

§ 1.939

47 CFR Ch. I (10–1–11 Edition)

§ 1.939 Petitions to deny.

(a) *Who may file.* Any party in interest may file with the Commission a petition to deny any application listed in a Public Notice as accepted for filing, whether as filed originally or upon major amendment as defined in § 1.929 of this part.

(1) For auctionable license applications, petitions to deny and related pleadings are governed by the procedures set forth in § 1.2108 of this part.

(2) Petitions to deny for non-auctionable applications that are subject to petitions under § 309(d) of the Communications Act must comply with the provisions of this section and must be filed no later than 30 days after the date of the Public Notice listing the application or major amendment to the application as accepted for filing.

(b) *Filing of petitions.* Petitions to deny and related pleadings may be filed electronically via ULS. Manually filed petitions to deny must be filed with the Office of the Secretary, 445 12th Street, SW., Washington, DC 20554. Attachments to manually filed applications may be filed on a standard 3¼" magnetic diskette formatted to be readable by high density floppy drives operating under MS-DOS (version 3.X or later compatible versions). Each diskette submitted must contain an ASCII text file listing each filename and a brief description of the contents of each file on the diskette. The files on the diskette, other than the table of contents, should be in Adobe Acrobat Portable Document Format (PDF) whenever possible. Petitions to deny and related pleadings must reference the file number of the pending application that is the subject of the petition.

(c) *Service.* A petitioner shall serve a copy of its petition to deny on the applicant and on all other interested parties pursuant to § 1.47. Oppositions and replies shall be served on the petitioner and all other interested parties.

(d) *Content.* A petition to deny must contain specific allegations of fact sufficient to make a *prima facie* showing that the petitioner is a party in interest and that a grant of the application would be inconsistent with the public interest, convenience and necessity. Such allegations of fact, except for

those of which official notice may be taken, shall be supported by affidavit of a person or persons with personal knowledge thereof.

(e) *Petitions to deny amended applications.* Petitions to deny a major amendment to an application may raise only matters directly related to the major amendment that could not have been raised in connection with the application as originally filed. This paragraph does not apply to petitioners who gain standing because of the major amendment.

(f) *Oppositions and replies.* The applicant and any other interested party may file an opposition to any petition to deny and the petitioner may file a reply thereto in which allegations of fact or denials thereof, except for those of which official notice may be taken, shall be supported by affidavit of a person or persons with personal knowledge thereof. Time for filing of oppositions and replies is governed by § 1.45 of this part for non-auctionable services and § 1.2108 of this part for auctionable services.

(g) *Dismissal of petition.* The Commission may dismiss any petition to deny that does not comply with the requirements of this section if the issues raised become moot, or if the petitioner or his/her attorney fails to appear at a settlement conference pursuant to § 1.956 of this part. The reasons for the dismissal will be stated in the dismissal letter or order. When a petition to deny is dismissed, any related responsive pleadings are also dismissed.

(h) *Grant of petitioned application.* If a petition to deny has been filed and the Commission grants the application, the Commission will dismiss or deny the petition by issuing a concise statement of the reason(s) for dismissing or denying the petition, disposing of all substantive issues raised in the petition.

[63 FR 68931, Dec. 14, 1998, as amended at 64 FR 53240, Oct. 1, 1999; 70 FR 61058, Oct. 20, 2005; 71 FR 15619, Mar. 29, 2006; 74 FR 68544, Dec. 28, 2009]

§ 1.945 License grants.

(a) *License grants—auctionable license applications.* Procedures for grant of licenses that are subject to competitive