untimely Filing of Required Settlement Agreement, Engineering Solution, or Section 307(b) Showing*, Public Notice, 22 FCC Rcd 1055 (MB 2007). Great Northern's January 10, 2006, request to be processed as a singleton is rendered moot by the January 29, 2007, dismissal of its tech box application for the Acme, Michigan, proposal.

[2] Big D Broadcasting, LLC was the licensee of Station WAAM(AM) when the Oak Park application was filed. The Station WAAM(AM) license was subsequently assigned to AAFV in a *pro forma* transaction, File No. BAL-20071204ADO, which was granted December 19, 2007, and consummated December 26, 2007.

[3] File No. BMJP-20051031AFO. This application contains an Interference Reduction Agreement in which, *inter alia*, WPHX(AM), Marine City, Michigan, will surrender its license.

[4] *See AM Auction No. 84 Mutually Exclusive Applicants Subject to Auction, Settlement Period Announced for Certain Mutually Exclusive Application Groups; September 16, 2005 Deadline Established for Section 307(b) Submissions,* Public Notice, 20 FCC Rcd 10563 (MB 2005) ("*AM MX Public Notice*").

[5] *See Auction No. 84 Settlement Period and Section 307(b) Submission Deadline Extended to October 31, 2005,* Public Notice, 20 FCC Rcd 14492 (MB 2005).

On October 28, 2005, AAFV and Lexington Park filed Settlement Agreement 50-S1. Under the terms of Settlement Agreement 50-S1, AAFV is to reimburse Lexington Park for its legitimate and prudent expenses in exchange for the withdrawal of its Ada, Michigan, tech box application. On October 26, 2005, AAFV and Lynch filed Settlement Agreement 50-S2. Under the terms of Settlement Agreement 50-S2, AAFV is to reimburse Lynch for her legitimate and prudent expenses in exchange for the withdrawal of her Boyne Falls, Elk Rapids, Mancelona, and Harbor Springs, Michigan tech box applications. Along with the Settlement Agreements, AAFV filed a complete Form 301 long-form application for its major change at Station WAAM(AM). Both Settlement Agreements contain the affidavits required by Section 73.3525(a) of the Commission's Rules ("Rules").[6]

Discussion. *The Settlement Agreements.* After careful consideration of the Settlement Agreements, and the attached affidavits, we find that approval of the Settlement Agreements would serve the public interest and expedite the provision of new AM service. The applicants have complied with Section 311(c)(3) of the Communications Act of 1934, as amended (the "Act") and Section 73.3525(a) of the Rules.[7] We further find that none of the parties filed their respective applications for the purpose of reaching or carrying out the Settlement Agreement[8] and that no consideration, other than as provided by the Settlement Agreement, has been directly or indirectly paid or promised. AAFV's long-form application was accepted for filing and placed on Public Notice on April 28, 2008.[9] On March 11, 2009, AAFV requested that its long-form and tech box applications be dismissed.

Section 307(b) Issue. Republication. Since the applicants propose to serve different communities, the parties have demonstrated that dismissal of the Lexington Park and Lynch applications would not unduly impede the objectives of Section 307(b) of the Act.[10] Accordingly, we will not require republication under Section 73.3525(b) of the Rules.[11]

Conclusion. Accordingly, IT IS ORDERED, that the Joint Request for Approval of Settlement Agreement and Withdrawal filed October 28, 2005, by AAFV and Lexington Park, and the Joint Request for Approval of Settlement Agreement and Withdrawal filed October 26, 2005, by AAFV and Lynch

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[6] 47 C.F.R. § 73.3525(a).

[7] *See* 47 U.S.C. § 311(C)(3); 47 C.F.R. § 73.3525(a).

[8] *See* 47 C.F.R. § 73.3525(a)(2).

[9] *See Broadcast Applications,* Public Notice, Report No. 26724 (MB Apr. 28, 2008). Citicasters Licenses, L.P. ("Citicasters"), licensee of Station WTTF(AM), Tiffin, Ohio, filed a Petition to Deny AAFV's captioned applications on April 11, 2006. Citicasters argues that grant of the proposed modification to Station WAAM(AM) would create impermissible overlap to the protected service area of co-channel Station WTTF(AM), in violation of 47 C.F.R. § 73.37(a). AAFV filed a Response to Petition to Deny on April 21, 2006.

[10] In this regard, AAFV submitted amendments to Settlement Agreement 50-S1 and Settlement Agreement 50-S2 on January 2, 2009, demonstrating that dismissing the Lexington Park and Lynch applications would not unduly impede the objectives of Section 307(b).

[11] 47 C.F.R. § 73.3525(b). *See Mobile Broadcasting Service, Inc.*, Memorandum Opinion and Order, 91 FCC 2d 1209 (1982); *Waterman Broadcasting Corp. of Texas*, Memorandum Opinion and Order, 10 FCC 2d 712 (Rev. Bd. 1967) (rule designed to preclude the artificial removal of a demand, evidenced by the filing of an application, for a local outlet of self-expression by private agreement among applicants).

ARE GRANTED and the associated Settlement Agreements ARE APPROVED. The tech box applications filed by Lexington Park (File No. BNP-20040129ATQ) and Lynch (File Nos. BNP-20040130ABH, BNP-20040130ABI, BNP-20040130ABJ, and BNP-20040130ABX) ARE DISMISSED. The Form 301 long-form application (File No. BMJP-20051031AFO) and the tech box application (File No. BMJP-20040130APA) filed by AAFV ARE DISMISSED, per the applicant's request, and Citicasters' Petition to Deny these applications IS DISMISSED AS MOOT.

Sincerely,

Lisa Scanlan

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Chief, Audio Division
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cc: Mark N. Lipp, Esq.
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