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determination, it shall order that another random selection be conducted from among the remaining mutually exclusive applicants, in accordance with the provisions of this subpart.

(c) If, on the basis of the papers before it, the Commission determines that a substantial and material question of fact exists, it shall designate that question for hearing. Hearings may be conducted by the Commission or, in the case of a matter which requires oral testimony for its resolution, an Administrative Law Judge.

[48 FR 27202, June 13, 1983, as amended at 63 FR 48622, Sept. 11, 1998]

§ 1.1621 Definitions.

(a) *Medium of mass communications* means:

- (1) A daily newspaper;
- (2) A cable television system; and
- (3) A license or construction permit for
 - (i) A television station, including low power TV or TV translator,
 - (ii) A standard (AM) radio station,
 - (iii) An FM radio station,
 - (iv) A direct broadcast satellite transponder under the editorial control of the licensee, and
 - (v) A Multipoint Distribution Service station.

(b) *Minority group* means:

- (1) Blacks,
- (2) Hispanics
- (3) American Indians,
- (4) Alaska Natives,
- (5) Asians, and
- (6) Pacific Islanders.

(c) *Owner* means the applicant and any individual, partnership, trust, unincorporated association, or corporation which:

- (1) If the applicant is a proprietorship, is the proprietor,
- (2) If the applicant is a partnership, holds any partnership interest,
- (3) If the applicant is a trust, is the beneficiary thereof,
- (4) If the applicant is an unincorporated association or non-stock corporation, is a member, or, in the case of a nonmembership association or corporation, a director,
- (5) If the applicant is a stock corporation, is the beneficial owner of voting shares.

NOTE 1: For purposes of applying the diversity preference to such entities only the other ownership interests of those with a 1% or more beneficial interest in the entity will be cognizable.

NOTE 2: For the purposes of this section, a daily newspaper is one which is published four or more days per week, which is in the English language, and which is circulated generally in the community of publication. A college newspaper is not considered as being circulated generally.

NOTE 3: For the purposes of applying the diversity preference, the ownership interests of the spouse of an applicant's principal will not presumptively be attributed to the applicant.

[48 FR 27202, June 13, 1983, as amended at 50 FR 5992, Feb. 13, 1985]

§ 1.1622 Preferences.

(a) Any applicant desiring a preference in the random selection shall so indicate as part of its application. Such an applicant shall list any owner who owns all or part of a medium of mass communications or who is a member of a minority group, together with a precise identification of the ownership interest held in such medium of mass communications or name of the minority group, respectively. Such an applicant shall also state whether more than 50% of the ownership interests in it are held by members of minority groups and the number of media of mass communications more than 50% of whose ownership interests are held by the applicant and/or its owners.

(b) Preference factors as incorporated in the percentage calculations in § 1.1623, shall be granted as follows:

- (1) Applicants, more than 50% of whose ownership interests are held by members of minority groups—2:1.
- (2) Applicants whose owners in the aggregate hold more than 50% of the ownership interests in no other media of mass communications—2:1.
- (3) Applicants whose owners in the aggregate hold more than 50% of the ownership interest in one, two or three other media of mass communications—1.5:1.

(c) Applicants may receive preferences pursuant to § 1.1622(b)(1) and either § 1.1622 (b)(2) or (b)(3).

(d) Preferences will be determined on the basis of ownership interests as of the date of release of the latest Public

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Notice announcing the acceptance of the last-filed mutually exclusive application.

(e) No preferences pursuant to § 1.1622 (b)(2) or (b)(3) shall be granted to any LPTV or MDS applicant whose owners, when aggregated, have an ownership interest of more than 50 percent in the following media of mass communications, if the service areas of those media as described herein wholly encompass or are encompassed by the protected predicted contour, computed in accordance with § 74.707(a), of the low power TV or TV translator station for which the license or permit is sought, or computed in accordance with § 21.902(d), of the MDS station for which the license or permit is sought.

(1) AM broadcast station—predicted or measured 2 mV/m groundwave contour, computed in accordance with § 73.183 or § 73.186;

(2) FM broadcast station—predicted 1 mV/m contour, computed in accordance with § 73.313;

(3) TV broadcast station—Grade A contour, computed in accordance with § 73.684;

(4) Low power TV or TV translator station—protected predicted contour, computed in accordance with § 74.707(a);

(5) Cable television system franchise area, nor will the diversity preference be available to applicants whose proposed transmitter site is located within the franchise area of a cable system in which its owners, in the aggregate, have an ownership interest of more than 50 percent.

(6) Daily newspaper community of publication, nor will the diversity preference be available to applicants whose proposed transmitter site is located within the community of publication of a daily newspaper in which its owners, in the aggregate, have an ownership interest of more than 50 percent.

(7) Multipoint Distribution Service—station service area, computed in accordance with § 21.902(d).

[48 FR 27202, June 13, 1983, as amended at 50 FR 5992, Feb. 13, 1985; 50 FR 11161, Mar. 20, 1985]

§ 1.1623 Probability calculation.

(a) All calculations shall be computed to no less than three significant digits. Probabilities will be truncated

to the number of significant digits used in a particular lottery.

(b) Divide the total number of applicants into 1.00 to determine preference probabilities.

(c) Multiply each applicant's preference probability by the applicable preference from § 1.1622 (b)(2) or (b)(3).

(d) Divide each applicant's probability pursuant to paragraph (c) of this section by the sum of such probabilities to determine intermediate probabilities.

(e) Add the intermediate probabilities of all applicants who received a preference pursuant to § 1.1622 (b)(2) or (b)(3).

(f)(1) If the sum pursuant to paragraph (e) of this section is .40 or greater, proceed to paragraph (g) of this section.

(2) If the sum pursuant to paragraph (e) of this section is less than .40, then multiply each such intermediate probability by the ratio of .40 to such sum. Divide .60 by the number of applicants who did not receive a preference pursuant to § 1.1622 (b)(2) or (b)(3) to determine their new intermediate probabilities.

(g) Multiply each applicant's probability pursuant to paragraph (f) of this section by the applicable preference ratio from § 1.1622(b)(1).

(h) Divide each applicant's probability pursuant to paragraph (g) of this section by the sum of such probabilities to determine the final selection percentage.

Subpart M—Cable Operations and Licensing System (COALS)

SOURCE: 68 FR 27001, May 19, 2003, unless otherwise noted.

§ 1.1701 Purpose.

To provide electronic filing of applications, notifications, registration statements, reports, and related documents in the Multichannel Video and Cable Television Services and the Cable Television Relay Services.

§ 1.1702 Scope.

This subpart applies to filings required by §§ 76.403, 76.1610, 76.1801,