



# PUBLIC NOTICE

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## WIRELESS TELECOMMUNICATIONS BUREAU ANNOUNCES ACTION ON RESPONSES TO PUBLIC NOTICE REGARDING ITFS, MDS, AND MMDS PENDING APPLICATIONS

On October 18, 2002, the Wireless Telecommunications Bureau (WTB) released a Public Notice<sup>1</sup> (*October Public Notice*) in which it sought to ensure that it had a complete and accurate listing of all licenses and pending applications in the Instructional Television Fixed Service (ITFS), the Multipoint Distribution Service (MDS), and the Multichannel Multipoint Distribution Service (MMDS). The Public Notice referenced six different tables<sup>2</sup> of licensing information. Specifically, Table E listed all pending applications for ITFS and Table F listed all pending applications for MDS and MMDS. Tables E and F contained the following information for each pending application: licensee name, file number, application purpose, call sign, facility ID, transmitter city/state, BTA and channel. The WTB required that all ITFS, MDS and MMDS licensees and applicants review and verify the information contained in these tables. For pending applications filed prior to March 25, 2002, the WTB required that the applicant respond in writing by December 18, 2002 if continued processing was desired. The time for licensees and applicants in these services to respond to the *October Public Notice* was extended to February 3, 2003.<sup>3</sup> This deadline was further extended to February 21, 2003.<sup>4</sup>

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<sup>1</sup> Wireless Telecommunications Bureau Seeks to Verify ITFS, MDS, and MMDS License Status and Pending Applications, *Public Notice*, DA 02-2751, 67 Fed. Reg. 69010 (2002) (November Public Notice).

<sup>2</sup> Table A listed all ITFS licenses including main station and two-way stations shown in the Broadband Licensing System (BLS). Table B listed all MDS and MMDS licenses, including Basic Trading Area authorizations, main stations and two-way stations contained in BLS. Table C listed all granted modifications and construction permits for ITFS for which certifications of construction had not yet been filed. Table D listed all granted MDS/MMDS modifications and conditional licenses for which certifications of construction had not yet been filed. Table E listed all pending ITFS applications. Table E listed all pending MDS/MMDS applications.

<sup>3</sup> Wireless Telecommunications Bureau Seeks to Verify ITFS, MDS, and MMDS License Status And Pending Applications – Request for Extension of Response Date Filed by Multipoint Distribution Service and Instructional Television Fixed Services Licensees, *Order*, DA 02-3371 (rel. Dec. 5 2002).

Appendix A to this Public Notice contains a list of those pending ITFS applications with a filing date prior to March 25, 2002 where the applicant/licensee has not responded to the *October Public Notice*. Appendix B to this Public Notice contains a list of those pending MDS and MMDS applications for with a filing date prior to March 25, 2002 where the applicant/licensee has not responded to the *October Public Notice*. In the *October Public Notice*, WTB indicated, "For any applications for which written affirmations requesting further processing have not been received, those applications will be dismissed without prejudice." Accordingly, IT IS ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i) and Section 21.28(d) and 73.3568(a)(1) of the Commission's Rules, 47 C.F.R. §§ 21.28(d), 73.3568(a)(1), the applications listed in Appendix A and Appendix B to this Public Notice ARE HEREBY DISMISSED WITHOUT PREJUDICE.

In addition, as a result of the dismissal of the applications listed in Appendices A and B, certain legal matters are now moot. Those legal matters consist of petitions to deny or petitions for reconsideration filed with respect to those applications, or complaints filed with respect to licenses that have now expired or been forfeited because of the dismissal of renewal applications for those licenses. Since the underlying applications have now been dismissed, there is no need to address the related legal matters. Accordingly, IT IS ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i) and Section 21.28(d) and 73.3568(a)(1) of the Commission's Rules, 47 C.F.R. §§ 21.28(d), 73.3568(a)(1), the pending legal matters listed in Appendix C to this Public Notice ARE HEREBY DISMISSED WITH PREJUDICE.

For questions relating to legal matters dismissed as a result of this public notice, please contact John J. Schauble, Chief, Policy and Rules Branch, Public Safety and Private Wireless Division at 202-418-0797. For all other questions relating to this Public Notice, contact Mary Shultz, Branch Chief, or Ruth Taylor, Chief, Microwave Section, Licensing and Technical Analysis Branch at 717-338-2646.

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau.

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<sup>4</sup> Letter from D'wana R. Terry, Chief, Public Safety and Private Wireless Division, to Paul J. Sinderbrand, Esq., Wilkinson Barker Knauer LLP (dated Feb. 20, 2003).