

**FEDERAL COMMUNICATIONS COMMISSION**  
**445 12<sup>th</sup> STREET S.W.**  
**WASHINGTON DC 20554**

**MEDIA BUREAU**  
**AUDIO DIVISION**  
**APPLICATION STATUS:** (202) 418-2730  
**HOME PAGE:** [www.fcc.gov/mb/audio](http://www.fcc.gov/mb/audio)

MAR 06 2007

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CCR-Lamar IV, LLC  
501 South Cherry Street, Suite 480  
Denver, CO 80246

In Re: KLMR-FM, Lamar, CO  
Facility ID #175  
CCR-Lamar IV, LLC ("CCR")  
BMPH-20070119AGB  
Petitions for Rulemaking

Dear Applicant:

This letter refers to: (1) the above-captioned minor change application, as last amended on February 20, 2007, to modify the community of license from Lamar to Deer Trail, Colorado, and change channels, antenna height, and transmitter site; and (2) two Petitions for Rulemaking ("Petitions") filed on January 19, 2007 to modify the channel of vacant allotments in Hugo, Colorado and Arriba, Colorado that are scheduled for Auction No. 70. Furthermore, CCR requests a waiver of the freeze on the filing of petitions to modify the allotments scheduled for Auction No. 70.<sup>1</sup> For the reasons set forth below, we deny the request for waiver, dismiss the petitions for rulemaking, and dismiss the application as unacceptable for filing.

*Waiver Request.* On November 7, 2007, the Media Bureau and the Wireless Telecommunications Bureau announced "a freeze, effective immediately, on the filing of petition to amend the FM Table of Allotments and counterproposals that propose a change in channel, class, or reference coordinates for any of the 121 vacant non-reserved band FM allotments scheduled for Auction No. 70." The public notice specifically stated that "any petition or counterproposal that either proposes any changes to, or fails to fully protect an Auction No. 70 FM allotment or preferred site coordinates specified in an applicant's Form 175 application, will be dismissed." CCR recognizes this and requests a waiver of this freeze.

In support of this waiver request, CCR states that its proposed arrangement of channels offers the greatest public interest benefits. In addition, CCR believes that there is no need for the Commission to act on the proposed channel changes until the freeze has been lifted subsequent to Auction No. 70 long form applications being filed. Therefore, CCR claims that the rights and opportunities of bidders in Auction No. 70 are fully maintained. Finally, CCR states that the public interest is served by KLMR's filing on the first day of the minor change filing opportunity since their failure to file on that date may have precluded Deer Trail from receiving a full Class C1 facility. Thus, CCR concludes that a waiver is warranted in this instance.

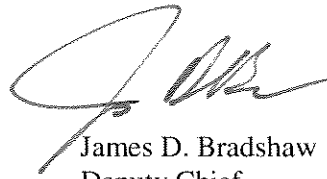
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<sup>1</sup> "Auction No. 70 Freezes Announced for FM Minor Change Applications and Certain Rulemaking Filings," *Public Notice*, DA 06-2277, dated November 7, 2006.

*Discussion.* We have carefully considered the arguments submitted by CCR and have concluded that CCR has not demonstrated unique circumstances warranting grant of its waiver request to permit the modification of FM Auction No. 70 vacant allotments. Specifically, CCR's public interest argument does not constitute a distinguishing circumstance warranting waiver of the freeze. The public interest benefits as a whole, however, are best served when the Commission's rules are applied in a fair and consistent manner. In addition, granting CCR's freeze waiver would be fundamentally unfair to all parties potentially interested in participating in FM Auction No. 70. These freezes are designed to promote a more certain and speedy auction process. Accordingly, we conclude that a waiver of the freeze is not warranted in this case.

*Conclusion.* When an applicant seeks waiver of the rules, it must plead with particularity the facts and circumstances which warrant such action. *Columbia Communications Corp. v. FCC*, 832 F.2d 189, 192 (D.C. Cir. 1987) (quoting *Rio Grand Family Radio Fellowship, INC. v. FCC*, 406 F.2d 644, 666 (D.C. Cir. 1968) (per curiam)). We have afforded CCR's waiver requests the "hard look" called for under *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), but find that the facts and circumstances presented are not sufficient to warrant waiver. We conclude that CCR's request for waiver is not in the public interest. Accordingly, in light of the above CCR's request for waiver IS HEREBY DENIED. The Petition for Rulemaking filed on January 19, 2007 by CCR-Lamar IV, LLC IS HEREBY DISMISSED. We note that this petition for rulemaking was filed as part of a contingent application group with BPH-20070119AGB. Pursuant to 47 CFR Section 73.3517(e), dismissal of any one of the related petitions or applications as unacceptable will result in the dismissal of the related application. Therefore, application BPH-20070119AGB IS HEREBY DISMISSED. These actions are taken pursuant to 47 CFR Section 0.283.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Bradshaw', is written over the typed name.

James D. Bradshaw  
Deputy Chief  
Audio Division  
Media Bureau

cc: Elizabeth Hammond, Esq.