

FEDERAL COMMUNICATIONS COMMISSION
445 12th STREET, SW
WASHINGTON DC 20554

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

DEC 16 2014

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Burten, Bell, Carr Development, Inc.
7201 Kinsman Road, Suite 104
Cleveland, OH 44104

Substance of Life Enterprises Inc.
P.O. Box 605480
Cleveland, OH 44105

In re: NEW-LP, Cleveland, OH
Facility ID No. 192536
Burten, Bell, Carr
Development, Inc.
BNPL-20131113BLZ

New-LP, Garfield Heights, OH
Facility ID No. 192091
Substance of Life
Enterprises Inc.
BNPL-20131113BTG

Dear Applicants:

This is in reference to the above-captioned mutually exclusive applications for new Low Power FM ("LPFM") stations.

By Public Notice ("PN") dated September 5, 2014, the Commission announced the mutual exclusivity of the captioned applications.¹ The PN also identified the captioned applications as tied tentative selectee applicants, and provided a 90-day period for the applicants to file settlements, major amendments, or voluntary time-share proposals. The subject applicants did not enter into a voluntary time-share agreement and remain mutually exclusive and tied for the same number of points.

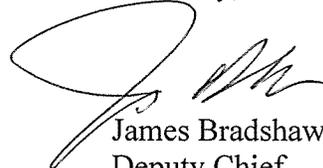
Accordingly, subject to a complete regulatory review, we intend to simultaneously grant the applications, assigning an equal number of hours per week to operate the proposed station to each

¹ See *Commission Identifies Tentative Selectees in 111 Groups of Mutually Exclusive Applications Filed in the LPFM Window; Announces a 30-day Petition to Deny Period and a 90-day Period to File Voluntary Time-Share Proposals and Major Change Amendments*, Public Notice, 29 FCC Rcd 10847 (2014).

applicant.² We will determine the hours assigned to each applicant by first assigning hours to the applicant that has been local for the longest uninterrupted period of time,³ then assigning hours to the applicant that has been local for the next longest uninterrupted period of time. We are now providing the applicants thirty (30) days to simultaneously and confidentially submit their preferred time slots. We will use the information provided by the applicants to assign time slots, per the rules.⁴ During this 30 day period, we will continue to entertain voluntary time-sharing arrangements. Applicants that are unable or unwilling to submit voluntary time-sharing arrangements and that instead choose to CONFIDENTIALLY submit their preferred time slots MUST select one of the time slots described in note 4, below.

Action on the applications will be deferred for thirty days from the date of this letter to permit the applicants to respond. Any time-share agreements must be submitted in writing, as an amendment to one or more of the applications (with a copy to the email addresses listed below), signed by each applicant, and satisfy the following requirements: (1) the agreement must include all applicants captioned on this letter; (2) the proposal must specify the proposed hours of operation of each time-share proponent; (3) the proposal must not include simultaneous operation of the time-share proponents; and (4) each time-share proponent must propose to operate for at least 10 hours per week.⁵ Any confidential requests for preferred time slots must be emailed to: gary.loehrs@fcc.gov and james.bradshaw@fcc.gov.⁶ Failure to designate a preferred time slot, or failure to designate a time slot provided by the rules, will result in the staff selecting a time slot for the applicant.

Sincerely,



James Bradshaw
Deputy Chief
Audio Division
Media Bureau

cc: Michael D. Brown
Jeremy D. Ruck, PE

² 47 C.F.R. § 73.872(d)(2); *see also* Instructions to FCC Form 318, Section IV at 9; *Creation of a Low Power Radio Service, Fifth Order on Reconsideration and Sixth Report and Order*, 27 FCC Rcd 15402, 15475 (2012).

³ 47 C.F.R. § 73.853(b), FCC Form 318, Section IV, Question 1 (requiring applicants to provide the date on which the applicant qualified as local).

⁴ 47 C.F.R. § 73.872(d)(2). If there are only two tied, grantable applications, the applicants must select between the following 12-hour time slots: 3 a.m.-2:59 p.m., or 3 p.m.-2:59 a.m. If there are three, tied, grantable applications, each applicant must rank their preference for the following 8-hour time slots: 2 a.m.-9:59 a.m., 10 a.m.-5:59 p.m., and 6 p.m.-1:59 a.m. In the event an applicant neglects to designate its preferred time slots, staff will select a time slot for the applicant.

⁵ 47 C.F.R. § 73.872(c)(1)(i) – (iii). The agreement can only be modified if all of the parties submit a written agreement, signed by each party, to the Commission, Attention: Audio Division, prior to the change.

⁶ Any such email may not contain additional information that would violate the Commission's ex parte rules, §§ 1.1200 et seq.