

Low Power Radio Universal Settlements
Information and Instructions
April 22, 2003



You may make an agreement with all the other conflicting applicants for a low power radio station and submit it to the FCC.

Why would I want to participate in a universal settlement?

There are several reasons. First and most important, this is probably the best opportunity you have to speed up getting a construction permit. Second, you might lose a chance to broadcast if the FCC simply applies its point system and picks a winner, but if you agree to a universal settlement, you might persuade a competitor to give you some time on the air in exchange for withdrawing your application. You would want to do this if you know that you have fewer points than other applicants. They might agree, because they will get their construction permit faster if they make an agreement, and it might be helpful to them to have another group produce some programming.

How do I know who conflicts with my application?

You will know for sure when the FCC releases a list with your application and the applications of other organizations listed as a single mutually exclusive group.

If the FCC has not released your list yet, you should be able to identify the members of your group. Since you can file a universal agreement as early as you want, if you can identify the members of your group early, you can file early, and get your construction permit faster. To find out whether your application is conflicting with another, use the web site offered by REC Networks. Their LPFM Application Status page will tell you. Click on your state, and then on your town, click on your organization's application name. The system will tell which applications conflict with yours. <http://www.recnet.com/cgi-bin/lpfm/aspen.cgi>

What are the conditions for creating a universal settlement?

The FCC will grant your universal settlement if **only one** applicant remains after you implement your agreement. Applicants must withdraw, or merge until there is only one applicant left. Applicants that withdraw can receive a promise for time on the remaining station, or, can receive limited funds to cover their expenses (see below) in exchange for agreeing to withdraw. Groups that don't want to withdraw should consider merging so that only one applicant remains.

How should we write up the agreement?

While you are negotiating, before you prepare and submit the universal agreement, you should probably all write down the agreement so that you can agree. You can write something relatively simple. It can look like this:

- Applicant C and Applicant D will merge to form a single entity, called Applicant C/D.
- Applicant A agrees to withdraw its application, on the condition that Applicants C and D agree to grant it time on the radio station and cover the expenses associated with applying for the license.
- Applicants C/D agree that Applicant A will broadcast every weekday from 3pm until 6pm, and on Saturday from 12 noon until 6pm. Applicants C/D will broadcast all remaining broadcast hours.

Once you have that written down and all the applicants in your group agree, you are ready to prepare the documents to submit to the FCC.

Can an applicant receive money as part of a universal settlement?

Yes, but with limits. An applicant can only receive compensation for any money it spent to apply for the license. For example, if an applicant paid a consultant or a lawyer or an engineer to help file the application at the FCC, it can recover those costs.

What documents do I need to prepare?

You should submit:

- 1) A “Joint Request” document signed by all of the applicants in your group.

Attach to the Joint Request:

- 2) a copy of the settlement agreement
- 3) “No consideration” letters from *each* of the applicants in your group
- 4) one letter requesting dismissal from *each* applicant *that is withdrawing its application*

There are ready-to-use model documents, with fill-in-the-blanks, available on the National Federation of Community Broadcasters web site. They are at <http://www.nfcb.org/projects/lowpowerfm.jsp>. You should download the Joint Request for Approval of Settlement Agreement, available at <http://www.nfcb.org/projects/jointRequest.pdf> and the LPFM Settlement Agreement (includes the no consideration letter and the dismissal letter) available at <http://www.nfcb.org/projects/lpfmSettlement.pdf>.

How do I use the model documents?

Most of the model documents are very simple to use. You will need to know:

- the file numbers of all the applicants,
- the one surviving applicant,
- the terms of any agreements (such as paying compensation, time sharing, mergers),
- the applicants that are withdrawing their applications,
- the people authorized to sign on behalf of all of the applicants,
- the state where you are located (this is usually simple, but sometimes people are across borders),
- the date that you will sign the agreement
- accurate, updated contact names and numbers for all the signing organizations

Once you have that information, you can fill in the blanks in the documents.

Anything I should know when signing these documents?

The people signing these documents should read those documents carefully, they are legally binding upon those organizations. Keep copies of all the documents.

How do I submit the documents?

Figure out how many copies you must send. You must send one copy for each member of the group, plus three additional copies. For example, if there are 5 members of your group, submit eight copies (one for each member, plus three). Mail the original and your copies to the FCC, at:

Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

If you send the document by Federal Express or other non-U.S. Postal service method, you must mail it to this address (for security reasons, they have a different address):

Federal Communications Commission
9300 East Hampton Drive
Capitol Heights, MD 20743
FCC Secretary's Office phone number: 202-418-0300

In addition to the official copies, you should send one copy to the division of the FCC that processes the LPFM applications:

Federal Communications Commission
Mass Media Bureau, Audio Services Division
Attn: Brian Butler, Room 2-A226
445 12th Street, SW
Washington, DC 20554