

COLORADO—PM-10

Designated area	Designation		Classification	
	Date	Type	Date	Type
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Pitkin County: Aspen/Pitkin County Area—The area encompassed by the following Parcel ID numbers, as defined by the Pitkin County Planning Department: 2337–29, 2737–28, 2737–21, 2737–20, 2737–19, 2737–18, 2737–17, 2737–08, 2737–07, 2737–06, 2735–22, 2735–15, 2735–14, 2735–13, 2735–12, 2735–11, 2735–10, 2735–03, 2735–02, 2735–01, 2641–31, 2643–36, 2643–35, 2643–34, 2643–27, 2643–26.	7/14/03	Attainment.		
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FEDERAL COMMUNICATIONS COMMISSION**47 CFR Parts 73 and 74**

[MM Docket No. 95–31; FCC 03–44]

RIN 3060–AH96

Reexamination of the Comparative Standard for Noncommercial Educational Applicants; Association of America's Public Television Stations' Motion for Stay of Low Power Television Auction (No. 81)**AGENCY:** Federal Communications Commission.**ACTION:** Final rule.

SUMMARY: In this document the Commission modifies its rules and procedures for allocating and licensing “non-reserved” broadcast spectrum where conflicting uses are proposed by commercial and noncommercial educational broadcast stations. The Commission received several comments in how to resolve solutions. These methods were established to select among competing noncommercial and commercial applicants.

DATES: Effective June 16, 2003.

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SUPPLEMENTARY INFORMATION: This is a summary of the Media Bureau's *Second Report and Order* (“2R&O”) in MM Docket No. 95–31; FCC 03–44, adopted March 4, 2003, and released on April 10, 2003. The full text of this 2R&O is available for inspection and copying during regular business hours in the FCC Reference Center, 445 Twelfth

Street, SW., Room CY—A257, Portals II, Washington, DC 20554, and may also be purchased from the Commission's copy contractor, Qualex International, Room CY—B402, telephone (202) 863–2893, or via e-mail qualexint@aol.com. This document is also available to persons with disabilities requiring accessible formats (electronic ASCII text, Braille, large print, and audiocassette) by contacting Brian Millin at (202) 418–7426 (voice), (202) 418–7365 (TTY), or by sending an e-mail to access@fcc.gov.

Synopsis of Second Report and Order**I. Introduction**

1. In this 2R&O, we establish new policies for licensing spectrum that the Commission has not reserved for the exclusive use of broadcast stations that provide or intend to provide noncommercial educational (“NCE”) service. In developing our new policies and procedures, we are constrained by a number of court decisions, regulations, and statutory provisions that, taken together, limit our options. We have come to the following conclusions. First, those stations that a nonprofit educational organization shows will be used to advance an educational program are eligible to be licensed as NCE radio or television stations and thus are exempt from auction. Nonprofit educational organizations that do not make such a showing must compete at auction for licenses. Second, we will not hold applicants for NCE stations ineligible to apply for non-reserved channels, and instead will permit such applicants to continue to apply for this spectrum in filing windows. Any applications for NCE stations determined to be mutually exclusive with applications for commercial stations will be dismissed, although applicants for services in which engineering solutions are possible will have a prior opportunity for settlement. Third, we reaffirm our

existing relaxed reservation criteria, which enable would-be applicants for NCE stations in the full-power FM and TV services to add to the number of channels reserved for their use when they demonstrate that they are technically precluded from using an already-reserved channel, and they will provide needed NCE service in a given area. Interested parties may use these criteria to reserve channels in future allocation proceedings, as well as to reserve channels already in the Table of Allotments for which the Commission initiated an allocation proceeding prior to the August 7, 2000 effective date of the relaxed reservation standards, and for which the Commission has never accepted applications. Interested parties may not use these criteria to reserve channels already in the Table for which the Commission initiated an allocation rulemaking after August 7, 2000, or channels for which the Commission has already accepted applications.

II. Background

2. The Commission licenses NCE stations on channels reserved for their exclusive use and also on other broadcast spectrum. In the FM service, the Commission has reserved twenty specific channels out of a total of one hundred channels, exclusively for full-power FM and FM translator use by NCE stations. In the television service, the Commission has reserved a similar proportion of channels, but using different channels in the Table of Allotments in different geographic areas across the country. The Commission has not reserved any particular frequencies for exclusive use in the AM service, or secondary TV services, such as low power television (LPTV) and TV translators.

3. The Commission initiated this proceeding in 1995 to revise the criteria it used to select among competing applicants for new NCE stations. In the past, the Commission had used