Federal Communications Commission
Washington, D.C. 20554

August 6, 2008

In Reply Refer to:
1800B3-LAS

RAMS II
415 North College Street
Greenville, AL 36037

Louis V. Mueller
316 E. Highland Street
Altamonte Springs, FL 32701

Advance Acquisition, Inc.
c/o Denise Moline, Esq.
358 Pines Boulevard
Lake Villa, IL 60046

Charles A. Hecht and Alfredo Alonso
16 Doe Run
Pittstown, NJ 08867

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KM Communications, Inc.
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Duluth, GA 30096

Word of Life Ministries, Inc.
c/o A. Wray Fitch, III
Gammon & Grange, PC
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McLean, VA 22102

Bret D. Huggins
1206 Wood Fern
San Antonio, TX 78232

Robert John Williamson
PO Box 159
Florala, AL 36442

Electronic Applications Radio Service, Inc.
15 N. Wood Street
Greenfield, IN 46140

Re: **AM Auction No. 84**
MX Group 84-160

RAMS II
New (AM), Maxwell AFB, AL
Facility ID No. 161271
File Nos. BNP-20040130AZU
BNP-20051031AFY

Louis V. Mueller
New (AM), Brantley, AL
Facility ID No. 161290
File No. BNP-20040130AFN

Advance Acquisition, Inc.
New (AM), Brent, FL
Facility ID No. 161082
File No. BNP-20040130AGM

Charles A. Hecht and Alfredo Alonso
New (AM), Ferry Pass, FL
Facility ID No. 161149
File No. BNP-20040130APW

Charles A. Cooper
New (AM), Satsuma, AL
Facility ID No. 161363
File No. BNP-20040130ARD

Ether Mining Corporation
New (AM), Jeffersonville, IN
Facility ID No. 161534
File No. BNP-20040130BMK

KM Communications, Inc.
New (AM), Sterlington, LA
Facility ID No. 160268
File No. BNP-20040129AHZ

Word of Life Ministries, Inc.
New (AM), Blanchard, LA
Facility ID No. 160783
File No. BNP-20040129ALM

Bret D. Huggins
New (AM), Tyler, TX
Facility ID No. 160729
File No. BNP-20040130AHZ

Bret D. Huggins
New (AM), Chickasaw, AL
Facility ID No. 160569
File No. BNP-20040130AIT

Applications for AM Station Construction Permits

Robert John Williamson
WGYV(AM), Greenville, AL
Facility ID No. 7902
File Nos. BMJP-20040130BBK
BMJP-20051031AGM

Electronic Applications Radio Service, Inc.
WRFM (AM), Muncie, IN
Facility ID No. 1724
File No. BMJP-20040130APV

Applications for Major Change in Licensed AM Station

Dear Applicants and Counsel:

We have before us twelve mutually exclusive ("MX") AM construction permit applications.[1] RAMS II ("RAMS") proposes a new AM station at Maxwell AFB, Alabama. Louis V. Mueller ("Mueller") proposes a new AM station at Brantley, Alabama. Advance Acquisition, Inc. ("Advance") proposes a new AM station at Brent, Florida. Charles A. Hecht and Alfredo Alonso ("Hecht") propose a new AM station at Ferry Pass, Florida. Charles A. Cooper ("Cooper") proposes a new AM station at Satsuma, Alabama. Ether Mining Corporation ("Ether") proposes a new AM station at Jeffersonville, Indiana. KM Communications , Inc. ("KM") proposes a new AM station at Sterlington, Louisiana. Word of Life Ministries, Inc. ("WOL") proposes a new AM station at Blanchard, Louisiana. Bret D. Huggins ("Huggins") proposes new AM stations at both Tyler, Texas and Chickasaw, Alabama. Robert

[1] A thirteenth mutually exclusive application filed by KBJT, Inc. (File No. BMJP-20040127AEG) was dismissed on January 29, 2007. *See AM Auction No. 84 Mutually Exclusive Applications Dismissed for Either 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). A fourteenth mutually exclusive application filed by RAMS II for Eastwood, Louisiana (File No. BNP-20040130AFN) was dismissed on February 19, 2008, pursuant to the applicant's request.

John Williamson ("Williamson") proposes to modify the facilities of Station WGYV(AM), Greenville, Alabama. Electronic Applications Radio Service, Inc. ("Electronic") proposes to modify the facilities of Station WRFM(AM), Muncie, Indiana.[2] The twelve applications were designated MX Group 84-160 in AM Auction No. 84.

We also have before us: (1) a Joint Request for Approval of Settlement Agreement and Withdrawal ("Settlement Agreement"), filed October 31, 2005, by RAMS and Mueller ("Settlement Agreement 160-S1"); (2) a Joint Request for Approval of Settlement Agreement and Withdrawal, filed October 31, 2005, by RAMS and Advance ("Settlement Agreement 160-S2"); (3) a Joint Request for Approval of Settlement Agreement and Withdrawal, filed October 31, 2005, by RAMS and Hecht ("Settlement Agreement 160-S3"); (4) a Joint Request for Approval of Settlement Agreement and Withdrawal, filed October 31, 2005, by RAMS and Cooper ("Settlement Agreement 160-S4"); (5) a Joint Request for Approval of Settlement Agreement and Withdrawal, filed October 31, 2005, by RAMS, Williamson and Ether ("Settlement Agreement 160-S5"); (6) a Joint Request for Approval of Settlement Agreement and Withdrawal, filed October 31, 2005, by Williamson and Electronics ("Settlement Agreement 160-S6"); (7) a complete Form 301 long-form application filed by RAMS on October 31, 2005; (8) a complete Form 301 long-form application filed by Williamson on October 31, 2005; (9) a Section 307(b) showing filed by KM on October 31, 2005; (10) a Section 307(b) showing filed by WOL on October 31, 2005; (11) a Section 307(b) showing filed by Huggins on October 31, 2005, for Tyler, Texas; and (12) a Section 307(b) showing filed by Huggins on October 31, 2005, for Chickasaw, Alabama. As discussed below, we approve the six Settlement Agreements, dismiss the Mueller, Advance, Hecht, Cooper, Ether and Electronics tech box applications, grant the RAMS and Williamson Form 301 long-form applications, and direct KM to file a Form 301 long-form application within 60 days of the date of this letter for a construction permit for a new AM Station in Sterlington, Louisiana.

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.[3] 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.[4] MX Group 84-160 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.

On October 31, 2005, RAMS, Mueller, Advance, Hecht, Cooper, Williamson, Ether, and Electronics filed the aforementioned Settlement Agreements 160-S1; 160-S2; 160-S3; 160-S4; 160-S5;

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[2] A fifteenth mutually exclusive application filed by Marlene V. Borman ("Borman") was originally included in MX Group 84-160. In the Auction 84 filing window, Borman had filed an application for a major change to unbuilt Station KWFA(AM), Tye, Texas, proposing to change the community of license to Abilene, Texas. (File No. BMAP-20040130AIG). Borman submitted a Section 307(b) showing on October 31, 2005. The application was dismissed by separate Media Bureau action on March 21, 2008. *See Dennis J. Kelly, Esq.*, Letter, 23 FCC Rcd 4786 (MB 2008). Borman filed an Application for Review on April 21, 2008.

[3] *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*").

[4] *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).

and 160-S6. Under the terms of Settlement Agreement 160-S1, RAMS will reimburse Mueller for legitimate and prudent out-of-pocket expenses of $5,000 to withdraw his application. Under the terms of Settlement Agreement 160-S2, RAMS will reimburse Advance for legitimate and prudent out-of-pocket expenses of $500 to withdraw its application. Under the terms of Settlement Agreement 160-S3, RAMS will reimburse Hecht for legitimate and prudent out-of-pocket expenses of $500 to withdraw his application. Under the terms of Settlement Agreement 160-S4, RAMS will reimburse Cooper for legitimate and prudent out-of-pocket expenses to withdraw his application.[5] Under the terms of Settlement Agreement 160-S5, RAMS will reimburse Ether for legitimate and prudent out-of-pocket expenses of $10,057 to withdraw its application. Under the terms of Settlement Agreement 160-S6, Williamson will reimburse Electronics for legitimate and prudent out-of-pocket expenses of $8,000 to withdraw its application.

The six Settlement Agreements contains the affidavits required by Section 73.3525(a) of the Commission's Rules ("Rules").[6] In addition, on October 31, 2005, RAMS filed a complete Form 301 application to implement the new AM facility at Maxwell AFB, Alabama, and on October 31, 2005, Williamson filed a complete Form 301 application to implement the facility changes to Station WGYV(AM). KM, WOL, and Huggins were not parties to any of the six Settlement Agreements, but filed their respective Section 307(b) amendments on October 31, 2005.

Discussion. *The Settlement Agreements*. After careful consideration of the six Settlement Agreements, and the attached declarations and affidavits, we find that approval of Settlement Agreements 160-S1; 160-S2; 160-S3; 160-S4; 160-S5; and 160-S6 would serve the public interest and expedite the provision of new AM service. The settling applicants have complied with the provisions of 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 settling applicants filed their respective applications for the purpose of reaching or carrying out the Settlement Agreements,[8] and that no consideration, other than as provided by the Settlement Agreements, has been directly or indirectly paid or promised.

Section 307(b) Issues. Republication. Since the parties to Settlement Agreements 160-S1; 160-S2; 160-S3; 160-S4; 160-S5; and 160-S6 propose to serve different communities, the parties have demonstrated that dismissal of the Mueller, Advance, Hecht, Cooper, Ether, and Electronics applications would not unduly impede the objectives of Section 307(b) of the Act.[9] Accordingly, we will not require republication under Section 73.3525(b) of the Rules.[10]

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[5] Cooper subsequently requested dismissal of application BNP-20040130ARD by an October 25, 2005, letter and the tech box application for Satsuma, Alabama, was dismissed on November 1, 2005.

[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] In this regard, on January 3, 2008, and January 8, 2008, RAMS and Williamson, respectively, filed amendments to the Settlement Agreements, demonstrating that dismissal of the Mueller, Advance, Hecht, Cooper, Ether, and Electronics applications will not unduly impede the objectives of Section 307(b). *See, e.g., James P. Riley, Esq.*, Letter, 6 FCC Rcd 4382 (1991); *National Communications Affiliates of West Virginia*, Order, 2 FCC Rcd 4515 (Rev. Bd. 1987).

[10] 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.

The RAMS and Williamson Proposals. Because the Mueller, Advance, Hecht, Cooper, Ether, and Electronics applications are dismissed pursuant to the six Settlement Agreements, the RAMS and Williamson proposals are no longer mutually exclusive to any other applications in MX Group 84-160. RAMS' long-form application was accepted for filing and placed on Public Notice on July 13, 2007.[11] Accordingly, we will grant the RAMS Form 301 long-form application.

As noted above, Williamson proposes to change the community of license of Station WGYV(AM) from Greenville, Alabama, to Aurora, Indiana. Applicants proposing an AM station community of license change must demonstrate that the modification proposal will result in a preferential arrangement of assignments under Section 307(b), compared to the existing station assignment. Our evaluation of the modification proposal is guided by the directive of Section 307(b) to ensure a "fair, efficient and equitable distribution of radio service."[12] Consideration of the comparison is based on the FM allotment priorities. The Commission has noted that the FM allotment priorities fulfill its obligation under Section 307(b), and would apply in making a Section 307(b) determination regarding AM applications.[13]

In his October 31, 2005, Section 307(b) showing, and as further supplemented on January 8, 2008, Williamson demonstrates that the modification is in the public interest under priority (4) of the applicable allotment priorities. The Williamson proposal will provide Aurora with its second local transmission service and will result in additional net reception service to 185,641 persons within the proposed 2.0 mV/m contour and 1,769,035 persons within the proposed 0.5 mV/m contour, while the loss area will remain well served.[14] Furthermore, Williamson's proposal to change the station's community of license from Greenville, Alabama, to Aurora, Indiana, will not remove the sole local transmission service from Greenville because there are currently two other radio stations licensed to Greenville. Thus, we find that Williamson's proposal results in a preferential arrangement of assignments based on priority (4).[15] Williamson's long-form application was accepted for filing and placed on Public Notice on September 21, 2007.[16] Accordingly, we will grant the Williamson Form 301 long-form application.

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 the applicants).

[11] *See Broadcast Applications*, Public Notice, Report No. 26527 (MB July 13, 2007).

[12] 47 U.S.C. § 307(b).

[13] *See Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88 (1982). The FM allotment priorities are as follows: (1) First fulltime aural service; (2) Second fulltime aural service; (3) First local transmission service; and (4) Other public interest matters. Co-equal weight is given to Priorities (2) and (3). The FM allotment priorities were first applied to Section 307(b) determinations in mutually exclusive AM proceedings in *Alessandro Broadcasting Co.*, Decision, 56 RR 2d 1568 (Rev. Bd. 1984).

[14] *See Emmetsburg, Iowa, et al.*, Report and Order, 17 FCC Rcd 18308 (MMB 2002); *Greenup, Kentucky and Athens, Ohio*, Memorandum Opinion and Order, 6 FCC Rcd 1493 (1991).

[15] Aurora is listed in the 2000 U.S. Census, and therefore is presumed to have the status of a community for licensing purposes. *See Arnold and Columbia, California*, Memorandum Opinion and Order, 7 FCC Rcd 6302, 6303 (MMB 1992) ("*Arnold*").

[16] *See Broadcast Applications*, Public Notice, Report No. 26579 (MB Sept. 21, 2007).

The KM, WOL and Huggins Proposals. The applications for KM's proposed new AM station at Sterlington, Louisiana; WOL's proposed new AM station at Blanchard, Louisiana; and Huggins' proposed new AM stations at Tyler, Texas, and Chickasaw, Alabama, remain mutually exclusive. In situations such as the one before us, the grant of an application would normally be resolved by a competitive bidding process.[17] However, in the *Broadcast First Report and Order*, the Commission determined that the competitive bidding procedures should be consistent with its statutory mandate under Section 307(b) of the Act to provide a "fair, efficient, and equitable" distribution of radio services across the nation. To this end, the Commission directed the staff to undertake a traditional Section 307(b) analysis prior to conducting an auction for mutually exclusive AM applications.[18] The Commission also noted that the FM allotment priorities fulfill its obligation under Section 307(b), and would apply in making a Section 307(b) determination regarding mutually exclusive AM applications before auction.[19]

After careful consideration of all four applications, we have determined that the KM proposal is entitled to a dispositive Section 307(b) preference under priority (3) of the applicable allotment priorities as a first local transmission service to Sterlington, Louisiana. There are currently two radio stations licensed to Blanchard, Louisiana, WOL's proposed community of license; ten radio stations licensed to Tyler, Texas, Huggins' proposed community of license, and one radio station licensed to Chickasaw, Alabama, Huggins' other proposed community of license. Therefore, these three proposals would be considered under priority (4), other public interest matters. Under well-settled policy, the establishment of a first local service at Sterlington, Louisiana, under priority (3) is preferred to the priority (4) proposals.[20]

In awarding KM's proposal a preference for providing a first local transmission service, we recognize that Sterlington, Louisiana, is located in the Monroe, Louisiana, Urbanized Area. Where, as in this instance, the proposed new AM station's 5 mV/m contour could cover a significant portion of an Urbanized Area, we do not automatically award a first local service preference. Rather, we have used the criteria set forth in *Faye and Richard Tuck* ("*Tuck*")[21] as a guideline in determining whether the proposed community has an identity distinct from the Urbanized Area, and is therefore entitled to consideration for a first local service. These criteria are: (1) the degree to which the proposed station will provide coverage to the Urbanized Area; (2) the size and proximity of the proposed community of license relative to the central city of the Urbanized Area; and (3) the interdependence of the proposed community of license to the Urbanized Area, utilizing the eight *Tuck* factors.[22]

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[17] *See Implementation of Section 309(j) of the Communications Act-Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Services Licenses* ("*Broadcast First Report and Order*"), First Report and Order, 13 FCC Rcd 15920 (1998), *recon denied*, Memorandum Opinion and Order, 14 FCC Rcd 8724 (1999), *modified*, Memorandum Opinion and Order, 14 FCC Rcd 12541 (1999).

[18] *Broadcast First Report and Order* at 15964-65.

[19] *See supra* note 13.

[20] *See Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, Memorandum Opinion and Order, 5 FCC Rcd 7094, 7099 n.16 (1990) (citing *Rapids and Goldsboro, North Carolina*, Third Report and Order, 9 FCC 2d 672 (1967)).

[21] *Faye and Richard Tuck*, Memorandum Opinion and Order, 3 FCC Rcd 5374 (1988).

[22] The eight factors set forth in *Tuck* are: (1) the extent to which the community residents work in the larger metropolitan area, rather than the specified community; (2) whether the smaller community has its own newspaper or other media that covers the community's needs and interests; (3) whether community leaders and residents perceive the specified community as being an integral part of or separate from, the larger metropolitan area; (4) whether the specified community has its own local government and elected officials; (5) whether the smaller

KM provided information pertaining to the *Tuck* factors in its October 31, 2005, Section 307(b) showing and supplemented its Section 307(b) showing on February 14, 2008, in response to a January 28, 2008, staff request. In its showing, KM acknowledges that the proposed station at Sterlington will place a daytime 5 mV/m contour over all of the Monroe Urbanized Area. The record reflects that the population of Sterlington (1,276 persons) is 2.4 percent of the population of Monroe (53,107 persons). Sterlington is approximately sixteen miles away from the center of the Monroe Urbanized Area. However, these facts do not necessarily preclude a finding that Sterlington warrants a first local service preference.[23] While these two factors are pertinent, they are less significant than evidence substantiating the independence of Sterlington from Monroe.

KM contends that, based on the *Tuck* factors, Sterlington is independent from Monroe. In support, KM submits that the majority of Sterlington's residents in the labor force work in Sterlington (factor 1). While Sterlington does not have its own newspaper, the community's interests are covered by its own town website, which includes town news and a calendar of events, and town newsletter, the *Town Hall News* (factor 2). KM submits numerous printouts from the town website and newsletter, demonstrating that local leaders and residents perceive Sterlington as a separate local community. KM also notes the recent 2006 Community Achievement Award and the formation of a local Chamber of Commerce (factor 3). Sterlington is incorporated and is governed by an elected mayor and a five-member town council, and employs numerous other functionaries, such as a town clerk, director of public works and town engineer (factor 4). Sterlington has its own zip code and post offices (factor 5). Numerous commercial establishments exist within Sterlington, including professional offices, commercial business establishments, banks and restaurants. Sterlington residents are also served by numerous medical and dental facilities (factor 6). KM submits that Sterlington businesses can directly market to its residents through the local cable television franchise, as well as the town's official website and newsletter (factor 7). Sterlington offers its residents multiple municipal services. It has its own police department and volunteer fire department, its own public schools and library, as well as its own sewer service and recreational facilities (factor 8).

We find that the preponderance of the evidence submitted supports the conclusion that Sterlington is independent of Monroe. Furthermore, we find that Sterlington, Louisiana, constitutes a community suitable for licensing purposes.[24] Accordingly, KM's proposal qualifies for a first local

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community has its own local telephone book provided by the local telephone company or zip code; (6) whether the community has its own commercial establishments, health facilities, and transportation systems; (7) the extent to which the specified community and the central city are part of the same advertising market; and (8) the extent to which the specified community relies on the larger metropolitan area for various municipal services.

[23] *See Bay St. Louis and Poplarville, Mississippi*, Report and Order, 10 FCC Rcd 13144 (MMB 1995) (first local service preference awarded when population difference was only 4.48 percent); *Ada, Newcastle and Watonga, Oklahoma*, Report and Order, 11 FCC Rcd 16896 (MMB 1996) (first local service preference awarded when contour coverage of 85-95 percent of Urbanized Area and population difference of less than 1 percent); *Oraibi, Arizona*, Report and Order, 14 FCC Rcd 13547 (MMB 1999) (first local service preference awarded when contour coverage of 90 percent of Urbanized Area).

[24] *See Arnold*, 7 FCC Rcd at 6303.

transmission service preference under priority (3) of the allotment priorities and KM will be directed to continue the application process by filing a complete FCC Form 301 application.[25]

Conclusion / Action. Accordingly, IT IS ORDERED, that the Joint Requests for Approval of Settlement Agreement and Withdrawal ARE GRANTED and the associated Settlement Agreements 160-S1; 160-S2; 160-S3; 160-S4; 160-S5; and 160-S6 ARE APPROVED. The tech box applications filed by Louis V. Mueller (File No. BNP-20040130AFN); Advance Acquisition, Inc. (File No. BNP-20040130AGM); Charles A. Hecht and Alfredo Alonso (File No. BNP-20040130APW); Ether Mining Corporation (File No. BNP-20040130BMK); and Electronic Applications Radio Service, Inc. (File No. BMJP-20040130APV) ARE DISMISSED. The Form 301 long-form applications filed by RAMS II (File No. BNP-20051031AFY) and Robert John Williamson (File No. BMJP-20051031AGM) ARE GRANTED.

Additionally, IT IS ORDERED, that KM Communications, Inc., within 60 days of the date of this letter, is to file a complete FCC Form 301 long-form application in connection with its application for a construction permit for an AM broadcast station at Sterlington, Louisiana (File No. BNP-20040129AHZ), pursuant to the procedures set forth in the Commission's Rules.[26] With its application, KM must simultaneously submit the required filing fee for a new commercial AM radio station and an FCC Form 159, Remittance Advice.

The facilities proposed in the FCC Form 301 must comply with all applicable AM rules. Any differences between the tech box proposal filed during the AM Auction No. 84 filing window and the complete FCC Form 301 must be minor changes, as defined by the applicable AM service rules,[27] and must not create new application conflicts. The complete FCC Form 301 application must be filed electronically through the Media Bureau's Consolidated Database System (CDBS) online electronic forms system. For information regarding electronic application filing, refer to the April 28, 2000, Public Notice, *Mass Media Bureau Implements Consolidated Database System (CDBS) Electronic Filing of FCC Forms 301, 302, 314, 315, 316, and 347.* When filing the complete FCC Form 301, an applicant must select "Long Form Application for AM Auction No. 84" on the Pre-form for Form 301 (Question 2 – Application Purpose). In addition, the CDBS file number previously issued to the tech box submission filed in the AM Auction No. 84 filing window must be entered on the Pre-form in the field "Eng. Proposal File Number." Instructions for use of the electronic filing system are available in the CDBS User's Guide, which can be accessed from the electronic filing website at **http://www.fcc.gov/mb/elecfile.html.** For assistance with electronic filing, call the Audio Division Help Desk at (202) 418-2662.

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[25] After the FCC Form 301 is filed, the staff will conduct a complete legal and technical analysis. We will issue Public Notices entitled "Broadcast Applications," announcing AM auction applications determined to be acceptable for filing. These notices will be generated by the Consolidated Database System ("CDBS"). Petitions to deny an FCC Form 301 application, must be filed within 10 days following release of the Broadcast Applications Public Notice announcing acceptance of the application at issue. *Broadcast First Report and Order*, 13 FCC Rcd at 15985. The staff will dismiss the applications filed by WOL (File No. BNP-20040129ALM) and Huggins (File Nos. BNP-20040130AHZ and BNP-20040130AIT) upon action taken on the application filed by KM.

[26] *See* 47 C.F.R. §§ 0.401(b), 1.1104, 1.1109, 73.5005(d), and 73.3512.

[27] *Id.* § 73.3571.

The staff will return an application not submitted in accordance with the procedures described above. Failure to timely file the complete FCC Form 301 application on or before **October 6, 2008,** will result in dismissal of the tech box proposal filed during the AM Auction No. 84 filing window for failure to prosecute, pursuant to Section 73.3568 of the Rules.[28]

Sincerely,

Lisa Scanlan

Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Dennis J. Kelly, Esq., counsel for Marlene V. Borman

[28] *Id.* § 73.3568.