

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of ) NCE MX Group Numbers 6, 10, 11, 15, 18,  
) 19, 22, 25, 26, 29, 30, 31, 34, 35, 36, 38, 44,  
**Comparative Consideration of 59 Groups of** ) 49, 50, 52, 53, 54, 55, 60, 63, 70, 73, 74, 81,  
**Mutually Exclusive Applications** ) 82, 83, 87, 90, 92, 93, 94, 97, 99, 102, 103,  
**for Permits to Construct New or Modified** ) 104, 105, 110, 113, 114, 116, 118, 120, 129,  
**Noncommercial Educational FM Stations filed** ) 130, 135, 138, 147, 149, 151, 153, 155, 158,  
**in the October 2007 Filing Window** ) and 159

MEMORANDUM OPINION AND ORDER

Adopted: February 5, 2010

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By the Commission:

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**I. BACKGROUND**

1. The Commission has before it for comparative consideration mutually exclusive applications for new or modified noncommercial educational (“NCE”) FM station construction permits. Each application was filed or amended<sup>1</sup> during a filing window that was open from October 12, 2007, through October 22, 2007. This Order discusses the results of proceedings in which we have applied the NCE FM comparative standards to 59 groups of four or fewer mutually exclusive NCE applicants. The Commission resolves conflicts among mutually exclusive NCE applications by applying comparative procedures codified in Part 73, Subpart K, of the Commission’s Rules (the “Rules”).<sup>2</sup> By this Memorandum Opinion and Order (“Order”), the Commission uses a point system to tentatively select

<sup>1</sup> Applications for new stations or major modifications that were on file prior to the October window, but not cut off from competing applications were required to amend their applications to be considered along with applications filed during the window. See *Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, Memorandum Opinion and Order, 16 FCC Rcd 5074, 5086 (2002) (“NCE MO&O”).

<sup>2</sup> 47 C.F.R. §§ 73.7000 – 7005.

applications for grant and initiates the period for filing petitions to deny against the applicants tentatively selected.<sup>3</sup>

## II. GENERAL NCE PROCEDURES

2. The Commission's analysis of mutually exclusive groups of NCE applications generally consists of three main components. First, if applicants propose service to different communities, the staff performs a threshold fair distribution study pursuant to Section 307(b) of the Communications Act of 1934, as amended (the "Act").<sup>4</sup> The Commission generally has used the population data and applicant certifications submitted in conjunction with Section 307(b) claims to make these comparative determinations. Second, application conflicts not resolved under this "fair distribution" analysis<sup>5</sup> are compared under an NCE point system,<sup>6</sup> which is a simplified, "paper hearing" process.<sup>7</sup> The Commission generally has awarded the number of points claimed by each applicant in Section IV of its application. Third, if necessary, the Commission makes a tie-breaker determination, based on applicant-provided numbers and certifications contained in Section V of each application. Each of these steps is described in greater detail below.

### A. Section 307(b) --Threshold Fair Distribution Study.

3. When mutually exclusive applications for permits to construct NCE FM stations propose to serve different communities, the Media Bureau ("Bureau") performs a threshold determination as to whether grant of any of the applications would best further the fair, efficient, and equitable distribution of radio service among communities.<sup>8</sup> An NCE FM applicant is eligible to receive a Section 307(b) preference if it would provide, within the proposed station's 60 dBu contour, a first or second

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<sup>3</sup> See *id.* § 73.7004(b).

<sup>4</sup> See 47 U.S.C. § 307(b).

<sup>5</sup> See 47 C.F.R. § 73.7002 (procedures for selecting among mutually exclusive applicants for stations proposing to serve different communities).

<sup>6</sup> See 47 C.F.R. § 73.7003 (point system selection procedures).

<sup>7</sup> See *Reexamination of the Comparative Standards for New Noncommercial Educational Applicants*, Notice of Proposed Rulemaking, 10 FCC Rcd 2877 (1995), *further rules proposed*, Further Notice of Proposed Rulemaking, 13 FCC Rcd 21167 (1998), *rules adopted*, Report and Order, 15 FCC Rcd 7386 (2000) ("*NCE Order*"), *vacated in part on other grounds sub nom.*, *National Public Radio v. FCC*, 254 F.3d 226 (D.C. Cir. 2001), *clarified*, Memorandum Opinion and Order, 16 FCC Rcd 5074 ("*NCE MO&O*"), *Erratum*, 16 FCC Rcd 10549, *recon. denied*, Memorandum Opinion and Second Order on Reconsideration, 17 FCC Rcd 13132 (2002) ("*NCE Reconsideration Order*"), *aff'd sub nom. American Family Ass'n v. FCC*, 365 F.3d 1156 (D.C. Cir. 2004) ("*American Family*"), *cert. denied*, 125 S.Ct. 634 (2004) (history pertaining only to non-reserved band FM channels omitted).

<sup>8</sup> See 47 U.S.C. § 307(b). ("In considering applications for licenses ... when and insofar as there is demand for the same, the Commission shall make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same."); 47 C.F.R. § 73.7002(a). A Section 307(b) analysis is ordinarily conducted at the staff level, because the Bureau has delegated authority to make 307(b) determinations in NCE cases. See *NCE Order*, 15 FCC Rcd at 7397. See also 47 C.F.R. §§ 0.61 and 0.283. In contrast, the *NCE Order* noted that the point system analysis, which is conducted when Section 307(b) is not determinative, is considered a simplified "hearing" for purposes of 47 U.S.C. § 155(c)(1). *NCE Order*, 15 FCC Rcd at 7420. The staff has referred the Section 307(b) analyses in each of the present groups to the Commission for consolidated analysis because Section 307(b) factors did not entirely resolve all applications in these groups and the Commission must, therefore, consider the remaining applications in a point hearing.

reserved band channel NCE aural service to at least ten percent of the population (in the aggregate), provided that the population served is at least 2,000 people.<sup>9</sup>

4. If more than one applicant in a mutually exclusive group qualifies for a Section 307(b) preference, each applicant's first service population coverage totals are compared.<sup>10</sup> An applicant proposing a first NCE aural service to ten percent of the population and at least 2,000 people will receive a dispositive fair distribution preference over applicants for different communities that would not provide such first service or that would provide a first NCE aural service to at least 5,000 fewer potential listeners than the next highest applicant's first service total.<sup>11</sup> If no applicant is entitled to a first service preference, we consider combined first and second NCE aural service population totals and apply the same 5,000-listener threshold. At each stage of the Section 307(b) analysis between applicants for different communities, any applicant that is comparatively disfavored in terms of eligibility or service totals is eliminated. Comparable applicants proceed to the next level of analysis, provided that different communities are still represented in the remaining pool of applicants. The process ends when the Commission determines that none of the remaining applicants can be selected or eliminated based on a Section 307(b) preference, or that each remaining applicant proposes to serve the same community. At that stage, the remaining applicants proceed to a point system analysis.

#### **B. Point System Selection Process.**

5. The Commission compares mutually exclusive groups of NCE FM applications under the point system set forth in Section 73.7003 of the Rules.<sup>12</sup> The NCE point system awards a maximum of seven merit points, based on four distinct criteria.<sup>13</sup> First, three points are awarded to applicants that certify that they have been local and established for at least two years. Applicants with a headquarters, campus, or 75 percent of their board members residing within 25 miles of the reference coordinates of the community of license are considered local. A governmental unit is considered local within its area of jurisdiction. To qualify for these localism points, the applicant also must certify that its governing documents require that such localism be maintained, that it has placed documentation supporting its certification in a local public inspection file, and that it has submitted that documentation to the Commission. Thus, the specific point systems determinations for each group of mutually exclusive applications that follow only discuss an applicant's documentation if it is insufficient to justify awarding localism points

6. Second, two points are awarded for local diversity of ownership if the principal community contours of the applicant's proposed station and any other station in which any party to the application holds an attributable interest do not overlap.<sup>14</sup> To be awarded such points, an applicant's

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<sup>9</sup> See 47 C.F.R. § 73.7002(b). Applicants were required to use the 2000 Census population data and to count all reserved band aural authorizations, including stations for which a construction permit, but not a license, has been issued. See *Media Bureau Announces NCE FM New Station and Major Change Filing Procedures for October 12 - 19, 2007 Window*, Public Notice, 22 FCC Rcd 15050, 15052 (MB 2007) ("Procedures Notice").

<sup>10</sup> See 47 C.F.R. § 73.7002(b).

<sup>11</sup> *Id.*

<sup>12</sup> See 47 C.F.R. § 73.7003.

<sup>13</sup> See 47 C.F.R. § 73.7003(b).

<sup>14</sup> See 47 C.F.R. § 73.7003(b)(2). Parties with attributable interests are defined as the applicant, its parent, subsidiaries, their officers, and members of their governing boards. See 47 C.F.R. § 73.7000. Interests of certain entities providing more than 33 percent of the applicant's equity and/or debt are also attributable. *Id.*

governing documents must include a provision to maintain that diversity in the future. Applicants that are organizations governed by state charters that cannot be amended without legislative action are permitted to base the governing document component of their local diversity certifications on other safeguards that reasonably assure that board characteristics will be maintained.<sup>15</sup> Any applicant awarded diversity of ownership points in this Order has submitted copies of pertinent governing documents to support its certification or, for applicants such as state universities that are governed by laws which cannot be amended without legislative action, an appropriate alternative showing. Thus, the specific point systems determinations for each group of mutually exclusive applications that follow only discuss an applicant's documentation if it is insufficient to justify awarding diversity points. An applicant that proposes a full service NCE station that would replace an attributable FM translator may exclude the translator for calculating ownership diversity points if it has pledged to request cancellation of the translator authorization upon the new station's commencement of operations.<sup>16</sup> The Commission has stated that it will, on a waiver basis, similarly allow applicants to exclude Class D (10 watt) FM stations that will be replaced by the proposed full service NCE station.<sup>17</sup> The Bureau has extended this waiver treatment to low power FM ("LPFM") stations.<sup>18</sup> Several applicants request that the Commission clarify and further expand upon the waiver treatment of LPFM permittees applying for full service NCE FM stations, and we discuss those requests below in Section E.

7. Third, two points are awarded for certain statewide networks providing programming to accredited schools. These points are available only to applicants that cannot claim a credit for local diversity of ownership.<sup>19</sup>

8. Fourth, an applicant that proposes the best technical proposal in the group (*i.e.*, proposes service to the largest population and area, excluding substantial areas of water) may receive up to two points. The applicant receives one point if its proposed service area *and* population are ten percent greater than those of the next best area and population proposals, or two points if both are 25 percent greater than those of the next best area and population proposals as measured by each proposed station's predicted 60 dBu signal strength contour.<sup>20</sup> If the best technical proposal does not meet the 10 percent threshold, no applicant is awarded points under this criterion. In considering this criterion, we have generally accepted applicants' coverage and population claims. We have rounded any numbers expressed in decimals to the nearest whole numbers.

9. Finally, the Commission tallies the total number of points awarded to each applicant. The applicant with the highest score in a group is designated the "tentative selectee." All other applicants are eliminated.

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<sup>15</sup> See *NCE MO&O*, 16 FCC Rcd at 5095.

<sup>16</sup> *Id.* at 5102-03.

<sup>17</sup> See *Comparative Consideration of 76 Groups of Mutually Exclusive Applications for Permits to Construct New or Modified NCE FM Stations*, 22 FCC Rcd 6101, 6120 (2007) ("*NCE Omnibus*").

<sup>18</sup> See *Procedures Notice*, 22 FCC Rcd at 15052-53.

<sup>19</sup> See 47 C.F.R. § 73.7003(b)(3). The statewide network credit is an alternative for applicants that need multiple stations to serve large numbers of schools and, therefore, do not qualify for the local diversity of ownership credit.

<sup>20</sup> *Id.* § 73.7003(b)(4). See *NCE Omnibus*, 22 FCC Rcd at 6121-22 (if there is one top applicant in terms of area and population, but no single next best applicant for both factors, the Commission will compare the top applicant's proposed area to the next best area of one applicant and the top applicant's population to the next best population of another applicant).

**C. Tie-Breakers.**

10. Applicants tied with the highest number of points awarded in a particular group proceed to a tie-breaker round, in accordance with Section 73.7003(c) of the Rules.<sup>21</sup> The first tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant.<sup>22</sup> The applicant with the fewest attributable authorizations prevails. If the tie is not broken by this first factor, we apply a second tie-breaker: the number of radio station applications attributable to each applicant. Applicants are required to include applications for construction permits filed for other aural services prior to the window, the current application, as well as all other applications filed within the window in the count.<sup>23</sup> If that second factor fails to break the tie, we use mandatory timesharing as the tie-breaker of last resort.

**D. Timely Documentation of Comparative Qualifications.**

11. The NCE application, FCC Form 340, is certification-based, but requires applicants to document their claims by submitting supporting information both to the Commission and to a local public file.<sup>24</sup> Applicant point claims must be readily ascertainable from timely-filed application exhibits. Certifications which require the applicant to submit documentation, but which are not supported with any such timely submitted documentation cannot be credited. For example, the Commission herein rejects claims where the applicant certifies that it qualifies for points for diversity of ownership or as an established local applicant but fails to supply supporting information referred to in the certification. Every applicant claiming points for diversity of ownership must certify that the proposed station's service area would not overlap that of an attributable existing station, that its governing documents require that such diversity be maintained, and "that it has placed documentation of its diversity qualifications in a local public file and has submitted to the Commission copies of that documentation."<sup>25</sup> Similar certifications and documents are required of applicants claiming points as established local applicants.<sup>26</sup> While there is some flexibility in the type of documentation an applicant may provide, an applicant submitting no timely documentation at all cannot have made a valid certification. We have adjusted the points of such applicants downward.

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<sup>21</sup> 47 C.F.R. § 73.7003(c).

<sup>22</sup> *Id.* § 73.7003(c)(1). Applicants are required to count all attributable full service commercial and NCE radio stations and certain FM translator stations. An applicant may exclude fill-in translators and any translator which the applicant seeks to replace with its full service proposal filed in this window. Applicants requesting and receiving a rule waiver may similarly exclude an LPFM or Class D FM station.

<sup>23</sup> *See NCE Omnibus*, 22 FCC Rcd at 6123.

<sup>24</sup> *See NCE Order*, 15 FCC Rcd at 7423.

<sup>25</sup> *See FCC Form 340*, Instructions, Question IV(2). With respect to documenting current diversity, the preferred information is a map showing no overlap or a statement that the party to the application holds no attributable interest in any station. To document future diversity, the applicant would generally submit a copy of the governing documents referenced in the certification.

<sup>26</sup> *See FCC Form 340*, Instructions, Question IV(1). Examples of acceptable documentation include corporate materials from the secretary of state, lists of names, addresses, and length of residence of board members, copies of governing documents requiring a 75 percent local governing board, and course brochures indicating that classes have been offered at a local campus for the preceding two years, etc.

### E. LPFM Licensees Applying for NCE FM Stations

12. As discussed above, the Bureau announced that applicants in the 2007 window could, upon making a sufficient showing, request to exclude otherwise attributable interests in LPFM stations. The Bureau observed that contingent pledges are generally ineffective as a mechanism to avoid attribution of broadcast interests. However, it also noted that the Commission had carved out exceptions for non-fill-in translators and Class D (10 watt) FM stations seeking to replace those secondary facilities with a full service station.<sup>27</sup> The Bureau recognized that LPFM stations, which were in their infancy at the time of the Commission's action, might now find themselves in similar circumstances. Accordingly, the Bureau advised that an applicant seeking to avoid attribution of an LPFM interest must, as part of its window-filed application, submit a request for waiver of the Rule that would otherwise result in the attribution of the LPFM interest in the applicant's point system determination and propose to surrender the LPFM interest prior to grant of its NCE construction permit application.<sup>28</sup> A number of applications before us contain such waiver requests. Although the applicants express a willingness to comply with the terms set out by the Bureau, many ask the Commission to allow an LPFM station (1) to assign the LPFM authorization to a different party instead of surrendering the authorization for cancellation, and/or (2) to delay any required surrender or assignment of the LPFM license until the new full service NCE FM station is ready for operation.

13. The Bureau attempted to carve out, for applicants with LPFM licenses, an attribution exception closely resembling that established by the Commission for exclusion of interests in FM translators and Class D FM stations. The Bureau thus specified cancellation of the existing LPFM license, identical to the Commission's requirement for translator and Class D stations. To account for stricter cross-ownership requirements specific to the LPFM service, the Bureau timed surrender of the LPFM licensee to issuance of the NCE FM construction permit.<sup>29</sup> In contrast, the Commission has allowed translator and Class D stations to surrender their authorizations after construction of the new NCE station -- upon commencement of program tests.<sup>30</sup> Although the LPFM divestment mechanism envisioned by the Bureau is rule-compliant, we believe that a rule waiver would be preferable in order to provide continuity of a local radio service to the public.

14. Cancellation of LPFM licenses prior to grant of new NCE FM authorizations could result in the unintended loss of existing service for up to three years during construction of the new NCE FM stations.<sup>31</sup> Moreover, cancellation prior to the initiation of program tests by the replacement NCE FM station is not required. Accordingly, we will permit tentative selectees to fulfill LPFM divestiture pledges by rule-compliant assignments, provided that the existing LPFM license is not mutually exclusive with the new NCE authorization, as issued. We also waive the LPFM cross-ownership rule so that an NCE FM construction permit may issue to an LPFM licensee, provided that the LPFM license must be divested prior to commencement of program tests by the new NCE FM station.<sup>32</sup>

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<sup>27</sup> See *Procedures Notice*, 22 FCC Rcd at 15052-53.

<sup>28</sup> *Id.*

<sup>29</sup> See 47 C.F.R. § 73.860(a) (prohibiting an LPFM station from holding an attributable interest in any non-LPFM broadcast authorization).

<sup>30</sup> See *NCE Omnibus*, 22 FCC Rcd at 6120.

<sup>31</sup> See *id.* § 73.3598(a) (three-year construction period for FM stations).

<sup>32</sup> See *id.* § 73.860(a). An exception to the LPFM cross-ownership rule, applicable to broadcast interests held prior to initial operations of an LPFM station, contains a similar timing provision. See *id.* § 73.860(b).

### III. POINT SYSTEM DETERMINATIONS

15. This Section contains narrative descriptions of our point system analyses in each mutually exclusive proceeding, organized chronologically by assigned group number. Unless otherwise noted, each component of the analysis is based on applicant-provided information.<sup>33</sup> We have provided readers with an Appendix that condenses the group-by-group narratives that follow into chart form for quick reference. A more detailed guide to the Appendix and its use of abbreviations appears at the beginning of that Section.

16. At the outset, we note that each group of applicants has had an opportunity to resolve application conflicts by settlement and technical amendment. In addition, we note that applicants were required to report their qualifications as of the date of application (or close of the filing window for already pending, non-cut-off applications). Any changes made thereafter may potentially have diminished, but could not enhance, an applicant's comparative position.

17. **Group 6.** This group consists of the mutually exclusive applications of Jimmy Jarrell Communications Foundation ("Jarrell") for Delta, Alabama, and B. Jorden Communications Corporation ("Jorden") for Lineville, Alabama. When applicants propose different communities, the Commission must first determine whether any applicant is credited with a dispositive fair distribution preference. Each applicant in this group claims eligibility for a fair distribution preference.<sup>34</sup> Neither asserts a preference for first NCE service alone, instead relying on both first and second NCE service population totals. Jarrell's and Jorden's aggregated first and second NCE service to 4,893 people and 4,676 people, respectively are comparable. Accordingly, Jarrell and Jorden will proceed to a point hearing.

18. Neither applicant claims to be eligible for points as an established local applicant. Jorden, but not Jarrell, claims two points for diversity of ownership. No applicant claims points as a statewide network. With respect to technical parameters, Jarrell's proposed 60 dBu contour would encompass 660 square kilometers with a population of 6,699. Jorden's proposed 60 dBu contour would encompass 274 square kilometers with a population of 4,676. Jarrell qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than Jorden's proposal. Accordingly, Jarrell and Jorden are each credited with a total of two points. Both applicants will proceed to a tie-breaker.

19. The first issue considered in a tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant. The applicant with the fewest authorizations prevails. Jarrell certifies that it has attributable interests in five radio authorizations. Jorden certifies that

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<sup>33</sup> Specifically, information relating to the applicants' Section 307(b) claims including, where applicable, populations receiving first and/or second NCE radio services were reported by the applicants in their responses to Questions III(a) and (b) of their applications and associated exhibits. Claims to qualify as established local applicants, for diversity of ownership, and as statewide networks were reported in the responses to Questions IV(1), (2) and (3) respectively, and in supporting documentation. Applicants reported the area and population figures used in our analyses of technical parameters in response to Question IV(4) and associated exhibits. Tie-breaker information concerning the applicants' attributable interests in other radio authorizations were reported in response to Question V(1).

<sup>34</sup> See Jarrell and Jorden Applications, Questions III(1), III(2), and associated exhibits. Jarrell's 60 dBu contour encompasses 6,699 people, and its claimed aggregated first and second NCE service is 4,893 people. Jorden's 60 dBu contour encompasses 4,676 people, and its claimed aggregated first and second NCE service is 4,676 people. Thus, each would provide combined first and second NCE service to ten percent of the population within its 60 dBu contour and to more than 2,000 people.

it has no attributable interest in any radio authorization. Jordan therefore prevails based on this first tie-breaker and is the tentative selectee in Group 6.

20. **Group 10.** The three applicants in this group propose service to two different communities in Arkansas. Powerhouse Ministries (“Powerhouse”) would serve Egypt. American Heritage Media, Inc. (“AHM”) and Jonesboro Seventh-Day Adventist Church (“Church”) each propose service to Jonesboro. Each applicant states that it is not eligible for a fair distribution preference. Each claims three points as an established local applicant. Each claims two points for diversity of ownership, with the claims of Powerhouse and AHM based on a pledge by each to divest an LPFM station and an associated waiver request. In accordance with the waiver policy set forth above, we hereby waive attribution of Powerhouse’s and AHM’s LPFM stations for purposes of this points hearing. AHM is the only applicant that supported its diversity claim with a corporate document requiring maintenance of diversity. Accordingly, we award diversity points only to AHM. No applicant claims points as a statewide network. With respect to technical parameters, Powerhouse’s proposed 60 dBu contour would encompass 535 square kilometers with a population of 3,064. AHM’s proposed 60 dBu contour would encompass 529 square kilometers with a population of 2,694. Church’s proposed 60 dBu contour would encompass 1,651 square kilometers with a population of 69,678. Church qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than the next best proposal of Powerhouse. Accordingly, Powerhouse is credited with a total of three points, and AHM and Church are credited with a total of five points each. Powerhouse is eliminated and AHM and Church will proceed to a tie-breaker.

21. The first issue considered in a tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant. The applicant with the fewest authorizations prevails. AHM and Church respectively certify that each has no attributable interest in any radio authorization. Therefore, we proceed to the second issue considered in a tie-breaker – the number of pending radio applications attributable to each applicant. AHM certifies that it has attributable interests in two radio applications. Church certifies that it has no other pending applications. Church incorrectly expressed this fact by claiming zero applications; Church should have included the instant application and reported this one application. Even accounting for this error, Church has fewer applications than AHM. Church therefore prevails based on this second tie-breaker and is the tentative selectee in Group 10.

22. **Group 11.** This group consists of the mutually exclusive applications of Speak Onit Radio, Inc. (“SOR”) for Forrest City, Arkansas; De Mujer A Mujer International (“DMAM”) for Wynne, Arkansas; and Appalachian Performing Arts Institute, Inc. (“APA”) for Earle, Arkansas. Each applicant states that it is not eligible for a fair distribution preference. SOR claims three points as an established local applicant. DMAM and APA certify that each is not entitled to any points under this criterion. SOR and DMAM claim two points each for diversity of ownership. APA does not claim any points under this criterion. No applicant claims points as a statewide network. With respect to technical parameters, SOR’s proposed 60 dBu contour would encompass 1,813 square kilometers with a population of 41,616. DMAM’s proposed 60 dBu contour would encompass 125 square kilometers with a population of 13,115. APA’s proposed 60 dBu contour would encompass 995 square kilometers with a population of 8,339. SOR qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than the next best area of the APA proposal and the next best population of the DMAM proposal. Accordingly, SOR is credited with a total of seven points, DMAM is credited with a total of two points, and APA is not credited with any points. Thus, SOR is the tentative selectee in Group 11.

23. **Group 15.** This group consists of the mutually exclusive applications of Arizona Western College (“AWC”) and Treehouse One, Inc. (“Treehouse”). Each proposes to serve the community of Parker, Arizona. AWC certifies that it is entitled to three points as an established local applicant. Treehouse does not claim any points under this criterion. AWC does not claim any points for diversity of ownership. Treehouse certifies that it qualifies for two points under this criterion.



Although Treehouse's application indicates that it currently has no other authorizations, Treehouse has not documented that it timely adopted provisions requiring it to maintain such diversity in the future. Accordingly, Treehouse will not receive points under this criterion. Neither applicant claims points as a statewide network. With respect to technical parameters, AWC's proposed 60 dBu contour would encompass 1,548 square kilometers with a population of 11,862. Treehouse's proposed 60 dBu contour would encompass 3,007 square kilometers with a population of 12,715. Therefore, neither applicant is eligible for any points under the best technical proposal criterion because neither applicant proposes to serve at least 10 percent more area and population than the other applicant. Accordingly, AWC is credited with a total of three points and Treehouse is not credited with any points.<sup>35</sup> Thus, AWC is the tentative selectee in Group 15.

24. **Group 18.** This group consists of the mutually exclusive applications of Faith Communications Corp. ("Faith"), Norco Cornerstone Ministries, Inc. ("Norco"), and Centro De Intercession Y Adoracion Internacional, Inc. ("CIA"). Faith proposes to serve Barstow, California. Norco and CIA propose to serve Helendale, California. None claims eligibility for a fair distribution preference and all, thus, must be considered under the point system.

25. None of the applicants claims eligibility for points as an established local applicant. Only CIA asserts that it is entitled to two points for diversity of ownership. None claims points as a statewide network. With respect to technical parameters, Faith's proposed 60 dBu contour would encompass 1,157 square kilometers with a population of 34,735. Norco's proposed 60 dBu contour would encompass 311 square kilometers with a population of 5,191. CIA's proposed 60 dBu contour would encompass 819 square kilometers with a population of 9,483. Faith qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than the next best proposal of CIA. Accordingly, Faith and CIA receive a total of two points each, and Norco is not credited with any points. Norco is eliminated. Faith and CIA will proceed to a tie-breaker.

26. The first issue considered in a tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant. The applicant with the fewest authorizations prevails. Faith certifies that it has attributable interests in 25 radio authorizations. CIA certifies that it has no attributable interest in any radio authorization. CIA therefore prevails based on this first tie-breaker criterion and is the tentative selectee in Group 18.

27. **Group 19.** This group consists of the mutually exclusive applications of Borrego Springs Christian Center ("BSCC") and State of California, San Diego State University ("State"). Each proposes to serve the community of Borrego Springs, California. Each certifies that it is entitled to three points as an established local applicant. State certifies that it is not entitled to any points for diversity of ownership. BSCC claims two points for diversity of ownership based on a pledge to divest LPFM station KKJD-LP, Borrego Springs, California. In accordance with the waiver policy set forth above, we hereby waive attribution of BSCC's LPFM station for purposes of this points hearing and credit BSCC with two points under this criterion.<sup>36</sup> Each applicant in this group states that it is not entitled to any points as a statewide network. With respect to technical parameters, BSCC's proposed 60 dBu contour would encompass 453 square kilometers with a population of 2,597. State's proposed 60 dBu contour would encompass 232 square kilometers with a population of 2,482. Neither applicant is eligible for any points under the best technical proposal criterion because neither applicant proposes to serve at least 10 percent more area and population than the other applicant. Accordingly, BSCC is credited with a total of 5 points

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<sup>35</sup> Had the Commission accepted Treehouse's claim of two diversity points, AWU nevertheless would have prevailed because Treehouse's claimed total of two points would not exceed AWU's three-point total.

<sup>36</sup> See 47 C.F.R. § 73.3555(e).

and State is credited with a total of 3 points. BCSS therefore prevails and is the tentative selectee in Group 19.

28. **Group 22.** This group consists of the mutually exclusive applications of Western Inspirational Broadcasters, Inc. (“WIB”) for Big Pine, California, and Nevada-Utah Conference of Seventh-Day Adventists (“NUC”) for Bishop, California. Each applicant claims that it is eligible for a fair distribution preference<sup>37</sup> but neither claims a first service preference. Because first service is not determinative, we consider their aggregated first and second NCE service to 14,587 people and 12,946 people, respectively. These proposals are comparable. Accordingly, WIB and NUC will proceed to a point hearing.

29. Neither applicant claims that it qualifies for points as an established local applicant. Each claims two points for diversity of ownership. WIB’s claim is based on a pledge to request cancellation of its authorization for FM translator K208BS, Bishop, California upon the commencement of operation of the proposed full service station. It also demonstrates, as required, that its governing documents provide for such diversity to be maintained. NUC does not support its diversity claim. Although NUC’s application reflects that it currently has no other authorizations, it provides no information from which the Commission or other parties could verify that NUC had timely modified its governing documents to maintain diversity in the future. Accordingly, we award two points to WIB but will not award points to NUC under this criterion. Neither applicant claimed points as a statewide network. With respect to technical parameters, WIB’s proposed 60 dBu contour would encompass 3,120 square kilometers with a population of 14,587. NUC’s proposed 60 dBu contour would encompass 806 square kilometers with a population of 12,946. WIB qualifies for one point under the best technical proposal criterion because its proposal serves at least 10 percent more area and population than the NUC proposal. Accordingly, WIB is credited with a total of three points and NUC is not credited with any points.<sup>38</sup> WIB is the tentative selectee in Group 22.

30. **Group 25.** This group consists of the mutually exclusive applications of Pataphysical Broadcasting Foundation, Inc. (“PBF”), Eschaton Foundation (“Eschaton”), and Calvary Chapel Santa Cruz (“CCSC”). Each proposes to serve a different community in California: Ben Lomond, Santa Cruz, and Scotts Valley, respectively. None claims that it would be eligible for a fair distribution preference. Therefore, all applicants in this group will proceed to a point hearing.

31. Each applicant claims three points as an established local applicant and two points for diversity of ownership. PBF bases its diversity claim on a pledge to request cancellation of its authorization for translator station K207CN, Santa Cruz, California, upon the commencement of operation of the proposed full service station. No applicant claims points as a statewide network. The applicant with the best technical parameters, PBF, proposes a 60 dBu contour that would encompass 661 square kilometers with a population of 116,959. Eschaton’s and CCSC’s proposed 60 dBu contours would respectively encompass 279 square kilometers with a population of 89,049, and 350 square kilometers with a population of 102,579. PBF qualifies for one point under the best technical proposal criterion because its proposal serves at least 10 percent more area and population than the NUC proposal. Accordingly, PBF is credited with a total of 6 points. Eschaton and CCSC are credited with a total of 5 points each. Thus, PBF is the tentative selectee in Group 25.

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<sup>37</sup> See WIB and NUC Applications, Questions III(1), III(2), and associated exhibits. WIB’s 60 dBu contour encompasses 14,587 people all of whom would receive a new second NCE service. NUC’s contour encompasses 12,946 people, all of whom would receive a new second service. Thus, each would provide combined first and second NCE service to ten percent of the population within its 60 dBu contour and to more than 2,000 people.

<sup>38</sup> Had the Commission accepted NUC’s claim of two diversity points, WIB nevertheless would have prevailed because NUC’s claimed two-point total would not exceed WIB’s credited three-point total.

32. **Group 26.** This group consists of the mutually exclusive applications of Calvary Chapel of Santa Barbara (“CCSB”) for Cojo Jalama, California, and Iglesia de Dios, El Cuerpo de Cristo (“IDCC”) for Nipomo, California. Neither applicant claims that it would be eligible for a fair distribution preference. Therefore, each will proceed to a point hearing.

33. IDCC claims three points as an established local applicant. CCSB acknowledges that it is not eligible for any points under this criterion. Each claims two points for diversity of ownership. Neither applicant claims points as a statewide network. With respect to technical parameters, CCSB’s proposed 60 dBu contour would encompass 500 square kilometers with a population of 289. IDCC’s proposed 60 dBu contour would encompass 1,799 square kilometers with a population of 192,687. IDCC qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than the CCSB proposal. Accordingly, CCSB is credited with a total of two points and IDCC is credited with a total of seven points. IDCC is the tentative selectee in Group 26.

34. **Group 29.** This group consists of the mutually exclusive applications of Gospel Spots, Inc. (“GSI”) for Cambria, California, and Centro Cristiano Vida Abundante (“CCVA”) for San Simeon, California. Neither applicant claims that it would be eligible for a fair distribution preference. Therefore, each will proceed to a point hearing.

35. Neither applicant claims that it qualifies for points as an established local applicant. Each claims two points for diversity of ownership. CCVA supports its diversity claim with a timely resolution of its board of directors requiring diversity to be maintained. GSI does not support its diversity claim. Accordingly, we award two points to CCVA but will not award points to GSI under this criterion. Neither applicant claims points as a statewide network. With respect to technical parameters, GSI’s proposed 60 dBu contour would encompass 277 square kilometers with a population of 6,464. CCVA’s proposed 60 dBu contour would encompass 1,347 square kilometers with a population of 10,439. CCVA qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than the CCSB proposal. Accordingly, CCVA is credited with a total of four points and GSI is not credited with any points.<sup>39</sup> CCVA is the tentative selectee in Group 29.

36. **Group 30.** This group consists of the mutually exclusive applications of Iglesia de Jesucristo en King City, CA (“IJ”) and Iglesia Alto Refugio (“IAR”). Each applicant proposes to serve the community of San Lucas, California. IJ claims three points as an established local applicant. IAR certifies that it is not entitled to any points under this criterion. IJ and IAR claim two points each for diversity of ownership. IJ supports its diversity claim with minutes of a timely meeting of its board of directors adopting requirements that diversity be maintained. IAR does not support its diversity claim. Accordingly, we award two points to IJ but will not award points to IAR under this criterion. Neither applicant claims points as a statewide network. With respect to technical parameters, IJ’s proposed 60 dBu contour would encompass 551 square kilometers with a population of 14,206. IAR’s proposed 60 dBu contour would encompass 431 square kilometers with a population of 1,272. IJ qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than the IAR proposal. Accordingly, IJ is credited with a total of seven points and IAR is not credited with any points.<sup>40</sup> IJ is the tentative selectee in Group 30.

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<sup>39</sup> Had the Commission accepted GSI’s claim of two diversity points, CCVA nevertheless would have prevailed because CCVA’s total of four credited points would exceed GSI’s claimed two-point total.

<sup>40</sup> Had the Commission accepted IAR’s claim of two diversity points, IJ nevertheless would have prevailed because IJ’s credited total of seven points would exceed IAR’s claimed two-point total.

37. **Group 31.** This group consists of the mutually exclusive applications of One Ministries, Inc. (“OMI”), Free Mind Media (“Free”), and Rural California Broadcasting Corp. (“RCBC”). OMI and Free propose to serve Bodega Bay, California. RCBC proposes to serve Occidental, California. No applicant claims eligibility for a fair distribution preference. Thus, all applicants will proceed to a point hearing.

38. Free and RCBC claim three points each under the established local applicant criterion. OMI certifies that it is not entitled to any points under this criterion. Each applicant claims two points for diversity of ownership, with OMI’s claim based on a pledge to divest its LPFM station. No applicant claims points as a statewide network. With respect to technical parameters, OMI’s proposed 60 dBu contour would encompass 115 square kilometers with a population of 2,562. Free’s proposed 60 dBu contour would encompass 361 square kilometers with a population of 9,090. RCBC’s proposed 60 dBu contour would encompass 346 square kilometers with a population of 12,882. No applicant in this group is eligible for any points under the best technical proposal criterion because no applicant proposes to serve at least 10 percent more area and population than any other applicant. Accordingly, OMI is credited with a total of two points. Free and RCBC are credited with a total of five points each. OMI is eliminated. Free and RCBC will proceed to a tie-breaker.

39. The first issue considered in a tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant. The applicant with the fewest authorizations prevails. Free certifies that it has no attributable interests in other radio authorizations. RCBC certifies that it has attributable interests in three radio authorizations. Free therefore prevails based on this first tie-breaker criterion and is the tentative selectee in Group 31.

40. **Group 34.** This group consists of the mutually exclusive applications of Centro Palebra de Fe Church (“CPFC”) and Peace and Justice Network of San Joaquin (“Peace”). CPFC proposes to serve Carbona, California. Peace proposes to serve Tracy, California. Neither applicant claims that it would be eligible for a fair distribution preference. Thus, both applicants will proceed to a point hearing.

41. CPFC certifies that it is not entitled to any points as an established local applicant. Peace claims three points as an established local entity. Each applicant claims two points for diversity of ownership. CPFC also claims two points as a statewide network, but such points are only available to applicants that have not received two points for diversity of ownership.<sup>41</sup> CPFC cannot receive points under both criteria. Peace does not claim statewide network points. With respect to technical parameters, CPFC’s proposed 60 dBu contour would encompass 198 square kilometers with a population of 41,797. Peace’s proposed 60 dBu contour would encompass 342 square kilometers with a population of 63,184. Peace qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than the CPFC proposal. Accordingly, CPFC is credited with a total of two points and Peace is credited with a total of seven points. Peace is the tentative selectee in Group 34.

42. **Group 35.** This group consists of the mutually exclusive applications of Santa Clarita Organization for Planning the Environment (“SCOP”) and Centro Palebra de Fe Church (“CPFC”). SCOP proposes to serve Acton, California. CPFC proposes to serve Revenna, California. Neither applicant claims that it would be eligible for a fair distribution preference. Thus, both applicants will proceed to a point hearing.

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<sup>41</sup> See 47 C.F.R. § 73.7003(b)(3). Moreover, CPFC does not submit any information to support a claim that it qualifies as a statewide network.

43. SCOP claims three points as an established local entity. CPFC certifies that it is not entitled to any points under this criterion. Each applicant claims two points for diversity of ownership. Neither claims any points as a statewide network. With respect to technical parameters, SCOP's proposed 60 dBu contour would encompass 108 square kilometers with a population of 4,074. CPFC's proposed 60 dBu contour would encompass 139 square kilometers with a population of 3,751. Neither applicant is eligible for any points under the best technical proposal criterion because neither applicant proposes to serve at least 10 percent more area and population than the other. Accordingly, SCOP is credited with a total of five points and CPFC is credited with a total of two points. SCOP is the tentative selectee in Group 35.

44. **Group 36.** This group consists of four applications to serve three different communities in California. New Wine Church of San Antonia ("NWC") proposes to serve Coalinga. Iglesia Alto Refugio ("IAR") and St. Paul Cultural Broadcasting, Inc. ("St. Paul") each propose to serve Huron. Centro Cristiano Sion ("CCS") would serve Murray. Each applicant concedes that it would not be eligible for a fair distribution preference. Thus, all must proceed to a point hearing.

45. No applicant in this group claims points as an established local applicant. Each claims two points for diversity of ownership. St. Paul and CCS support their respective diversity claims with copies of governing documents requiring diversity to be maintained and, thus, each will be credited with two points under this criterion. NWC and IAR do not support their respective diversity claims. Accordingly, we will not award points to NWC or IAR under this criterion. No applicant claims points as a statewide network. With respect to technical parameters, NWC's proposed 60 dBu contour would encompass 1,425 square kilometers with a population of 25,981 people. IAR's proposed 60 dBu contour would encompass 565 square kilometers with a population of 7,820 people. St. Paul's proposed 60 dBu contour would encompass 2,244 square kilometers with a population of 47,064 people. CCS's proposed 60 dBu contour would encompass 172 square kilometers with a population of 279 people. St. Paul qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than the next best proposal of NWC. Accordingly, St. Paul is credited with a total of four points. CCS is credited with a total of two points. NWC and IAR are credited with no points.<sup>42</sup> Thus, St. Paul is the tentative selectee in Group 36.

46. **Group 38.** This group consists of the mutually exclusive applications of State of Oregon, Acting by the State Board of Higher Education for Southern Oregon University ("Oregon") for Brookings, Oregon, and IHR Educational Broadcasting ("IHR") for Fort Dick, Oregon. When applicants propose different communities, the Commission must first determine whether any applicant is credited with a dispositive fair distribution preference. IHR certifies that it is not eligible for a fair distribution preference. Oregon claims eligibility for a fair distribution preference based solely on second service.<sup>43</sup> Oregon's claim, however, appears mistaken. The exhibit that Oregon submits in support of its claim does not consider aural service provided by KJKL(FM), Selma, Oregon. KJKL(FM) provides a second service to a significant portion of Oregon's proposed contour, including much of the area on which Oregon based its fair distribution claim. It appears that Oregon provides little, if any, second NCE service and, thus, we will consider its proposal comparable to that of IHR for fair distribution purposes. Both proposals will proceed to a point hearing.

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<sup>42</sup> Had the Commission accepted NWC's and IAR's claims of two diversity points, St. Paul nevertheless would have prevailed based on St. Paul's receipt of more total points than either of those applicants.

<sup>43</sup> Oregon's 60 dBu contour encompasses 14,077 people. Oregon's claimed aggregated first and second NCE service is 10,872 people (all second service). See Oregon's Application, Questions III(1), III(2), and associated exhibits. As discussed in the text, however, Oregon's claim appears to be mistaken.

47. Oregon claims three points as an established local applicant. IHR does not. Each applicant claims two points for diversity of ownership. IHR supports its claim with a governing document requiring maintenance of diversity. Oregon bases its diversity claim on a pledge that the current proposal would replace translator K216AK. Oregon, however, provides insufficient documentation of its diversity claim, because it has not also shown that it took timely steps to require maintenance of diversity into the future.<sup>44</sup> Accordingly, IHR, but not Oregon, will receive two points for diversity of ownership. No applicant claims points as a statewide network. With respect to technical parameters, Oregon states that its proposed 60 dBu contour would encompass 236 square kilometers with a population of “14.”<sup>45</sup> IHR’s proposed 60 dBu contour would encompass 1332 square kilometers with a population of 29,674. IHR qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than the Oregon proposal. Accordingly, Oregon is credited with a total of three points. IHR is credited with a total of four points. IHR is the tentative selectee in Group 38.

48. **Group 44.** This group consists of the mutually exclusive applications of Academy Media, Inc. (“Academy”) and San Miguel Educational Fund (“SMEF”). Academy proposes to serve Ouray, Colorado. SMEF proposes to serve Ridgway, Colorado. Neither applicant claims that it would be eligible for a fair distribution preference. Thus, each will proceed to a point hearing.

49. Neither applicant claims points as an established local applicant. SMEF certifies that it is not entitled to any points for diversity of ownership. Academy claims two points for diversity of ownership, but originally did not provide supporting documentation. Academy attempted to correct its error by amending its application with supporting documentation on March 20, 2008 – approximately five months after close of the window. Academy’s original submission would not qualify for diversity points, and we reject its attempt to enhance comparative qualifications by amending after the close of the filing window. Academy will not receive any points for diversity of ownership. No applicant claims points as a statewide network. With respect to technical parameters, Academy’s proposed 60 dBu contour would encompass 679 square kilometers with a population of 3,356. SMEF’s proposed 60 dBu contour would encompass 624 square kilometers with a population of 2,921. Neither applicant is eligible for any points under the best technical proposal criterion because neither applicant proposes to serve at least 10 percent more area and population than the other applicant. Accordingly, the respective point total for each applicant is zero. Academy and SMEF will proceed to a tie-breaker.

50. The first issue considered in a tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant. The applicant with the fewest authorizations prevails. Academy certifies that it has attributable interests in two other radio authorizations. SMEF certifies that it has attributable interests in one radio authorization. Therefore, SMEF prevails based on this first tie-breaker and is the tentative selectee in Group 44.

51. **Group 49.** This group consists of the mutually exclusive applications of Central Florida Educational Foundation (“CFE”) for Indian Lakes Estate, Florida and Central Educational

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<sup>44</sup> The Commission has recognized that entities governed by statute, which may include some state universities, may not be able to amend governing documents without legislative action and, therefore, provided for alternative showings of how such entities would maintain diversity. *NCE MO&O*, 16 FCC Red at 5095. Oregon neither identifies alternative measures to maintain diversity nor demonstrates that it would qualify to make the alternative showing.

<sup>45</sup> Although Oregon’s showing for fair distribution purposes claims service to 14,077 people, its response for technical parameters purposes is simply “14.” We need not consider the implications of this apparent error because IHR would have received two points for technical parameters even had Oregon claimed the larger number.

Broadcasting, Inc. (“CEB”) for Polk County, Florida.<sup>46</sup> Neither applicant claims that it would be eligible for a fair distribution preference. Therefore, both applicants will proceed to a point hearing.

52. Neither applicant claims that it qualifies for points as an established local applicant. Each claims two points for diversity of ownership. CFE supports its diversity claim with a timely resolution of its board of directors requiring diversity to be maintained. CEB does not support its diversity claim. Accordingly, we award two points to CFE but will not award points to CEB under this criterion. Neither applicant claimed points as a statewide network. With respect to technical parameters, CFE’s proposed 60 dBu contour would encompass 688 square kilometers with a population of 3,030. CEB’s proposed 60 dBu contour would encompass 507 square kilometers with a population of 1,558. CFE qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than the CEB proposal. Accordingly, CFE is credited with a total of four points, and CEB is not credited with any points.<sup>47</sup> CFE is the tentative selectee in Group 49.

53. **Group 50.** The two applicants in this group would serve different communities in Florida. Christian Radio Media, Inc. (“CRM”) proposes to serve Apalachicola. Westminster Academy (“WA”) proposes to serve Eastpoint. Each states that it is eligible for a fair distribution preference.<sup>48</sup> CRM and WA claim that they would provide a new first NCE service to comparably-sized populations of 13,834 people and 14,588 people, respectively. Because first service is not determinative, we consider their aggregated first and second NCE service to 19,175 people and 21,623 people, respectively. These proposals also are comparable because neither would provide new NCE service to 5,000 more people than the other. Accordingly, CRM and WA will proceed to a point hearing.

54. Neither applicant claims that it qualifies for points as an established local applicant. Each claims two points for diversity of ownership. WA supports its diversity claim with a copy of a governing document requiring diversity to be maintained. CRM does not support its diversity claim. Accordingly, we award two points to WA but will not award any points to CRM under this criterion. Neither applicant claims points as a statewide network. With respect to technical parameters, WA’s proposed 60 dBu contour would encompass 3,133 square kilometers with a population of 22,102. CRM’s proposed 60 dBu contour would encompass 2,378 square kilometers with a population of 19,850. WA qualifies for one point under the best technical proposal criterion because its proposal serves at least 10 percent more area and population than the CRM proposal. Accordingly, WA is credited with a total of three points and CRM is not credited with any points.<sup>49</sup> WA is the tentative selectee in Group 50.

55. **Group 52.** This group consists of three applicants that propose to serve two different communities in Florida. Call Communications Group, Inc. (“Call”) and Florida Urban Radio Network Association (“FURN”) would serve Lake City. Faith and Action Community Outreach (“FACO”) would serve White Springs. When applicants propose different communities, the Commission must first

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<sup>46</sup>Because CEB is neither entitled to a Section 307(b) preference nor prevails in the points analysis, we need not address that CEB has proposed to serve a county while CEF proposed to serve a community within that county.

<sup>47</sup> Had the Commission accepted CEB’s claim of two diversity points, CFE nevertheless would have prevailed based on CFE’s receipt of more total points than CEB.

<sup>48</sup> See CRM’s and WA’s Applications, Questions III(1), III(2), and associated exhibits. CRM’s 60 dBu contour encompasses 19,850 people and its claimed aggregated first and second NCE service is 19,175 people. WA’s 60 dBu contour encompasses 22,102 people and its claimed aggregated first and second NCE service is 21,623. Thus, each would provide combined first and second NCE service to ten percent of the population within its 60 dBu contour and to more than 2,000 people.

<sup>49</sup> Had the Commission accepted CRM’s claim of two diversity points, WA nevertheless would have prevailed because WA’s credited three-point total would exceed CRM’s claimed two-point total.

determine whether any applicant is credited with a dispositive fair distribution preference. Each applicant claims that it is eligible for a fair distribution preference based solely on aggregated first plus second service.<sup>50</sup> Call proposes aggregated first and second service to 3,959 people (810 first service plus 3,149 second service). FACO proposes aggregated first and second service to 3,686 people (83 first service plus 3,603 second service). FURN does not provide the staff with usable information concerning the number of people to whom it would provide an aggregated first or second service. In support of its claim, FURN states that it would provide a second NCE service to “at least 90 percent of the Lake City Columbia County Florida people within the station’s 60 dBu (1 mv/m) service contour with a reach of over 49,000 people.”<sup>51</sup> FURN appears to claim either that it will provide an aggregated first and second service either to 49,000 people or to 90 percent of that figure (44,100), but both numbers are patently defective in view of FURN’s statement that its entire service area encompasses far fewer (23,451) people.<sup>52</sup> FURN also states that its fair distribution claim is supported by information in Exhibit 11 to its application. However, FURN’s application does not contain an Exhibit 11, and nothing in any of FURN’s engineering exhibits addresses fair distribution of service. Accordingly, we conclude that FURN’s unsupported fair distribution claim fails when compared to FACO’s supported claim for a different community. FURN is eliminated. The fair distribution analysis is not dispositive with respect to Call and FACO because neither would serve at least 5,000 more people than the other. Accordingly, Call and FACO’s comparable proposals must proceed to a point hearing.

56. Neither Call nor FACO claims any points as an established local applicant. Call and FACO claim two points each for diversity of ownership. FACO supports its diversity claim with a governing document requiring maintenance of diversity. Call provides no supporting information. Therefore, FACO, but not Call, will receive two diversity points. Neither applicant claims points as a statewide network. With respect to technical parameters, Call’s proposed 60 dBu contour would encompass 586 square kilometers with a population of 22,542. FACO’s proposed 60 dBu contour would encompass 255 square kilometers with a population of 9,391 people. Call qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than the FACO proposal. Accordingly, Call and FACO are credited with a total of two points each. Call and FACO will proceed to a tie-breaker.

57. The first issue considered in a tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant. The applicant with the fewest authorizations prevails. Call certifies that it has attributable interests in five other radio authorizations. FACO certifies that it has no attributable interests in any other radio authorization. Therefore, FACO prevails based on this first tie-breaker and is the tentative selectee in Group 52.

58. **Group 53.** This group consists of three mutually exclusive applications proposing service to different communities in Florida. North State Educational Broadcasting (“NSEB”), De Mujer A Mujer International (“DMAM”), and Community Radio Foundation of Florida, Inc. (“CRF”) propose service to the respective communities of Carrabelle, Medart, and Sopchoppy. Neither NSEB nor DMAM claims that it would qualify for a fair distribution preference. CRF, while claiming that it is eligible for a fair distribution preference, submits only a map with no numbers to support its claim. CRF states

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<sup>50</sup> See Call, FACO, and FURN Applications, Questions III(1), III(2), and associated exhibits. Call’s 60 dBu contour encompasses 22,542 people and its claimed aggregated first and second service is 3,959 people. FACO’s 60 dBu contour encompasses 9,391 people and its claimed aggregated first and second service is 3,686 people. Call and FACO each would provide combined first and second NCE service to ten percent of the population within its 60 dBu contour and to more than 2,000 people. FURN’s 60 dBu contour encompasses 23,451 people. FURN’s application does not contain sufficient information to determine the number of people to whom FURN claims it would provide an aggregated first and second NCE service.

<sup>51</sup> See FURN’s Application, Question III(2).

<sup>52</sup> *Id.* at Question III(4).



elsewhere in its application that its 60 dBu contour encompasses 150,112 people, but it does not identify the number of people that would receive a new first or second NCE service. Thus, the information provided by CRF is insufficient for the Commission or other applicants to determine whether CRF satisfies the 10 percent threshold and 2,000-person minimum. Accordingly, CRF does not qualify for a fair distribution preference. The group will proceed to a point hearing.

59. Of the three applicants, only NSEB claims to be eligible for points as an established local applicant. NSEB's statement that it has been established in California since 1999, however, provides no support for its claim with respect to Carrabelle, Florida. Accordingly, neither NSEB nor the other applicants in the group will receive points under this criterion. All three applicants claim two points each for diversity of ownership. DMAM supports its claim with corporate documents requiring that diversity be maintained in the future. CRF provides no documentation of its diversity claim, and NSEB shows only that it currently has no other stations in Florida. Accordingly, CRF and NSEB do not qualify for points based on diversity of ownership. Only DMAM will receive two points under this criterion. NSEB is the only applicant in this group to claim two points as a statewide network. However, NSEB has not provided information from which the Commission or other parties could determine that the proposed station would be part of a network providing programming used in the curriculum of accredited schools in accordance with Section 73.7003(b)(3). Accordingly, we will not credit any applicant in this group with points under this criterion. With respect to technical parameters, NSEB's proposed 60 dBu contour would encompass 230 square kilometers with a population of 2,000. DMAM's proposed 60 dBu contour would encompass 332 square kilometers with a population of 4,089. CRF's proposed 60 dBu contour would encompass 1,734 square kilometers with a population of 150,112. CRF qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than the next best proposal of DMAM. Accordingly, NSEB is not credited with any point total, and DMAM and CRF are credited with a total of two points each. NSEB is eliminated. DMAM and CRF will proceed to a tie-breaker.

60. The first issue considered in a tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant. The applicant with the fewest authorizations prevails. DMAM certifies that it has no attributable interests in any radio authorization. CRF certifies that it has an attributable interest in one radio authorization. DMAM therefore prevails based on this first tie-breaker and is the tentative selectee in Group 53.

61. **Group 54.** The four mutually exclusive applicants in this group propose service to two different communities in Florida. Central Florida Educational Foundation ("CFEF") proposes to serve Pierson. Each of the other applicants – Community Public Radio, Inc. ("CPR"); Remember When Public Radio, Inc. ("RW"); and Westminster Academy ("WA") – proposes to serve Crescent City. CFEF, CPR, and RW each claimed at the time of application within the filing window to be eligible for a fair distribution preference.<sup>53</sup> WA indicated that it was not eligible for such a preference, and amended its application on October 25, 2007, after the close of the filing window to claim eligibility. Because WA's amendment is a prohibited attempt to enhance its comparative position, we consider WA's fair distribution qualifications using its original response. Accordingly, WA is eliminated when compared with CFEF, an eligible applicant for a different community.

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<sup>53</sup> See CPR, RW, and CFEF Applications, Questions III(1), III(2), and associated exhibits. CPR's 60 dBu contour encompasses 14,653 people and its claimed aggregated first and second service is all 14,653 people. RW's 60 dBu contour encompasses 12,548 people and its claimed aggregated first and second service is 7,821 people. CFEF's 60 dBu contour encompasses 17,872 people. We note that CFEF's first and second service claims add up to 18,118 people (11,501 first service plus 6,617 second service). We have reduced CFEF's aggregated claim to 17,872 people. Each applicant would provide combined first and second NCE service to ten percent of the population within its 60 dBu contour and to more than 2,000 people.

62. All of the remaining applicants claim that they are eligible for a preference based on new first NCE service. CPR would provide a new first service to 9,253 people; RW to 7,821 people; and CFEF to 11,501 people. These claims are comparable. Accordingly, we examine aggregated new first and second NCE service. CPR would provide aggregated first and second service to 14,653 people (9,253 first service plus 5,400 second service); RW to 7,821 people (7,821 first service plus no second service); and CFEF to 17,872 people. The claims of CPR and CFEF are comparable and will proceed to a point hearing. CPR will represent the community of Crescent City in that hearing. RW is eliminated because it proposes new NCE service to at least 5,000 fewer people than all of the other proposals, including a proposal for a different community.

63. Neither CFEF nor CPR claims any points as an established local applicant. CFEF, but not CPR, claims two points for diversity of ownership and as a statewide network. An applicant can only receive points under one of these criteria. Further, although CFEF certifies that it has submitted information to support its diversity and statewide network claims to the Commission, neither its application nor any information submitted in connection with that application provides any such support. Accordingly, neither applicant qualifies for any points for diversity or as a statewide network. With respect to technical parameters, CPR's proposed 60 dBu contour would encompass 810 square kilometers with a population of 14,653. CFEF's proposed 60 dBu contour would encompass 1092 square kilometers with a population of 17,872. CFEF qualifies for one point under the best technical proposal criterion because its proposal serves at least 10 percent more area and population than the CPR proposal. Accordingly, CFEF is credited with a total of one point and CPR is not credited with any points. CFEF is the tentative selectee in Group 54.

64. **Group 55.** This group consists of three applicants that propose to serve different communities in Florida. Westminster Academy ("WA") proposes to serve Cypress Quarters. Emmaus Broadcasting Service ("Emmaus") proposes to serve Okeechobee. Faith Baptist Church of Fort Pierce, Florida ("Faith Baptist") would serve Taylor Creek. When applicants propose different communities, the Commission must first determine whether any applicant is credited with a dispositive fair distribution preference. Emmaus states that it is not eligible for a fair distribution preference whereas the others claim such eligibility.<sup>54</sup> Emmaus is thus eliminated. Neither of the remaining applicants claimed a first service preference. WA and Faith Baptist respectively propose an aggregated first and second service to 4,764 people and 4,126 people, which are comparable. WA and Faith Baptist must proceed to a point hearing.

65. Neither WA nor Faith Baptist claims any points as an established local applicant. We award two points for diversity of ownership to both WA and Faith Baptist. We note that Faith Baptist's diversity claim is based on its exclusion of its authorization for LPFM station WBOF-LP, Fort Pierce, Florida, which Faith Baptist pledges to divest. In accordance with the waiver policy set forth above, we hereby waive attribution of Faith Baptist's LPFM station for purposes of this points hearing and credit Faith Baptist with two points under this criterion. No applicant claims points as a statewide network. With respect to technical parameters, WA's proposed 60 dBu contour would encompass 1,610 square kilometers with a population of 36,681 people. Faith Baptist's proposed 60 dBu contour would encompass 1,720 square kilometers with a population of 34,647 people. Neither applicant is eligible for any points under the best technical proposal criterion because neither applicant proposes to serve at least 10 percent more area and population than the other. Accordingly, WA and Faith Baptist are each credited with a total of two points and will proceed to a tie-breaker.

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<sup>54</sup> See WA and Faith Baptist Applications, Questions III(1), III(2), and associated exhibits. WA's 60 dBu contour encompasses 36,681 people and its claimed aggregated first and second NCE service is 4,764 people. Faith Baptist's 60 dBu contour encompasses 34,647 people and its claimed aggregated first and second NCE service is 4,126 people. Thus, each would provide combined first and second NCE service to ten percent of the population within its 60 dBu contour and to more than 2,000 people.

66. The first issue considered in a tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant. The applicant with the fewest authorizations prevails. WA certifies that it has an attributable interest in one radio authorization. Faith Baptist certifies that it has no attributable interests in any radio authorization. Faith Baptist therefore prevails based on the first tie-breaker and is the tentative selectee in Group 55.

67. **Group 60.** This group consists of the mutually exclusive applications of Victor Broadcasting, Inc. (“Victor”) and Immanuel Broadcasting Network (“IBN”). Each applicant proposes to serve Dahlonega, Georgia. Neither applicant claims any points as an established local applicant. Each claims two points for diversity of ownership. Victor supports its diversity claim with a governing document requiring it to maintain diversity in the future. IBN provides no support for its diversity claim. Accordingly Victor, but not IBN, will receive two points for local diversity of ownership. Neither applicant claims points as a statewide network. With respect to technical parameters, Victor’s proposed 60 dBu contour would encompass 346 square kilometers with a population of 19,143. IBN qualifies for one point under the best technical proposal criterion because its proposal serves at least 10 percent more area and population than the Victor proposal. IBN’s proposed 60 dBu contour would encompass 418 square kilometers with a population of 23,986. IBN qualifies for one point and Victor does not qualify for any points under this criterion. Accordingly, Victor is credited with two points and IBN is credited with a total of one point. Thus, Victor is the tentative selectee in Group 60.

68. **Group 63.** This group consists of the mutually exclusive applications of the Positive Radio Network (“PRN”) and Georgia Public Telecommunications Commission (“Georgia”). Each proposes to serve Pelham, Georgia. Neither applicant claims any points as an established local applicant or for diversity of ownership. Georgia claims two points as a statewide network. With respect to technical parameters, PRN’s proposed 60 dBu contour would encompass 678 square kilometers with a population of 16,083. Georgia’s proposed 60 dBu contour would encompass 1,030 square kilometers with a population of 22,784. Georgia qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than the PRN proposal. Accordingly, PRN is not credited with any points and Georgia is credited with a total of four points. Thus, Georgia is the tentative selectee in Group 63.

69. **Group 70.** This group consists of the mutually exclusive applications of Marianas Educational Media Services, Inc. (“MEMS”) and Hurao, Inc. (“Hurao”). Each proposes to serve Agana, Guam. MEMS claims that it is entitled to three points as an established local applicant and that it has submitted supporting documentation to the Commission. However, we cannot locate any such supporting documentation and, therefore, believe that the certification is erroneous. Hurao does not claim any points as an established local applicant. Accordingly, we have not credited either applicant with points under this criterion. Hurao asserts that it is entitled to two points for diversity of ownership. Hurao, however, provides no support for its diversity claim. Although Hurao’s application indicates that it does not currently have any other authorizations, Hurao provides no indication that it timely adopted governing documents that would require it to maintain diversity in the future. MEMS does not claim any points under this criterion. Accordingly neither applicant will receive any points for local diversity of ownership. Neither applicant claims points as a statewide network. With respect to technical parameters, MEMS’ proposed 60 dBu contour would encompass 400 square kilometers with a population of 150,000. Neither applicant is eligible for any points under the best technical proposal criterion because neither applicant proposes to serve at least 10 percent more area and population than the other. Hurao’s proposed 60 dBu contour would encompass 541 square kilometers with a population of 154,805. Accordingly, neither MEMS nor Hurao can be credited with any total points. Each will proceed to a tie-breaker.

70. The first issue considered in a tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant. The applicant with the fewest authorizations prevails. MEMS certifies that it has an attributable interest in two radio authorizations. Hurao certifies

that it does not have an attributable interest in any radio authorization. Hurao therefore prevails based on the first tie-breaker and is the tentative selectee in Group 70.

71. **Group 73.** This group consists of the mutually exclusive applications of Refuge Media Center (“Refuge”) and Iowa Lakes Community College (“ILCC”). Each proposes to serve Algona, Iowa. ILCC claims three points as an established local applicant. Refuge certifies that it is not entitled to any points under this criterion. Each claims two points for diversity of ownership. Neither claims points as a statewide network. With respect to technical parameters, Refuge’s proposed 60 dBu contour would encompass 338 square kilometers with a population of 7,458. ILCC’s proposed 60 dBu contour would encompass 543 square kilometers with a population of 7,902. Neither applicant is eligible for any points under the best technical proposal criterion because neither applicant proposes to serve at least 10 percent more area and population than the other. Accordingly, Refuge is credited with a total of two points and ILCC is credited with a total of five points. Thus, ILCC is the tentative selectee in Group 73.

72. **Group 74.** This group consists of the mutually exclusive applications of American Family Association (“AFA”) and Iowa State University of Science and Technology (“Iowa State”). Each proposes to serve Sioux City, Iowa. Iowa State claims three points as an established local applicant. AFA certifies that it is not entitled to any points under this criterion. Neither applicant claims any points for diversity of ownership or as a statewide network. With respect to technical parameters, AFA’s proposed 60 dBu contour would encompass 1,432 square kilometers with a population of 85,618. Iowa State’s proposed 60 dBu contour would encompass 3,345 square kilometers with a population of 129,213. Iowa State qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than the AFA proposal. Accordingly, AFA is not credited with any points, and Iowa State is credited with a total of five points. Thus, Iowa State is the tentative selectee in Group 74.

73. **Group 81.** This group consists of three applicants which propose to serve two different communities in Idaho. Calvary Chapel of Twin Falls, Inc. (“CCTF”) and Tightrope Broadcasting, Inc. (“Tightrope”) propose to serve Hailey. Wood River Community YMCA (“YMCA”) proposes to serve Ketchum. Each applicant in Group 81 states that it would not be eligible for a fair distribution preference. Therefore, all must proceed to a point hearing.

74. YMCA claims points as an established local applicant. Neither Tightrope nor CCTF claim any points under this criterion. Tightrope and YMCA claim two points each for diversity of ownership. Tightrope supports its diversity claim with a governing document requiring diversity to be maintained and will be awarded two points. YMCA does not support its diversity claim. Accordingly, we will not award points to YMCA under this criterion. CCTF did not claim any points for diversity of ownership. CCTF states that it qualifies for two points as a statewide network. It did not, however, support its claim to be operating a statewide network providing programming used in the curriculum of accredited schools. Accordingly, we will not credit CCTF with points under this criterion. Neither Tightrope nor YMCA claimed points as a statewide network. With respect to technical parameters, CCTF’s proposed 60 dBu contour would encompass 1,517 square kilometers with a population of 16,886 people. Tightrope’s proposed 60 dBu contour would encompass 963 square kilometers with a population of 15,852 people. YMCA’s proposed 60 dBu contour would encompass 2,400 square kilometers with a population of 17,452 people. No applicant is eligible for any points under the best technical proposal criterion because no applicant proposes to serve at least 10 percent more area and population than the others. Accordingly, CCTF has not been credited with any points; Tightrope has been credited with a total of two points; and YMCA has been credited with a total of three points.<sup>55</sup> YMCA is the tentative selectee in Group 81.

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<sup>55</sup> Had the Commission accepted CCTF’s claim of two points as a statewide network, YMCA nevertheless would have prevailed because YMCA’s credited total of three points would exceed CCTF’s claimed total of two points, even without acceptance of YMCA’s claim for two diversity points.

75. **Group 82.** This group consists of the mutually exclusive applications of Idaho Community Action Network (“ICAN”) and Brigham Young University – Idaho (“BYU”). Each applicant proposes to serve Burley, Idaho. Neither ICAN nor BYU claims to be eligible for points as an established local applicant. ICAN claims two points for diversity of ownership. BYU certifies that it does not qualify for any points under this criterion. Neither applicant claims points as a statewide network. With respect to technical parameters, ICAN’s proposed 60 dBu contour would encompass 633 square kilometers with a population of 33,101. BYU’s proposed 60 dBu contour would encompass 2,461 square kilometers with a population of 33,134. Neither applicant is eligible for any points under the best technical proposal criterion because neither applicant proposes to serve at least 10 percent more area and population than the other. Accordingly, ICAN is credited with a total of 2 points, and BYU is not credited with any points. Thus, ICAN is the tentative selectee in Group 82.

76. **Group 83.** There are three applicants in Group 83. Radio Free Moscow, Inc. (“RFM”) and Fire Media Corporation (“Fire”) each propose to serve Moscow, Idaho. Country Roots Preservation Group (“Country”) proposes to serve Palouse, Washington. When applicants propose different communities, the Commission must first determine whether any applicant is credited with a dispositive fair distribution preference. Each applicant states that it is not eligible for a fair distribution preference. Fire, nevertheless, supplies an exhibit asserting that it would provide a second new NCE service to 8,258 people, which it states is more than ten percent of the population it would serve.<sup>56</sup> We need not determine whether Fire should be able to receive a preference despite its mistake because it would not change the outcome of this proceeding. Assuming *arguendo* that Fire were credited with a preference for new service to Moscow, such a preference would, at most, eliminate Country’s application for Palouse. Fair distribution preferences are decisional in comparisons between different communities and, thus, could not, without more, decide between Fire and RFM, each of which proposes service to Moscow. Thus, Group 83 must proceed to a point hearing. Our points analysis of the group includes Country’s Palouse application for sake of completeness.

77. RFM claims three points as an established local applicant. Fire and Country do not. Each applicant in this group claims two points for diversity of ownership. RFM’s diversity claim is based on its pledge to divest KRFP-LP, Moscow, Idaho. In accordance with the waiver policy set forth above, we hereby waive attribution of RFM’s LPFM station for purposes of this points hearing and credit RFM with two points under this criterion. No applicant claims points as a statewide network. With respect to technical parameters, RFM’s proposed 60 dBu contour would encompass 1,107 square kilometers with a population of 30,395. Fire’s proposed 60 dBu contour would encompass 1,248 square kilometers with a population of 31,302. Country’s 60 dBu contour would encompass 286 square kilometers with a population of 2,284. No applicant is eligible for any points under the best technical proposal criterion because the applicant with the largest population and area does not propose to serve at least 10 percent more area and population than the next best proposal. Accordingly, RFM is credited with a total of five points, and Fire and Country are each credited with a total two points. Thus, RFM is the tentative selectee in Group 83.

78. **Group 87.** This group consists of the mutually exclusive applications of Covenant Network (“Covenant”) and Iglesia Jesucristo Es Mi Refugio de Austin (“IJMR”). Each proposes to serve Harrisburg, Illinois. Neither applicant claims any points as an established local applicant. Each claims two points for diversity of ownership. Neither applicant claims points as a statewide network. With respect to technical parameters, Covenant’s proposed 60 dBu contour would encompass 1,907 square

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<sup>56</sup> Fire’s 60 dBu contour encompasses 60,583 people. Fire’s claimed aggregated first and second NCE service is 8,258 people. See Fire’s Application, Exhibit 11. As discussed in the text, however, Fire did not claim a fair distribution preference.

kilometers with a population of 34,857. IJMR's proposed 60 dBu contour would encompass 159 square kilometers with a population of 9,359. Covenant qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than the IJMR proposal. Accordingly, Covenant is credited with a total of four points and IJMR is credited with a total of two points. Thus, Covenant is the tentative selectee in Group 87.

79. **Group 90.** This group consists of the mutually exclusive applications of In the Dwelling Place ("Dwelling") and JKJ Educational Foundation ("JKJ"). Dwelling proposes to serve Irondale, Illinois, and JKJ proposes to serve South Chicago, Illinois. Neither applicant claims that it would be eligible for a fair distribution preference. Therefore, both applicants will proceed to a point hearing.

80. Neither applicant claims that it is entitled to any points as an established local applicant. Dwelling claims two points for diversity of ownership but does not support its diversity claim. Accordingly, we will not award points to Dwelling under this criterion. JKJ does not claim any points for diversity of ownership. Neither applicant claims points as a statewide network. With respect to technical parameters, Dwelling's proposed 60 dBu contour would encompass 40 square kilometers with a population of 44,624. JKJ's proposed 60 dBu contour would encompass 52 square kilometers with a population of 40,363. Neither applicant is eligible for any points under the best technical proposal criterion because neither applicant proposes to serve at least 10 percent more area and population than the other. Accordingly, the applications of Dwelling and JKJ are comparable, with neither applicant credited with any points in the point system analysis.<sup>57</sup> The applications will proceed to a tie-breaker analysis.

81. The first issue considered in a tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant. The applicant with the fewest authorizations prevails. Dwelling certifies that it has no attributable interest in any radio authorization. JKJ certifies that it has attributable interests in two radio authorizations. Dwelling therefore prevails based on this first tie-breaker criterion and is the tentative selectee in Group 90.

82. **Group 92.** This group consists of the mutually exclusive applications of Electronic Applications Radio Service ("EARS"), Good Samaritan Educational Radio, Inc. ("GSER"), and Music Ministries, Inc. ("MMI"). Each applicant proposes to serve Tell City, Indiana. None claims any points as an established local applicant. Each claims two points for diversity of ownership. EARS and GSER, however, fail to submit documentation to support their diversity claims. Moreover, while MMI does submit documentation, it states that it was too time-consuming for it to amend its governing documents prior to the filing deadline and submits a statement from its vice president certifying that MMI will take steps to ensure diversity and offering to amend its governing documents at a future date. MMI's certification is insufficient and its offer to submit amended corporate documents after the close of the filing window would be an impermissible post-window enhancement of comparative qualifications. Accordingly, none of the applicants will receive any points for local diversity of ownership. No applicant claims points as a statewide network. With respect to technical parameters, EARS' proposed 60 dBu contour would encompass 1,395 square kilometers with a population of 11,094. GSER's proposed 60 dBu contour would encompass 472 square kilometers with a population of 13,826. MMI's proposed 60 dBu contour would encompass 594 square kilometers with a population of 17,836. No applicant is eligible for any points under the best technical proposal criterion because the applicant with the largest population and area does not propose to serve at least 10 percent more area and population than the next best proposal. Accordingly, the applications of EARS, GSER, and MMI are comparable because none is credited with any points in the point system analysis. All will proceed to a tie-breaker analysis.

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<sup>57</sup> Had the Commission accepted Dwelling's claim of two points for diversity of ownership, the final outcome of this proceeding would not have changed. Under such circumstances, Dwelling would have prevailed based on total points, whereas Dwelling now prevails in a tie-breaker.

83. The first issue considered in a tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant. The applicant with the fewest authorizations prevails. EARS certifies that it has an attributable interest in one radio authorization; GSER certifies an attributable interest in nine radio authorizations; and MMI certifies an attributable interest in four radio authorizations. EARS therefore prevails based on this first tie-breaker criterion and is the tentative selectee in Group 92.

84. **Group 93.** This group consists of four applications to serve different communities in Indiana. The applicants are: Friends of Radio Maria, Inc. (“FRM”) for Grabil; Harvest Christian Fellowship, Inc. (“Harvest”) for Leo; The Helpline (“Helpline”) for New Haven; and 601 Reed Road Corporation (“RRC”) for Woodburn. No applicant in this group claims that it would be eligible for a fair distribution preference. Therefore, all will proceed to a point hearing

85. Harvest and RRC certify that each is entitled to three points as an established local applicant. FRM and Helpline do not. Each of the applicants claims to be entitled to two points for diversity of ownership. Harvest and RRC support their respective diversity claims with documents requiring diversity to be maintained. FRM and Helpline provide no such support. Accordingly, Harvest and RRC will receive two points each, and FRM and Helpline will receive no points under this criterion. No applicant claims to be entitled to any points as a statewide network. With respect to technical parameters, FRM’s proposed 60 dBu contour would encompass 211 square kilometers with a population of 68,353. Harvest’s proposed 60 dBu contour would encompass 629 square kilometers with a population of 99,076. The Helpline’s proposed 60 dBu contour would encompass 423 square kilometers with a population of 54,936. RRC’s proposed 60 dBu contour would encompass 610 square kilometers with a population of 100,297. No applicant is eligible for any points under the best technical proposal criterion because no applicant proposes to serve both the most population and area, at least 10 percent more than the next best applicant. Accordingly, Harvest and RRC are each credited with a total of five points, and FRM and Helpline are not credited with any points.<sup>58</sup> FRM and Helpline are eliminated. Harvest and RRC will proceed to a tie-breaker analysis.

86. The first issue considered in a tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant. The applicant with the fewest authorizations prevails. Harvest and RRC certify respectively that each has no attributable interest in any radio authorization. Therefore, we proceed to the second issue considered in a tie-breaker – the number of pending radio applications attributable to each applicant. RRC certifies that it has only one application; Harvest certifies that it has two pending applications. RRC therefore prevails based on this second tiebreaker criterion and is the tentative selectee in Group 93.

87. **Group 94.** This group consists of the mutually exclusive applications of Harvest Christian Church Fellowship, Inc. (“HCCF”) and Club 1915, Inc. (“Club”). HCCF proposes to serve Butler, Indiana. Club proposes to serve Edon, Ohio. When applicants propose different communities, the Commission must first determine whether one applicant is credited with a dispositive fair distribution preference. Each applicant asserts that it is eligible for a fair distribution preference. HCCF and Club would provide a first NCE service to 3,333 and 4,583 people, respectively. These first service proposals are comparable. Because first service is not determinative, we consider the applicants’ aggregated first and second NCE service to 9,611 people and 13,561 people, respectively.<sup>59</sup> These proposals are also

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<sup>58</sup> Had the Commission accepted FRM’s and Helpline’s claims of two points each for local diversity of ownership, the final outcome of this proceeding would not have changed because neither would have reached the five-point level needed to be included in a tie-breaker with the other applicants.

<sup>59</sup> See HCCF and Club Applications, Questions III(1), III(2), and associated exhibits. HCCF’s 60 dBu contour encompasses 27,416 people and its claimed aggregated first and second service is 9,611 people. Club’s contour

comparable because neither exceeds the other by at least 5,000 people. Accordingly, HCCF and Club will proceed to a point hearing.

88. HCCF and Club claim three points each as an established local applicant. Each also certifies that it is entitled to two points for diversity of ownership and to no points as a statewide network. With respect to technical parameters, HCCF's proposed 60 dBu contour would encompass 1,008 square kilometers with a population of 27,416. Club's proposed 60 dBu contour would encompass 1,137 square kilometers with a population of 28,645. Neither applicant is eligible for any points under the best technical proposal criterion because neither applicant proposes to serve at least 10 percent more area and population than the other. Accordingly, HCCF and Club are credited with a total of five points and will proceed to a tie-breaker analysis.

89. The first issue considered in a tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant. The applicant with the fewest authorizations prevails. HCCF certifies that it has an attributable interest in two radio authorizations. Club certifies that it does not have an attributable interest in any radio authorization. Thus, Club prevails based on this first tie-breaker and is the tentative selectee in Group 94.

90. **Group 97.** The three applicants in Group 97 propose service to different communities in Kansas. Templo Apostoles y Profetas Bethel ("TAPB") would serve Bridgeport. Great Plains Christian Radio, Inc. ("GPCR") proposes to serve Hutchinson. Family Stations, Inc. ("FSI") proposes to serve Salina. No applicant in this group claims that it would be eligible for a fair distribution preference. All of the applicants, therefore, proceed to a point hearing.

91. No applicant in this group claims that it is entitled to any points as an established local applicant. Each of the applicants claims two points for diversity of ownership, but we find that these points only should be credited to two of them. TAPB and GPCR (which bases its claim on a pledge to divest translator station K255AZ, Nickerson, Kansas) each submit information to support their claims of current diversity that will be maintained in the future. FSI documents its claim of current diversity of ownership, but does not show that it timely adopted governing documents requiring it to maintain that diversity into the future. Accordingly, we credit TAPB and GPCR, but not FSI, with diversity of ownership points. No applicant claims points as a statewide network. With respect to technical parameters, TAPB's proposed 60 dBu contour encompasses 335 square kilometers with a population of 4,870. GPCR's proposed 60 dBu contour encompasses 398 square kilometers with a population of 50,706. FSI's proposed 60 dBu contour encompasses 1,905 square kilometers with a population of 51,698. No applicant is eligible for any points under the best technical proposal criterion because the applicant with the largest area and population does not propose to serve at least 10 percent more area and population than the next best applicant. Accordingly, TAPB and GPCR each are credited with a total of two points, while FSI is not credited with any points. FSI is eliminated.<sup>60</sup> TAPB and GPCR will proceed to a tie-breaker analysis.

92. The first issue considered in a tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant. The applicant with the fewest authorizations

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encompasses 28,645 people and its claimed aggregated first and second service is all 13,561 people. Thus, each would provide combined first and second NCE service to ten percent of the population within its 60 dBu contour and to more than 2,000 people.

<sup>60</sup> Had the Commission accepted FSI's claim of two points each for diversity of ownership, the final outcome of this proceeding would not have changed. In that case, FSI would have proceeded to the tie-breaker analysis with the other two applicants. However, it would not have prevailed in the first tie-breaker because FSI holds an attributable interest in 166 radio authorizations while TAPB does not have an attributable interest in any radio authorization.



prevails. TAPB certifies that it does not have an attributable interest in any radio authorization. GPCR certifies that it has attributable interests in 40 radio authorizations. TAPB therefore prevails based on this first tie-breaker criterion and is the tentative selectee in Group 97.

93. **Group 99.** This group consists of the mutually exclusive applications of Bethel Fellowship (“BF”), California Association for Research and Education (“CARE”), and Bowling Green Community Broadcasting, Inc. (“BGCB”) for communities in Kentucky. BF, CARE, and BGCB propose to serve the respective communities of Cecilia, Upton, and Westview. No applicant in this group claims that it would be eligible for a fair distribution preference. All of the applicants, therefore, proceed to a point hearing.

94. No applicant in this group claims that it is entitled to any points as an established local applicant. CARE claims two points for diversity of ownership. BF and BGCB each certify that they are not entitled to any points under this criterion. No applicant in this group claims points as a statewide network. With respect to technical parameters, BF’s proposed 60 dBu contour encompasses 782 square kilometers with a population of 13,832. CARE’s proposed 60 dBu contour encompasses 1,329 square kilometers with a population of 25,377. BGCB’s proposed 60 dBu contour encompasses 553 square kilometers with a population of 7,069. CARE qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than the next best proposal of BF. Accordingly, CARE is credited with a total of four points, while BF and BGCB are not credited with any points. CARE therefore is the tentative selectee in Group 99.

95. **Group 102.** This group consists of the mutually exclusive applications of Port Allen Educational Broadcast Foundation (“PAE”) and Network of Glory, LLC (“Glory”). Each proposes to serve Simmesport, Louisiana. Each certifies that it would not qualify for any points as an established local applicant. Each claims two points for diversity of ownership. Glory supports its diversity claim with a corporate document requiring diversity to be maintained and will be awarded two points. PAE does not support its diversity claim. Accordingly, we will not award points to PAE under this criterion. Neither applicant claims points as a statewide network. With respect to technical parameters, PAE’s proposed 60 dBu contour would encompass 1,734 square kilometers with a population of 19,867.<sup>61</sup> Using the lowest numbers submitted by Glory, its proposed 60 dBu contour would encompass 3,754 square kilometers with a population of 33,735. Glory qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than the PAE proposal. Accordingly, PAE has not been credited with any points; and Glory has been credited with a total of four points.<sup>62</sup> Glory is the tentative selectee in Group 102.

96. **Group 103.** This group consists of the mutually exclusive applications of Neighborhood Improvement Coalition Acorn (“NICA”) and McNeese State University (“MSU”). Each proposes to serve Moss Bluff, Louisiana. Each claims that it qualifies for three points as an established local applicant and two points for diversity of ownership. Each submits documentation, with MSU availing itself of alternate procedures that the Commission established for certain applicants which would otherwise require legislative action to amend their governing documents to maintain diversity. Neither applicant claims points as a statewide network. With respect to technical parameters, NICA’s proposed 60 dBu contour would encompass 1,811 square kilometers with a population of 54,935. MSU’s proposed 60 dBu contour would encompass 1,179 square kilometers with a population of 25,154. NICA qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than the MSU proposal. Accordingly, NICA has been credited with a total of seven

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<sup>61</sup> PAE amended its numbers from its original filing. We have used its lowest reported numbers in this analysis.

<sup>62</sup> Had the Commission accepted PAE’s claim of two points for diversity of ownership, Glory nevertheless would have prevailed because PAE’s claimed two-point total would not exceed the four points awarded to Glory.

points; and MSU has been credited with a total of five points. NICA is the tentative selectee in Group 103.

97. **Group 104.** The three applicants in Group 104 would serve two different Louisiana communities. Iglesia Cristiana Ebenezer (“ICE”) proposes to serve Bellevue. Family Life Educational Foundation (“FLEF”) and Family Worship Center Church, Inc. (“FWCC”) would each serve Minden. FLEF and FWCC claim respectively that each is eligible for a fair distribution preference.<sup>63</sup> ICE does not and is thus eliminated. The fair distribution analysis ends here because the two remaining applicants, FLEF and FWCC, propose to serve the same community. FLEF and FWCC must proceed to a point hearing.

98. Neither applicant claims any points as an established local applicant. FWCC claims two points for diversity of ownership but does not fully support its diversity claim. Specifically, FWCC bases its diversity claim on divestiture of translator station K216EX, Minden, Louisiana, but has not shown that its governing documents limit its ability to acquire other stations in the same area after divesting the translator. Accordingly, we will not award points to FWCC under this criterion. FLEF does not claim any points for diversity of ownership. Neither applicant claims points as a statewide network. With respect to technical parameters, FLEF’s proposed 60 dBu contour would encompass 390 square kilometers with a population of 20,892. FWCC’s proposed 60 dBu contour would encompass 380 square kilometers with a population of 12,843. Neither applicant is eligible for any points under the best technical proposal criterion because neither applicant proposes to serve at least 10 percent more area and population than the other. Accordingly, neither FLEF nor FWCC has been awarded any points. Thus, we will proceed to a tie-breaker analysis.

99. The first issue considered in a tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant. The applicant with the fewest authorizations prevails. FLEF certifies that it has an attributable interest in one radio authorization. FWCC certifies that it has attributable interests in 26 radio authorizations. FLEF therefore prevails on this first tie-breaker and is the tentative selectee in Group 104.

100. **Group 105.** This group consists of the mutually exclusive applications of Enterprise Corp of the Delta (“ECD”) for Alexandria, Louisiana, and Allegheny East Conference Corp of Seventh-Day Adventists (“AECC”) for Deville, Louisiana. Neither applicant in this group claims that it would be eligible for a fair distribution preference. Each, therefore, proceeds to a point hearing.

101. ECD claims that it is entitled to three points as an established local applicant. ECD does not, however, provide any information to support its claim and, therefore, will not be credited with any points under this criterion. AECC does not claim any points under this criterion. Each applicant claims two points for diversity of ownership but neither application supports its diversity claim. Therefore, no points will be credited to either applicant under this criterion. Neither applicant claims points as a statewide network. With respect to technical parameters, ECD’s proposed 60 dBu contour encompasses 1,741 square kilometers with a population of 104,205. AECC’s proposed 60 dBu contour encompasses 1,183 square kilometers with a population of 20,546. ECD qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than the AECC proposal. Accordingly, ECD is credited with a total of two points, while AECC is not credited with any points. ECD is the tentative selectee in Group 105.

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<sup>63</sup> See FLEF and FWCC Applications, Questions III(1), III(2), and associated exhibits. FLEF’s proposed 60 dBu contour encompasses 20,892 people. FLEF’s claimed aggregated first and second new NCE service is 19,388 people. FWCC’s 60 dBu contour encompasses 12,843 people; its claimed aggregated first and second NCE service is 9,825 people. Thus, each would provide combined first and second NCE service to ten percent of the population within its 60 dBu contour and to more than 2,000 people.

102. **Group 110.** The three applicants in Group 110 propose service to two different Massachusetts communities. Berkshire Community Radio Alliance (“BCRA”) proposes to serve Great Barrington. University of Massachusetts (“UMass”) and Home Improvement Ministries (“HIM”) would each serve Stockbridge. BCRA and UMass claim respectively that each it is eligible for a fair distribution preference.<sup>64</sup> HIM certifies that it would not qualify for a Section 307(b) preference. HIM is eliminated because a proposal to serve a different community is entitled to a fair distribution preference for which HIM does not qualify. Neither remaining applicant asserts that it is entitled to a first NCE service preference. If no proposal prevails on first service, we consider combined first and second NCE service population totals. BCRA would provide a first or second NCE service to 5,219 people and UMass to 5,550 people. Because neither the BCRA nor UMass proposal would provide new service to 5,000 people more than the other, they must proceed to a point hearing.

103. BCRA and UMass claim three points each as established local applicants. BCRA claims two points for diversity of ownership but does not fully support its diversity claim. Specifically, BCRA bases its diversity claim on divestiture of LPFM station WBCR-LP, Great Barrington, Massachusetts and an associated waiver request, but argues that it does not need to modify its governing documents because LPFM licensees are not permitted to have attributable interests in other stations. BCRA’s current status as an LPFM licensee, while supportive of the fact that it currently has no interests besides the LPFM station, would be inadequate to support a finding that BCRA could not acquire attributable interests in other full service stations in the same area after divesting the LPFM station. Accordingly, we will not award points to BCRA under this criterion. UMass does not claim any points for diversity of ownership. With respect to technical parameters, BCRA’s proposed 60 dBu contour would encompass 383 square kilometers with a population of 13,454. UMass’s proposed 60 dBu contour would encompass 394 square kilometers with a population of 15,215. These technical parameters are comparable because neither exceeds the other’s area and population by at least 10 percent. Therefore, no applicant in this group qualifies for points under this criterion. Accordingly, BCRA and UMass each are credited with a total of three points and will proceed to a tie-breaker analysis.

104. The first issue considered in a tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant. The applicant with the fewest authorizations prevails. BCRA certifies that it does not have an attributable interest in any radio authorization other than WBCR-LP. UMass certifies that it has attributable interests in 20 radio authorizations. BCRA therefore prevails based on this first tie-breaker criterion and is the tentative selectee in Group 110.

105. **Group 113.** This group consists of four applicants proposing to serve two different communities. Priority Radio, Inc. (“PRI”) proposes to serve Millville, Delaware. Edinboro Early School (“Edinboro”), Allegheny East Conference Corp of Seventh-Day Adventists (“AECC”), and Allied Communications Network Two (“Allied”) propose to serve Ocean City, Maryland. PRI and AECC claim eligibility for a fair distribution preference based solely on provision of a new second NCE service to 13,505 people and 13,454 people, respectively.<sup>65</sup> Those claims, however, are erroneous because they do

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<sup>64</sup> See BCRA and UMass Applications, Questions III(1), III(2), and associated exhibits. BCRA’s proposed 60 dBu contour encompasses 13,454 people. BCRA’s claimed aggregated first and second new NCE service is 5,219 people. UMass’s 60 dBu contour encompasses 15,215 people and its claimed aggregated first and second NCE service is 5,550 people. Thus, each would provide combined first and second NCE service to ten percent of the population within its 60 dBu contour and to more than 2,000 people.

<sup>65</sup> See PRI and AECC Applications, Questions III(1), III(2), and associated exhibits. PRI’s 60 dBu contour encompasses 47,402 people. PRI’s claimed aggregated first and second NCE service is 13,505 people. AECC’s 60 dBu contour encompasses 63,734 people. AECC’s claimed aggregated first and second NCE service is 13,454 people. Thus, each would provide combined first and second NCE service to ten percent of the population within its 60 dBu contour and to more than 2,000 people.

not consider the outstanding construction permit for WRAU(FM), Ocean City, Maryland, which is an authorized second NCE service to the populations at issue. Accordingly, neither will be credited with a fair distribution preference. Edinboro and Allied do not claim a fair distribution preference. Accordingly, a threshold fair distribution analysis would not eliminate any applicant in this group, and each of the applicants will proceed to a point hearing.

106. Edinboro and Allied claim three points each as established local applicants. PRI and AECC do not. Each applicant in this group claims two points for diversity of ownership, with Edinboro's claim based on a pledge to divest LPFM station WEES-LP, Ocean City, Maryland. In accordance with the waiver policy set forth above, we would waive attribution of Edinboro's LPFM station for purposes of this points hearing. However, none of the applicants supports its respective diversity claim with governing documents. Accordingly, none will be credited with any points under this criterion. No applicant in this group claims points as a statewide network. With respect to technical parameters, PRI's proposed 60 dBu contour would encompass 494 square kilometers with a population of 47,402. AECC's proposed 60 dBu contour would encompass 706 square kilometers with a population of 63,734. Edinboro's proposed 60 dBu contour would encompass 440 square kilometers with a population of 49,507. Allied's proposed 60 dBu contour would encompass 217 square kilometers with a population of 20,052. AECC qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than PRI's next best area and Edinboro's next best population. Accordingly, PRI has not been credited with any points; AECC has been credited with a total of two points; and Edinboro and Allied have been credited with three points each. PRI and AECC are eliminated. Edinboro and Allied will proceed to a tie-breaker.

107. The first issue considered in a tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant. The applicant with the fewest authorizations prevails. Edinboro and Allied each certify to having no attributable interest in any radio authorization. This factor thus is not determinative. Therefore, we proceed to the second issue considered in a tie-breaker – the number of pending radio applications attributable to each applicant. The applicant with the fewest authorizations prevails. Allied certifies that it has seven applications. Edinboro certifies that it has no other pending applications. Edinboro incorrectly expressed this fact by claiming zero applications; Edinboro should have included the instant application and reported this one application. Even accounting for this error, Edinboro has fewer applications than Allied. Edinboro therefore prevails based on this second tie-breaker criterion and is the tentative selectee in Group 113.

108. **Group 114.** This group consists of the mutually exclusive applications of Allied Communications Network Two ("Allied"), Trinity Radio, Inc. ("TRI"), and Hope Christian Church of Marlton, Inc. ("HCCM"). Each proposes to serve Rising Sun, Maryland. No applicant in this group claims that it is entitled to any points as an established local applicant. Each claims two points for diversity of ownership. None claims points as a statewide network. With respect to technical parameters, Allied's proposed 60 dBu contour encompasses 373 square kilometers with a population of 19,389. TRI's proposed 60 dBu contour encompasses 534 square kilometers with a population of 33,797. HCCM's proposed 60 dBu contour encompasses 594 square kilometers with a population of 41,684. HCCM qualifies for one point under the best technical proposal criterion because its proposal serves at least 10 percent more area and population than the next best proposal of TRI. Accordingly, Allied and TRI are credited with a total of two points each, while HCCM is credited with a total of three points. HCCM therefore prevails and is the tentative selectee in Group 114.

109. **Group 116.** In Group 116, four applicants propose service to three different communities in Maine. Northern Broadcast Ministries ("NBM") would serve Caribou. Fraternal Building Association, Inc. ("Fraternal") would serve Madawaska. Appalachian Performing Arts Institute ("APAI") and University of Maine System ("UMS") each propose to serve Presque Isle. APAI states that its Presque Isle proposal is not eligible for a fair distribution preference, whereas each of the other

applicants claims such eligibility.<sup>66</sup> APAI is eliminated because proposals to serve different communities are entitled to a fair distribution preference for which it does not qualify. Each remaining applicant asserts that it is entitled to a first service preference. NBM would provide a first NCE service to 40,446 people; Fraternal to 43,606 people; and UMS to 11,458 people. The first service proposals of NBM and Fraternal are comparable. However, UMS's Presque Isle proposal is eliminated because NBM's next best proposal for Caribou would provide a first service to at least 5,000 more people. First service is not determinative with respect to NBM and Fraternal, and neither claims that it would provide any second NCE service. Accordingly, the comparable proposals of NBM and Fraternal will proceed to a point hearing.

110. NBM and Fraternal claim three points each as established local applicants. Fraternal claims two points for diversity of ownership. NBM states that it is not entitled to any points under this criterion. Neither applicant claims points as a statewide network. With respect to technical parameters, NBM's proposed 60 dBu contour would encompass 4,862 square kilometers with a population of 40,446. Fraternal's proposed 60 dBu contour would encompass 9,527 square kilometers with a population of 43,606. Neither applicant is eligible for any points under the best technical proposal criterion because neither applicant proposes to serve at least 10 percent more area and population than the other. Accordingly, NBM is credited with a total of three points and Fraternal with a total of five points. Fraternal is the tentative selectee in Group 116.

111. **Group 118.** In this group, four applicants propose to serve different communities in Maine. Highland Community Broadcasting ("Highland") would serve Eliot. Appalachian Performing Arts Institute ("APAI") proposes to serve Kittery. Granite State Educational Fellowship ("GSEF") proposes to serve Kittery Point, a similarly-named, but apparently different, community. Sanford Fraternal Association ("SFA") would serve York. APAI states that its proposal is not eligible for a fair distribution preference, whereas the other three applicants each claim such eligibility.<sup>67</sup> APAI is thus eliminated because proposals to serve different communities are entitled to a fair distribution preference for which it does not qualify. No remaining applicant claims that it would provide any first service, but each claims second service. Highland, GSEF and SFA state that they would provide a new first or second NCE service to 17,730, 14,509 and 21,258 people, respectively. Considering each proposal with respect to the one proposing to serve the next largest population, none exceeds the next best by at least 5,000 people. Highland, GSEF, and SFA must, therefore, proceed to a point hearing.

112. SFA claims that it is entitled to three points as an established local applicant. The others do not. Each applicant claims two points for diversity of ownership. No applicant claims points as a statewide network. With respect to technical parameters, Highland's proposed 60 dBu contour would encompass 191 square kilometers with a population of 20,835. GSEF's proposed 60 dBu contour would

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<sup>66</sup> See NBM, Fraternal, and UMS Applications, Questions III(1), III(2), and associated exhibits. NBM's 60 dBu contour encompasses 40,446 people, to all of whom NBM would provide a new first NCE service. Fraternal's contour encompasses 43,606 people, to all of whom it would provide such service. UMS's encompasses 11,458 people, to all of whom UMS would provide such service. Thus, each would provide first NCE service to ten percent of the population within its 60 dBu contour and to more than 2,000 people.

<sup>67</sup> See Highland, GSEF, and SFA Applications, Questions III(1), III(2), and associated exhibits. Highland's 60 dBu contour encompasses 20,835 people. Highland's claimed aggregated first and second NCE service is 17,730 people. GSEF's contour encompasses 18,284 people. GSEF's claimed aggregated first and second NCE service is 14,509 people. SFA's 60 dBu contour encompasses 28,402 people. SFA's claimed aggregated first and second service is 21,258 people. Thus, each would provide combined first and second NCE service to ten percent of the population within its 60 dBu contour and to more than 2,000 people.

encompass 119 square kilometers with a population of 15.<sup>68</sup> SFA's proposed 60 dBu contour would encompass 422 square kilometers with a population of 28,402. SFA qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than the next best proposal of GSEF. Accordingly, Highland and GSEF are credited with a total of two points each and SFA is credited with a total of seven points. SFA is the tentative selectee in Group 118.

113. **Group 120.** The two applicants in Group 120 propose to serve different communities in Maine. Light of Life Ministries, Inc. ("LLM") would serve Houlton and Native American Radio Project ("NARP") would serve Littleton. Each states that it is eligible for a first service fair distribution preference.<sup>69</sup> LLM and NARP would provide a first NCE service to 12,923 people and 13,404 people, respectively. These first service proposals are comparable and neither applicant claims that it would provide any second NCE service. Accordingly, both proposals will proceed to a point hearing.

114. Neither applicant claims points as an established local applicant. Each claims two points for diversity of ownership and certifies that it is not entitled to points as a statewide network. With respect to technical parameters, LLM's proposed 60 dBu contour would encompass 2,153 square kilometers with a population of 12,923. NARP states that its proposed 60 dBu contour would encompass 2,003 square kilometers with a population of 13,404. Neither applicant is eligible for any points under the best technical proposal criterion because neither applicant proposes to serve at least 10 percent more area and population than the other. Accordingly, LLM and NARP are each credited with a total of two points and will proceed to a tie-breaker analysis.

115. The first issue considered in a tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant. The applicant with the fewest authorizations prevails. LLM states that it has attributable interests in 14 radio authorizations. NARP certifies that it does not have an attributable interest in any radio authorization. NARP therefore prevails on the basis of this first tie-breaker and is the tentative selectee in Group 120.

116. **Group 129.** In Group 129, Minnesota Public Radio ("MPR") proposes to serve Grand Rapids, Minnesota, and VCY America, Inc. ("VCY") proposes to serve Virginia, Minnesota. Each asserts that it is eligible for a fair distribution preference.<sup>70</sup> Neither asserts that it is entitled to a first service preference. MPR and VCY would provide a new first or second NCE service to 29,454 and 28,405 people, respectively. Because neither applicant proposes an aggregated first and second NCE service to at least 5,000 more people than the other, MPR and VCY must proceed to a point hearing.

117. MPR and VCY each certify that they are not entitled to any points as an established local applicant, for diversity of ownership, or as a statewide network. With respect to technical

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<sup>68</sup> Although GSEF's showing for fair distribution purposes claims service to 18,284 people, its response for technical parameters purposes is simply "15." We need not consider the implications of this apparent error because SFA would have received two points for technical parameters even had GSEF claimed the larger number.

<sup>69</sup> See LLM and NARP Applications, Questions III(1), III(2), and associated exhibits. LLM's 60 dBu contour encompasses 12,923 people all of whom would receive a new first NCE service. NARP's 60 dBu contour encompasses 13,404 people, all of whom would receive a new first NCE service. Thus, each would provide combined first and second NCE service to ten percent of the population within its 60 dBu contour and to more than 2,000 people.

<sup>70</sup> See MPR and VCY Applications, Questions III(1), III(2), and associated exhibits. MPR's 60 dBu contour encompasses 40,969 people. MPR would provide a new first or second NCE service to 29,454 people (all second service). VCY's contour encompasses 34,588 people, of which it would provide a new first or second NCE service to 28,405 people (1,213 first service plus 27,192 second service). Thus, each would provide combined first and second NCE service to ten percent of the population within its 60 dBu contour and to more than 2,000 people.

parameters, MPR's proposed 60 dBU contour would encompass 4,357 square kilometers with a population of 40,969. VCY's proposed 60 dBU contour would encompass 2,863 square kilometers with a population of 34,588. MPR qualifies for one point under the best technical proposal criterion because its proposal serves at least 10 percent more area and population than the VCY proposal. Accordingly, MPR is credited with a total of one point and VCY is not credited with any points. MPR is the tentative selectee in Group 129.

118. **Group 130.** This group consists of three applicants proposing to serve different communities in Minnesota. Religious Information Network ("RIN") proposes to serve Newport. Pensacola Christian College, Inc. ("PCC") proposes to serve Rosemont. Smooth Tones Radio, Inc. ("STR") proposes to serve St. Paul Park. No applicant claims eligibility for a fair distribution preference; therefore, each will proceed to a point hearing.

119. RIN claims three points as an established local applicant. Neither PCC nor STR claims any points under this criterion. Each applicant in the group claims two points for diversity of ownership. RIN supports its diversity claim with a corporate document requiring that diversity be maintained. PCC and STR do not support their respective diversity claims. Accordingly, RIN will be credited with two points, but PCC and STR will not be credited with any points under this criterion. No applicant claims points as a statewide network. With respect to technical parameters, RIN's proposed 60 dBU contour would encompass 341 square kilometers with a population of 111,334. PCC's proposed 60 dBU contour would encompass 210 square kilometers with a population of 11,925. STR's proposed 60 dBU contour would encompass 100 square kilometers with a population of 567. RIN qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than the next best proposal of PCC. Accordingly, RIN has been credited with a total of seven points while PCC and STR have not been credited with any points.<sup>71</sup> RIN is the tentative selectee in Group 130.

120. **Group 135.** The three applicants in this group propose service to two different communities in Minnesota. We Have This Hope Christian Radio, Inc. ("Hope") proposes to serve Barnesville. Alliance for the Arts and Humanities ("Alliance") and Pioneer Public Broadcasting Company, Inc. ("Pioneer") would each serve Hawley. Alliance claims that it is eligible for a fair distribution preference.<sup>72</sup> Hope and Pioneer do not. Hope's application for Barnesville is eliminated because Alliance's application to serve the different community of Hawley is entitled to a fair distribution preference. Pioneer cannot be eliminated under the fair distribution criterion because Alliance and Pioneer, the sole remaining applicants in this group, both propose to serve the same community. Alliance and Pioneer will, therefore, proceed to a point hearing to determine which will serve Hawley.

121. Alliance and Pioneer claim three points each as established local applicants and two points each for diversity of ownership. Neither applicant claims points as a statewide network. With respect to technical parameters, Alliance's proposed 60 dBU contour would encompass 4,454 square kilometers with a population of 41,969. Pioneer's proposed 60 dBU contour would encompass 5,389 square kilometers with a population of 84,996. Pioneer qualifies for one point under the best technical proposal criterion because its proposal serves at least 10 percent more area and population than the Alliance proposal. Accordingly, Alliance has been credited with a total of five points and Pioneer with a total of six points. Pioneer therefore is the tentative selectee in Group 135.

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<sup>71</sup> Had the Commission accepted PCC's and STR's claims of two points for diversity of ownership, neither would have prevailed because their claimed totals of two points each would not exceed the seven points awarded to RIN.

<sup>72</sup> See Alliance's Application, Questions III(1), III(2), and associated exhibits. Alliance amended its application and, therefore, we use the smallest numbers claimed. Alliance's 60 dBU contour encompasses 41,969 people. Alliance's claimed aggregated first and second NCE service is 5,656 people. Thus, it would provide combined first and second NCE service to ten percent of the population within its 60 dBU contour and to more than 2,000 people.

122. **Group 138.** This group consists of the applications of Missouri River Christian Broadcasting, Inc. (“MRCB”) and Curators, University of Missouri (“UM”). Each has proposed to construct a new station to serve Warrenton, Missouri. MRCB certifies both that it is entitled to three points as an established local applicant and that it has submitted supporting documentation to the Commission. However, we believe that MRCB’s certification is erroneous because it has not submitted supporting documentation. UM does not claim any points as an established local applicant. Accordingly, we have not credited either applicant with points under this criterion. MRCB asserts that it is entitled to two points for diversity of ownership but has not submitted copies of relevant governing documents. UM does not claim any points under this criterion. Accordingly, neither applicant will receive any points for local diversity of ownership. Neither applicant claims points as a statewide network. With respect to technical parameters, MRCB’s proposed 60 dBu contour would encompass 751 square kilometers with a population of 16,888. UM’s proposed 60 dBu contour would encompass 1,250 square kilometers with a population of 27,983. UM qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than the MSCB proposal. Accordingly, UM is credited with a total of two points and MSCB is not credited with any total points. UM therefore is the tentative selectee in Group 138.

123. **Group 147.** This group consists of the applications of Missoula Community Radio (“MCR”) for Florence, Montana, The World Crisis Solutions Foundation, Inc. (“WCSF”) for Hamilton, Montana, and Bitterroot Valley Calvary Chapel (“BVCC”) for Pinesdale, Montana. No applicant in this group claims to be eligible for a fair distribution preference. Each applicant claims three points as an established local applicant and two points for diversity of ownership. None claims points as a statewide network. With respect to technical parameters, MCR’s proposed 60 dBu contour would encompass 6,288 square kilometers with a population of 37,793. WCSF’s proposed 60 dBu contour would encompass 5,685 square kilometers with a population of 36,687. BVCC’s proposed 60 dBu contour would encompass 7,919 square kilometers with a population of 36,877. No applicant is eligible for any points under the best technical proposal criterion because no applicant proposes to serve both the most population and area, and at least 10 percent more area and population than the next best applicant. Accordingly, MCR, WCSF, and BVCC are each credited with a total of five points and will proceed to a tie-breaker.

124. The first issue considered in a tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant. The applicant with the fewest authorizations prevails. Each applicant states that it has no attributable interests in any other radio authorization. Therefore, we proceed to the second issue considered in a tie-breaker – the number of pending radio applications attributable to each applicant. The applicant with the fewest applications prevails. MCR and BVCC state that each has two pending applications. WCSF certifies that the instant application is its only one. Accordingly, WCSF prevails on the basis of this second tie-breaker and is the tentative selectee in Group 147.

125. **Group 149.** In this group, Western Family Television, Inc. (“WFT”) and Miles City Seventh-Day Adventist Church (“Miles City”) have filed applications in which each proposes new NCE FM service to Miles City, Montana. Miles City claims three points as an established local applicant. WFT certifies that it is not entitled to any points under this criterion. Each applicant in this group claims two points for diversity of ownership. Miles City supports its claim with a document requiring that diversity be maintained. WFT does not. Accordingly, Miles City, but not WFT, will receive two points under this criterion. Neither applicant claims points as a statewide network. With respect to technical parameters, WFT’s proposed 60 dBu contour would encompass 1,149 square kilometers with a population of 10,881. Miles City’s proposed 60 dBu contour would encompass 3,520 square kilometers with a population of 11,315. Neither applicant is eligible for any points under the best technical proposal criterion because neither applicant proposes to serve at least 10 percent more area and population than the



other. Accordingly, Miles City has been credited with a total of five points and WFT has not been credited with any points.<sup>73</sup> Miles City is the tentative selectee in Group 149.

126. **Group 151.** This group consists of the mutually exclusive applications of Pearl Communications Group (“Pearl”) for Beaufort, North Carolina, and Mineral Springs Public Radio, Inc. (“Mineral”) for Harkers Island, North Carolina. Neither applicant in this group claims that it would be eligible for a fair distribution preference. Both applicants, therefore, proceed to a point hearing.

127. Neither applicant claims that it is entitled to any points as an established local applicant. Each claims two points for diversity of ownership. Neither claims points as a statewide network. With respect to technical parameters, Pearl’s proposed 60 dBu contour encompasses 4,386 square kilometers with a population of 17,594. Mineral’s proposed 60 dBu contour encompasses 721 square kilometers with a population of 15,890. Pearl qualifies for one point under the best technical proposal criterion because its proposal serves at least 10 percent more area and population than the Mineral proposal. Accordingly, Pearl is credited with a total of three points and Mineral is credited with a total of two points. Pearl is the tentative selectee in Group 151.

128. **Group 153.** In this group, Corporation for Radio Education, Inc. (“CRE”) and Western North Carolina Public Radio, Inc. (“WNC”) each propose to construct a new station serving Murphy, North Carolina. Neither applicant claims that it is entitled to any points as an established local applicant. Each claims two points for diversity of ownership, with CRE’s claim based on a pledge to divest LPFM station WLNT-LP, Loudon, Tennessee. WNC, but not CRE, submits a document supporting its diversity claim. CRE’s current status as an LPFM licensee, while supportive of the fact that it currently has no interests besides the LPFM station, would be inadequate to support a finding that CRE could not acquire attributable interests in other full service stations in the same area after divesting the LPFM station. Accordingly, we will award points to WNC, but not to CRE, under this criterion. Neither claims points as a statewide network. With respect to technical parameters, CRE’s proposed 60 dBu contour encompasses 286 square kilometers with a population of 9,474. WNC’s proposed 60 dBu contour encompasses 869 square kilometers with a population of 19,117. WNC qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than the CRE proposal. Accordingly, WNC is credited with a total of four points and CRE is not credited with any points.<sup>74</sup> WNC is the tentative selectee in Group 153.

129. **Group 155.** This group consists of three applications proposing service to different communities in North Carolina. Positive Alternative Radio, Inc. (“PAR”) proposes service to Jamesville, Calvary Chapel of Rocky Mount (“CCRM”) to Oak City, and Roanoke Valley Communications, Inc. (“RVC”) to Williamston.<sup>75</sup> Each one claims that it is eligible for a fair distribution preference based

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<sup>73</sup> Had the Commission accepted WFT’s claims of two points for diversity of ownership, the outcome of this group would not have changed because WFT’s claimed two-point total would not exceed the five-point total credited to Miles City.

<sup>74</sup> Had the Commission accepted CRE’s claims of two points for diversity of ownership, the outcome of this group would not have changed because CRE’s claimed two-point total would not exceed the four-point total credited to WNC.

<sup>75</sup> RVC and CCRM submitted a settlement agreement in November 2009. Contrary to Commission policy, approval of this agreement would not, by settlement or technical amendment, result in the immediate grant of any application. *See Bureau Will Accept Settlements and Technical Amendments*, Public Notice, 22 FCC Rcd 19438, 19438-39 (MB 2007), citing *NCE MO&O*, 16 FCC Rcd at 5107 ¶ 98. Rather, the agreement would merely manipulate the result of the Commission’s analysis to achieve a different outcome. Specifically, RVC would compensate CCRM to drop out of the group, potentially resulting in the Commission’s analysis of the group in RVC’s favor under fair distribution criteria. The settlement is denied.

solely on aggregated first and second service. PAR would provide a new first or second NCE service to 14,075 people (0 first service plus 14,075 second service). CCRM would provide new first or second NCE service to 18,504 people (11 first service plus 18,493 second service). RVC would provide new first or second NCE service to 23,366 people (0 first service plus 23,366 second service).<sup>76</sup> The three proposals are comparable because none would provide a new first or second NCE service to at least 5,000 more listeners than the next best proposal. Therefore, the applications will proceed to a point hearing.

130. No applicant in this group claims points as an established local applicant. Each claims two points for diversity of ownership. CCRM and RVC support their respective diversity claims by submitting a copy of governing documents containing provisions requiring that diversity be maintained in the future. PAR has not submitted copies of such documents. Therefore, CCRM and RVC will receive two diversity points each, but PAR will not receive any points under this criterion. Each applicant certifies that it is not entitled to points as a statewide network. With respect to technical parameters, PAR's proposed 60 dBu contour would encompass 3,719 square kilometers with a population of 58,242. CCRM states that its proposed 60 dBu contour would encompass 4,096 square kilometers with a population of 62,494. RVC states that its proposed 60 dBu contour would encompass 4,227 square kilometers with a population of 72,482. No applicant is eligible for any points under the best technical proposal criterion because the applicant with the largest area and population does not propose to serve at least 10 percent more area and population than the next best applicant. Accordingly, CCRM and RVC are credited with a total of two points each and PAR is not credited with any points. PAR is eliminated. CCRM and RVC proceed to a tie-breaker analysis.

131. The first issue considered in a tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant. The applicant with the fewest authorizations prevails. CCRM states that it has no attributable interests in other radio authorizations. RVC states that it has attributable interests in seven other radio authorizations. CCRM therefore prevails based on this first tie-breaker and is the tentative selectee in Group 155.

132. **Group 158.** The three applicants in this group propose service to two different communities in North Carolina. Liberty University, Inc. ("Liberty") and Immanuel Broadcasting Network ("IBN") propose service to Calypso. The Board of Trustees of the University of North Carolina at Chapel Hill ("Board") proposes service to Smithfield. Liberty claims that it is eligible for a fair distribution preference.<sup>77</sup> IBN and Board do not. Board's application for Smithfield is eliminated because Liberty's application to serve the different community of Calypso is entitled to a fair distribution preference. IBN is not eliminated because Liberty and IBN, the sole remaining applicants in this group, each propose to serve the same community. Liberty and IBN will proceed to a point hearing to determine which will serve the community of Calypso.

133. Neither Liberty nor IBN claims any points as an established local applicant. Each claims two points for diversity of ownership. Liberty supports its claim with a document requiring that diversity be maintained. IBN does not. Accordingly, Liberty but not IBN will receive two points under

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<sup>76</sup> See PAR's, CCRM's, and RVC's Applications, Questions III(1), III(2), and associated exhibits. PAR's 60 dBu contour encompasses 58,842 people. PAR's claimed aggregated first and second NCE service is 14,075 people. CCRM's 60 dBu contour encompasses 62,464 people. CCRM's claimed aggregated first and second NCE service is 18,504 people. RVC's 60 dBu contour encompasses 72,482 people. RVC's claimed aggregated first and second NCE service is 23,366 people. Thus, each would provide combined first and second NCE service to ten percent of the population within its 60 dBu contour and to more than 2,000 people.

<sup>77</sup> See Liberty's Application, Questions III(1), III(2), and associated exhibits. Liberty's 60 dBu contour encompasses 27,889 people. Liberty's claimed aggregated first and second NCE service is 24,699 people. Thus, it would provide combined first and second NCE service to ten percent of the population within its 60 dBu contour and to more than 2,000 people.

this criterion. No applicant claims points as a statewide network. With respect to technical parameters, Liberty's proposed 60 dBu contour would encompass 628 square kilometers with a population of 27,889. IBN's proposed 60 dBu contour would encompass 674 square kilometers with a population of 24,665. Neither applicant is eligible for any points under the best technical proposal criterion because neither applicant proposes to serve at least 10 percent more area and population than the other. Accordingly, Liberty is credited with a total of two points and IBN is not credited with any points. Liberty is the tentative selectee in Group 158.

134. **Group 159.** Each applicant in this group, Athens Christian Radio, Inc. ("Athens") and Airwaves for Jesus, Inc. ("AFJ"), proposes service to Robbins, North Carolina. Neither claims points as an established local applicant. AFJ claims two points for diversity of ownership. Athens does not. Each applicant certifies that it is not entitled to points as a statewide network. With respect to technical parameters, Athens's proposed 60 dBu contour would encompass 898 square kilometers with a population of 20,331. AFJ states that its proposed 60 dBu contour would encompass 492 square kilometers with a population of 10,845. Athens qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than the AFJ proposal. Accordingly, each applicant is credited with a total of two points and will proceed to a tie-breaker analysis.

135. The first issue considered in a tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant. The applicant with the fewest authorizations prevails. Athens states that it has no attributable interests in other radio authorizations. AFJ states that it has an attributable interest in one other radio authorization. Athens therefore prevails based on this first tie-breaker and is the tentative selectee in Group 159.

#### IV. NEXT STEPS

136. **Acceptability Studies and Filing of Petitions.** The staff has examined the applications of each tentative selectee for application defects.<sup>78</sup> Each tentative selectee identified in this Order and its Appendix appears to be fully qualified to become the licensee of the new or modified NCE FM stations it has proposed. We tentatively conclude that the grant of their applications would serve the public interest, convenience and necessity. Accordingly, the tentative selectees are accepted for filing. This triggers a 30-day period for the filing of petitions to deny.

137. Any argument that the tentatively selected application should not be granted should be raised in such a petition, even if the objection relates only indirectly to the tentative selectee's qualifications. For example, an applicant that concedes that the tentative selectee is qualified for the points received but believes its own proposal should have received a greater number of points than the tentative selectee's would make its argument in a petition to deny. Parties should not raise such matters as petitions for reconsideration of the instant Order because the point hearings herein take no final action on any application, and petitions for reconsideration do not lie against such interlocutory decisions.<sup>79</sup>

138. **Forthcoming Staff Action.** We direct the staff, once the public notice period has run, to conduct a final study of each tentatively selected application in accordance with its routine processing

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<sup>78</sup> If a tentative selectee's application is found unacceptable for filing, it is returned. The applicant is then given one opportunity to submit a curative amendment. See 47 C.F.R. § 73.3522(b)(2). A tentative selectee that is unable to cure the defect with a minor amendment is disqualified, and the applicant with the next highest point tally becomes the new tentative selectee. See 47 C.F.R. § 73.7004(d).

<sup>79</sup> See *id.* § 1.106 (a) (1). See also *Patrick J. Vaughn, Esq.*, Letter, 22 FCC Rcd 11165 (MB 2007).

procedures. The staff studies should consider any petitions, comments, and objections to determine whether there is any substantial and material question of fact concerning whether grant of the tentatively selected application would serve the public interest. If no such question exists, we direct the staff to grant the applications on the basis of the point system determinations made herein and dismiss the competing applications.

139. With the exception of issues that are novel or require Commission or Administrative Law Judge consideration by law, the staff shall act on the tentatively selected applications pursuant to delegated authority. We delegate to the staff authority to act on any routine matter that may be raised, including whether the applicant is eligible, as certified, for the points awarded herein, and whether the application complies with all relevant Commission rules and policies.<sup>80</sup> The staff need not refer such matters to the Commission or Administrative Law Judge unless the staff determines that the issues are new or novel, or raise a substantial and material question regarding the award of points. Generally, the staff should refer only those issues to the Commission where the exclusion or inclusion of challenged or claimed points could alter the outcome in the particular NCE group, or where a new or novel question or substantial and material question of fact otherwise exists.<sup>81</sup> In such cases, the staff would either designate the application for hearing on the substantial and material question or refer the mutually exclusive group to the Commission for resolution of the novel issue and/or the determination of a successor tentative selectee. Finally, we note that we previously concluded that only one application should be granted out of each mutually exclusive group, while providing the competing applicants the opportunity to file again in the next filing window.<sup>82</sup> Accordingly we direct the staff to deny petitions for reconsideration based on the theory that the dismissed application is not mutually exclusive with the granted application.

140. **Severance for Purposes of Petitions, Appeals and Finality.** We are including a provision in the ordering clauses herein that each decision involving a mutually exclusive group is to be considered distinct and separate for purposes of petitions to deny, petitions for reconsideration, review on the Commission's own motion, and appeals. The timing of any action disposing of a petition or appeal affecting a particular group will not delay the finality of our decision with respect to any other group.

## V. ORDERING CLAUSES

141. Accordingly, IT IS ORDERED, That each decision involving a mutually exclusive group in this *Memorandum Opinion and Order* shall be deemed a distinct and separate decision for purposes of petitions to deny, petitions for reconsideration, review on the Commission's own motion, and appeals.<sup>83</sup> If any decision in this *Memorandum Opinion and Order* is declared invalid for any reason, the remaining portions shall be severable from the invalid part and SHALL REMAIN in full force and effect to the fullest extent permitted by law.

142. **Group 6.** Accordingly, IT IS ORDERED, That B. Jorden Communications Corp. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Lineville, Alabama and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30)

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<sup>80</sup> See, e.g. *Central Florida Educational Foundation, Inc.*, Letter, 23 FCC Rcd 1695 (MB 2008) (permitting staff dismissal of defective tentative selected application following point hearing, and award of permit on a non-comparative basis to only remaining acceptable applicant).

<sup>81</sup> See generally *NCE Omnibus*, 22 FCC Rcd at 6162 n.230 (2007) (standards for staff evaluation of petitions).

<sup>82</sup> See *NCE MO&O*, 16 FCC Rcd at 5104-05.

<sup>83</sup> See 5 U.S.C. §§ 702, 704, 706; 47 U.S.C. §§ 309(d), 402(b), 405; 47 C.F.R. §§ 1.106-08, 1.120, 73.7004. In cases that involve separate mutually exclusive groups but present common issues, the petitions or appeals may be filed jointly or may be consolidated at the discretion of the Commission or the court. See, e.g., FED. R. APP. P. 3(b).

days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of Jimmy Jarrell Communications Foundation (File No. BNPED-20071012ARL), and TO GRANT the application of B. Jorden Communications Corp. (File No. BNPED-20071019ALV) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

143. **Group 10.** Accordingly, IT IS ORDERED, That Jonesboro Seventh-Day Adventist Church is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Jonesboro, Arkansas and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Powerhouse Ministries (File No. BNPED-20071015ABD) and American Heritage Media, Inc. (File No. BNPED-20071017AKG), and TO GRANT the application of Jonesboro Seventh-Day Adventist Church (File No. BNPED-20071022AVI) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

144. **Group 11.** Accordingly, IT IS ORDERED, That Speak Onit Radio, Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Forrest City, Arkansas and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of De Mujer A Mujer International (File No. BNPED-20071022AGH) and Appalachian Performing Arts Institute, Inc. (BNPED-20071012ATK), and TO GRANT the application of Speak Onit Radio, Inc. (File No. BNPED-20071018ADM) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

145. **Group 15.** Accordingly, IT IS ORDERED, That Arizona Western College is TENTATIVELY SELECTED to be awarded a permit to construct a new NCE FM station at Parker, Arizona and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of Treehouse One, Inc (File No. BNPED-20071022BSP) and TO GRANT the application of Arizona Western College (File No. BNPED-20071018ACI) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

146. **Group 18.** Accordingly, IT IS ORDERED, That Centro De Intercession Y Adoracion International, Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Helendale, California and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Faith Communications Corp. (File No. BNPED-20071015AAR) and Norco Cornerstone Ministries, Inc. (File No. BNPED-20071012AHG) and TO GRANT the application of Centro De Intercession Y Adoracion International, Inc. (File No. BNPED-20071022AIP) CONDITIONED UPON that selectee's

compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

147. **Group 19.** Accordingly, IT IS ORDERED, That Borrego Springs Christian Center is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Borrego Springs, California and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of State of California, San Diego State University (File No. BNPED-20071018AVI) and TO GRANT the application of Borrego Springs Christian Center (File No. BNPED-20071012ASL) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system PROVIDED THAT, pursuant to a waiver of Section 73.860(a) of the Commission's Rules, 47 C.F.R. § 73.860(a), Borrego Springs Christian Center must divest or surrender its license for LPFM station KKJD-LP, Borrego Springs, California prior to commencement of program tests of the full service NCE FM station.

148. **Group 22.** Accordingly, IT IS ORDERED, That Western Inspirational Broadcasters, Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Big Pine, California and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of Nevada-Utah Conference of Seventh-Day Adventists (BNPED-20071016AJE) and TO GRANT the application of Western Inspirational Broadcasters, Inc. (File No. BNPED-20071015AHY) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and ALSO CONDITIONED UPON surrender of its FM translator K208BS, Bishop, California upon the commencement of operation of the proposed full service station.

149. **Group 25.** Accordingly, IT IS ORDERED, That Pataphysical Broadcasting Foundation, Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Ben Lomond, California and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Eschaton Foundation (BNPED-20071022AOS) and of Calvary Chapel Santa Cruz (BNPED-20071022AXV) and TO GRANT the application of Pataphysical Broadcasting Foundation, Inc. (File No. BNPED-20071017AAV) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and ALSO CONDITIONED UPON surrender of its FM translator station K207CN, Santa Cruz, California upon the commencement of operation of the proposed full service station.

150. **Group 26.** Accordingly, IT IS ORDERED, That Iglesia de Dios, El Cuerpo de Cristo is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Nipomo, California and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of Calvary Chapel of Santa Barbara (BNPED-20071022AYX) and TO GRANT the application of Iglesia de Dios, El Cuerpo de Cristo (File No. BNPED-20071017AES) CONDITIONED UPON that selectee's compliance with

Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

151. **Group 29.** Accordingly, IT IS ORDERED, That Centro Cristiano Vida Abundante is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in San Simeon, California and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of Gospel Spots, Inc. (BNPED-20071022AAG) and TO GRANT the application of Centro Cristiano Vida Abundante (File No. BNPED-20071018ABC) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

152. **Group 30.** Accordingly, IT IS ORDERED, That Iglesia de Jesucristo en King City, CA is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in San Lucas, California and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of Iglesia Alto Refugio (File No. BNPED-20071022ADN) and TO GRANT the application of Iglesia de Jesucristo en King City, CA (File No. BNPED-20071018AEC) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

153. **Group 31.** Accordingly, IT IS ORDERED, That Free Mind Media is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Bodega Bay, California and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of One Ministries, Inc. (File No. BNPED-20071018AIK) and Rural California Broadcasting Corporation (File No. BNPED-20071019BFM) and TO GRANT the application of Free Mind Media (File No. BNPED-20071022APU) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

154. **Group 34.** Accordingly, IT IS ORDERED, That Peace and Justice Network of San Joaquin is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Tracy, California and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of Centro Palebra de Fe Church (File No. BNPED-20071018AUS) and TO GRANT the application of Peace and Justice Network of San Joaquin (File No. BNPED-20071022AOK) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

155. **Group 35.** Accordingly, IT IS ORDERED, That Santa Clarita Organization for Planning The Environment is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Acton, California and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's

application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of Centro Palebra de Fe Church (File No. BNPED-20071018AUX) and TO GRANT the application of Santa Clarita Organization for Planning The Environment (File No. BNPED-20071022AOT) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

156. **Group 36.** Accordingly, IT IS ORDERED, That St. Paul Cultural Broadcasting, Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Huron, California and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of New Wine Church of San Antonia (File No. BNPED-20071022ACU), Iglesia Alto Refugio (File No. BNPED-20071022ADS), and Centro Cristiano Sion (File No. BNPED-20071018AWP), and TO GRANT the application of St. Paul Cultural Broadcasting, Inc. (File No. BNPED-20071022BAM), CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

157. **Group 38.** Accordingly, IT IS ORDERED, That IHR Educational Broadcasting is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Fort Dick, California and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of the State of Oregon, Acting by The Oregon State Board of Higher Education for Southern Oregon University (File No. BNPED-20071018DEO) and TO GRANT the application of IHR Educational Broadcasting (BNPED-20071022DXP) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

158. **Group 44.** Accordingly, IT IS ORDERED, That San Miguel Educational Fund is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Ridgway, Colorado and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of Academy Media, Inc. (File No. BNPED-20071018AWW) and TO GRANT the application of San Miguel Educational Fund (BNPED-20071018AQX) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

159. **Group 49.** Accordingly, IT IS ORDERED, That Central Florida Educational Foundation is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Indian Lakes, Florida and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of Central Educational Broadcasting, Inc. (File No. BNPED-20071012ABB) and TO GRANT the application of Central Florida Educational Foundation (File No. BNPED-20071022AYG) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47



C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

160. **Group 50.** Accordingly, IT IS ORDERED, That Westminster Academy is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Eastpoint, Florida and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of Christian Radio Media, Inc. (File No. BNPED-20071012DYI) and TO GRANT the application of Westminster Academy (File No. BNPED-20071019AZY) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

161. **Group 52.** Accordingly, IT IS ORDERED, That Faith and Action Community Outreach is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in White Springs, Florida and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days thereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Call Communications Group, Inc. (File No. BNPED-20071019ADJ) and Florida Urban Radio Network Association (File No. BNPED-20071019AYM) and TO GRANT the application of Faith and Action Community Outreach (File No. BNPED-20071015AET) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

162. **Group 53.** Accordingly, IT IS ORDERED, That De Mujer A Mujer International is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Medart, Florida and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days thereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of North State Educational Broadcasting (File No. BNPED-20071018AVM) and Community Radio Foundation of Florida (File No. BNPED-20071015AIN) and TO GRANT the application of De Mujer A Mujer International (File No. BNPED-20071022AGQ) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

163. **Group 54.** Accordingly, IT IS ORDERED, That Central Florida Educational Foundation is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Pierson, Florida and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days thereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Community Public Radio, Inc. (File No. BNPED-20071015DMF), Remember When Public Radio, Inc. (File No. BNPED-20071016AAC), and Westminster Academy (File No. BNPED-20071022BLX) and TO GRANT the application of Central Florida Educational Foundation (File No. BNPED-20071022AZP) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and also provides that an applicant receiving a Section 307(b) preference that is decisive over another applicant must operate technical facilities substantially as proposed for a period of four years of on-air operations.

164. **Group 55.** Accordingly, IT IS ORDERED, That Faith Baptist Church of Fort Pierce, Florida is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Taylor Creek, Florida and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days thereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Emmaus Broadcasting Service (File No. BNPED-20071019ATK) and Westminster Academy (File No. BNPED-20071022BLK) and TO GRANT the application of Faith Baptist Church of Fort Pierce, Florida (File No. BNPED-20071018AKI) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and also provides that an applicant receiving a Section 307(b) preference that is decisive over another applicant must operate technical facilities substantially as proposed for a period of four years of on-air operations PROVIDED THAT pursuant to a waiver of Section 73.860(a) of the Commission's Rules, 47 C.F.R. § 73.860(a), Faith Baptist Church of Fort Pierce Florida must divest or surrender its license for LPFM station WBOF-LP, Fort Pierce, Florida prior to commencement of program tests of the full service NCE FM station.

165. **Group 60.** Accordingly, IT IS ORDERED, That Victor Broadcasting, Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Dahlonga, Georgia and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days thereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of the Immanuel Broadcasting Network (File No. BNPED-20071018ASL) and TO GRANT the application of Victor Broadcasting, Inc. (File No. BNPED-20071012AAR) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

166. **Group 63.** Accordingly, IT IS ORDERED, That Georgia Public Telecommunications Commission is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Pelham, Georgia and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days thereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of the Positive Radio Network (File No. BNPED-20071012AQD) and TO GRANT the application of Georgia Public Telecommunications Commission (File No. BNPED-20071019BAV) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

167. **Group 70.** Accordingly, IT IS ORDERED, That Hurao, Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Agana, Guam and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days thereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of Marianas Educational Media Services, Inc. (File No. BNPED-20071019AFM), and TO GRANT the application of Hurao, Inc. (File No. BNPED-20071022BTB) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

168. **Group 73.** Accordingly, IT IS ORDERED, That Iowa Lakes Community College is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Algona, Iowa and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days thereafter

for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of Refuge Media Center (File No. BNPED-20071015ALK), and TO GRANT the application of Iowa Lakes Community College (File No. BNPED-20071017AGH) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

169. **Group 74.** Accordingly, IT IS ORDERED, That the Iowa State University of Science and Technology is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Sioux City, Iowa and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of American Family Association (File No. BNPED-20071015DMM) and TO GRANT the application of Iowa State University of Science and Technology (File No. BNPED-20071018AIB) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

170. **Group 81.** Accordingly, IT IS ORDERED, That Wood River Community YMCA is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Ketchum, Idaho and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Calvary Chapel of Twin Falls, Inc. (BNPED-20071016AIA) and Tighrope Broadcasting, Inc. (BNPED-20071022BOC) and TO GRANT the application of Wood River Community YMCA (File No. BNPED-20071019ARB) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

171. **Group 82.** Accordingly, IT IS ORDERED, That the Idaho Community Action Network is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Burley, Idaho and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of Brigham Young University – Idaho (File No. BNPED-20071019AIR) and TO GRANT the application of the Idaho Community Action Network (File No. BNPED-20071016AIN) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005 which sets forth a four-year holding period for applicants that are awarded permits by use of a point system

172. **Group 83.** Accordingly, IT IS ORDERED, That Radio Free Moscow, Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Moscow, Idaho and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days thereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Fire Media Corporation (File No. BNPED-20071022BDP) and Country Roots Preservation Group (File No. BNPED-20071022AEY) and TO GRANT the application of Radio Free Moscow (File No. BNPED-20071018BDS) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that

are awarded permits by use of a point system, PROVIDED THAT pursuant to a waiver of Section 73.860(a) of the Commission's Rules, 47 C.F.R. § 73.860(a), Radio Free Moscow must divest or surrender its license for LPFM station KRFP-LP, Moscow, Idaho prior to commencement of program tests of the full service NCE FM station.

173. **Group 87.** Accordingly, IT IS ORDERED, That Covenant Network is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Harrisburg, Illinois and that its application is ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of Iglesia Jesucristo Es Mi Refugio de Austin (File No. BNPED-20071022ACX) and TO GRANT the application of Covenant Network (File No. BNPED-20071018AWL) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

174. **Group 90.** Accordingly, IT IS ORDERED, That In the Dwelling Place is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Irondale, Illinois and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of JKJ Educational Foundation (File No. BNPED-20071022ALC) and TO GRANT the application of In the Dwelling Place (File No. BNPED-20071022BOO) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

175. **Group 92.** Accordingly, IT IS ORDERED, That Electronic Applications Radio Service, Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Tell City, Indiana and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Good Samaritan Educational Radio, Inc. (File No. BNPED-20071015ADX) and Music Ministries, Inc. (File No. BNPED-20071022BPN) and TO GRANT the application of Electronic Applications Radio Service, Inc. (File No. BNPED-20071012AQC) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

176. **Group 93.** Accordingly, IT IS ORDERED, That the 601 Reed Road Corporation is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Woodburn, Indiana and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Friends of Radio Maria, Inc. (File No. BNPED-20071019BBZ), Harvest Christian Fellowship, Inc. (File No. BNPED-20071015AGM), and The Helpline File No. BNPED-20071019BCH), and TO GRANT the application of the 601 Reed Road Corporation (File No. BNPED-20071022AXF) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

177. **Group 94.** Accordingly, IT IS ORDERED, That Club 1915, Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Edon, Ohio and its

application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of Harvest Christian Church Fellowship, Inc. (File No. BNPED-20071015AGN) and TO GRANT the application of Club 1915, Inc. (File No. BNPED-20071022AXX) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

178. **Group 97.** Accordingly, IT IS ORDERED, That Templo Apostoles y Profetas Bethel is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Bridgeport, Kansas and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Great Plains Christian Radio (File No. BNPED-20071018AJV), and Family Stations, Inc. (File No. BNPED-20071022ALE), and TO GRANT the application of Templo Apostoles y Profetas Bethel (File No. BNPED-20071018BBK) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

179. **Group 99.** Accordingly, IT IS ORDERED, That California Association for Research and Education is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Upton, Kentucky and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Bethel Fellowship (File No. BNPED-20071018AUM) and Bowling Green Community Broadcasting, Inc. (BNPED-20071012AQB), and TO GRANT the application of California Association for Research and Education (File No. BNPED-20071022BUZ) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

180. **Group 102.** Accordingly, IT IS ORDERED, That Network of Glory, LLC. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Simmesport, Louisiana and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of Port Allen Educational Broadcasting Foundation (BNPED-20071012AGH) and TO GRANT the application of the Network of Glory, LLC (File No. BNPED-20071019AEK) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

181. **Group 103.** Accordingly, IT IS ORDERED, That Neighborhood Improvement Coalition Acorn is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Moss Bluff, Louisiana and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of McNeese State University (BNPED-20071022BBJ) and TO GRANT the application of Neighborhood Improvement Coalition Acorn (File No. BNPED-20071022AJV) CONDITIONED UPON that selectee's

compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

182. **Group 104.** Accordingly, IT IS ORDERED, That Family Life Educational Foundation is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Minden, Louisiana and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Iglesia Cristiana Ebenezer (BNPED-20071018AZL) and Family Worship Center Church, Inc. (BNPED-20071019AIE), and TO GRANT the application of Family Life Educational Foundation (File No. BNPED-20071015AFG) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and also provides that an applicant receiving a Section 307(b) preference that is decisive over another applicant must operate technical facilities substantially as proposed for a period of four years of on-air operations.

183. **Group 105.** Accordingly, IT IS ORDERED, That Enterprise Corp of the Delta is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Alexandria, Louisiana and that its application is ACCEPTED FOR FILING establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application filed by Allegheny East Conference Corp of Seventh-Day Adventists (File No. BNPED-20071015AKG) and TO GRANT the application of Enterprise Corp of the Delta (File No. BNPED-20071019AWC) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

184. **Group 110.** Accordingly, IT IS ORDERED, That Berkshire Community Radio Alliance is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Great Barrington, Massachusetts and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of University of Massachusetts (File No. BNPED-20071019AMD) and Home Improvement Ministries (File No. BNPED-20071022BFY), and TO GRANT the application of Berkshire Community Radio Alliance (File No. BNPED-20071019AOR) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and also provides that an applicant receiving a Section 307(b) preference that is decisive over another applicant must operate technical facilities substantially as proposed for a period of four years of on-air operations PROVIDED THAT pursuant to a waiver of Section 73.860(a) of the Commission's Rules, 47 C.F.R. § 73.860(a), Berkshire Community Radio Alliance must divest or surrender its license for LPFM station WBCR-LP, Great Barrington, Massachusetts, prior to commencement of program tests of the full service NCE FM station.

185. **Group 113.** Accordingly, IT IS ORDERED, That Edinboro Early School is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Ocean City, Maryland and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Priority Radio, Inc. (File No. BNPED-20071012AJG), Allied Communications Network Two (File No. BNPED-20071022AEI), and Allegheny East Conference Corp of Seventh-Day Adventists (File No. BNPED-

20071018ADB), and TO GRANT the application of Edinboro Early School (File No. BNPED-20071012AJU) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system PROVIDED THAT pursuant to a waiver of Section 73.860(a) of the Commission's Rules, 47 C.F.R. § 73.860(a), Edinboro Early School must divest or surrender its license for LPFM station WEES-LP, Ocean City, Maryland, prior to commencement of program tests of the full service NCE FM station.

186. **Group 114.** Accordingly, IT IS ORDERED, That Hope Christian Church of Marlton, Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Rising Sun, Maryland and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Allied Communications Network Two (File No. BNPED-20071015ABS) and Trinity Radio, Inc. (File No. BNPED-20071018AQW) and TO GRANT the application of Hope Christian Church of Marlton, Inc. (File No. BNPED-20071022BFP) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

187. **Group 116.** Accordingly, IT IS ORDERED, That Fraternal Building Association, Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Madawaska, Maine and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Northern Broadcast Ministries (File No. BNPED-20071018AXA), Appalachian Performing Arts Institute (File No. BNPED-20071012AKK), and University of Maine System (File No. BNPED-20071019BAI), and TO GRANT the application of Fraternal Building Association, Inc. (File No. BNPED-20071018ATC) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and also provides that an applicant receiving a Section 307(b) preference that is decisive over another applicant must operate technical facilities substantially as proposed for a period of four years of on-air operations.

188. **Group 118.** Accordingly, IT IS ORDERED, That, Sanford Fraternal Association is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in York, Maine and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Highland Community Broadcasting (File No. BNPED-20071018AAV), Appalachian Performing Arts Institute (File No. BNPED-20071012AOW), and Granite State Educational Fellowship (File No. BNPED-20071019AYF) and TO GRANT the application of Sanford Fraternal Association (File No. BNPED-20071018ARK) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and also provides that an applicant receiving a Section 307(b) preference that is decisive over another applicant must operate technical facilities substantially as proposed for a period of four years of on-air operations.

189. **Group 120.** Accordingly, IT IS ORDERED, That Native American Radio Project is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Littleton, Maine and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days

hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of Light of Life Ministries, Inc. (File No. BNPED-20071018AYR) and TO GRANT the application of Native American Radio Project (File No. BNPED-20071018AXR) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

190. **Group 129.** Accordingly, IT IS ORDERED, That Minnesota Public Radio is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Grand Rapids, Minnesota and its application is ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of VCY America, Inc. (File No. BNPED-20071012ADE) and TO GRANT the application of Minnesota Public Radio (File No. BNPED-20071016AHL) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

191. **Group 130.** Accordingly, IT IS ORDERED, That Religious Information Network is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Newport, Minnesota and its application is ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Pensacola Christian College, Inc. (File No. BNPED-20071018DEY) and Smooth Tones Radio, Inc. (File No. BNPED-20071012AHM) and TO GRANT the application of Religious Information Network (File No. BNPED-20071017ADF) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

192. **Group 135.** Accordingly, IT IS ORDERED, That Pioneer Public Broadcasting Company, Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Hawley, Minnesota and its application is ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of We Have This Hope Christian Radio, Inc. (File No. BNPED-20071022AWA) and Alliance for the Arts and Humanities (File No. BNPED-20071018ARB) and TO GRANT the application of Pioneer Public Broadcasting Company, Inc. (File No. BNPED-20071019AWR) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and must for that time period provide service to the community of Hawley, which formed the basis for its proceeding to a point hearing following the elimination of an applicant for a different community.

193. **Group 138.** Accordingly, IT IS ORDERED, That Curators, University of Missouri is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Warrenton, Missouri and its application is ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of Missouri River Christian Broadcasting, Inc. (File No. BNPED-20071012AFF) and TO GRANT the application of Curators, University of Missouri (File No. BNPED-20071018AIM) CONDITIONED UPON that



selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

194. **Group 147.** Accordingly, IT IS ORDERED, That The World Crisis Solutions Foundation, Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Hamilton, Montana and its application is ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Missoula Community Radio (File No. BNPED-20071018AMB) and Bitterroot Valley Calvary Chapel (File No. BNPED-20071019AUI), and TO GRANT the application of The World Crisis Solutions Foundation, Inc. (File No. BNPED-20071018AHJ) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

195. **Group 149.** Accordingly, IT IS ORDERED, That Miles City Seventh-Day Adventist Church is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Miles City, Montana and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of Western Family Television, Inc. (File No. BNPED-20071019AMP) and TO GRANT the application of Miles City Seventh-Day Adventist Church (File No. BNPED-20071022BGS) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

196. **Group 151.** Accordingly, IT IS ORDERED, That Pearl Communications Group is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Beaufort, North Carolina and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of Mineral Springs Public Radio, Inc. (File No. BNPED-20071012AFT) and TO GRANT the application of Pearl Communications Group (File No. BNPED-20071022BKI) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

197. **Group 153.** Accordingly, IT IS ORDERED, That Western North Carolina Public Radio, Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Murphy, North Carolina and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of Corporation for Radio Education, Inc. (File No. BNPED-20071012AGL) and TO GRANT the application of Western North Carolina Public Radio (File No. BNPED-20071017AIC) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

198. **Group 155.** Accordingly, IT IS ORDERED, That the November 2009 Settlement Agreement between Calvary Chapel of Rocky Mount and Roanoke Valley Communications, Inc. IS DENIED. IT IS FURTHER ORDERED, That Calvary Chapel of Rocky Mount is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Oak City, North Carolina

and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Positive Alternative Radio, Inc. (File No. BNPED-20071015AEI) and Roanoke Valley Communications, Inc. (File No. BNPED-20071022AVD) and TO GRANT the application of Calvary Chapel of Rocky Mount (File No. BNPED-20071019ABI) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

199. **Group 158.** Accordingly, IT IS ORDERED, That the application of Liberty University, Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Calypso, North Carolina and its application is ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Immanuel Broadcasting Network (File No. BNPED-20071019BAQ) and Board of Trustees, University of North Carolina, Chapel Hill (File No. BNPED-20071019APE) and TO GRANT the application of Liberty University, Inc. (File No. BNPED-20071018ACJ) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and also provides that an applicant receiving a Section 307(b) preference that is decisive over another applicant must operate technical facilities substantially as proposed for a period of four years of on-air operations.

200. **Group 159.** Accordingly, IT IS ORDERED, That Athens Christian Radio, Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Robbins, North Carolina and its application IS ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of Airwaves for Jesus, Inc. (File No. BNPED-20071022ATZ) and TO GRANT the application of Athens Christian Radio, Inc. (File No. BNPED-20071015ACG) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

## APPENDIX

### Noncommercial Educational Groups

1. The Appendix consists of a chart and this explanatory text. The chart lists each proceeding by group number. Boldface type is used to designate the applicant or applicants in each group that the Commission has tentatively selected to receive a construction permit.

2. An entry of “n/a” in the Appendix’s Section 307(b) column indicates that Section 307(b) principles are not applicable to that mutually exclusive application, typically because each of the applicants in the group proposed to serve the same community. We also used this “n/a” designation for defective submissions, which were eliminated from the group prior to our consideration of Section 307(b) factors. When applicants propose service to different communities, the Appendix identifies each applicant’s eligibility for Section 307(b) consideration with a “yes” or “no” entry.

<sup>1</sup> Where applicable, the Appendix lists the population which each applicant claims would receive a new first service or aggregated first and second service. The Appendix includes population numbers only to the extent that such information is material to the analysis. For example, if no applicant in a group claimed a preference based on first service alone, the Appendix does not report specific first service data. If an applicant provided numbers but did not claim and/or qualify for a preference, the chart notes either <10 % or <2,000, to indicate that the number of people served was less than 10 percent of the population or fewer than 2,000 people. Such data would be included in the aggregated first and second service numbers, if the applicants claimed a preference on that basis. If an applicant is eliminated on the basis of a Section 307(b) analysis, that outcome is noted as “Elim on 307b” in the Appendix.

3. With respect to points, the Appendix to this Order places three points in the “Established Local Applicant” column, two points in the “Diversity of Ownership” column, and two points in the “Statewide Network” column of each applicant claiming eligibility for such points. In cases where an applicant claimed points, but failed to satisfy the respective requirements for receipt of such points, the Appendix lists the points claimed followed in parenthesis by the points credited. For example, an applicant that claimed two points for diversity of ownership, but which did not submit any documentation in support of its claim would have the notation 2(0) in the diversity of ownership column, *i.e.*, it claimed two points but received none. A note “no d exh” or “defect d exh” in the notes column would indicate that the applicant did not support its diversity claim, either because it submitted no exhibit or because an exhibit was deemed defective for lack of the most basic information necessary. Similar notes, of “no l exh” and “no s exh” indicate a lack of support for a local applicant and statewide network claim, respectively. An applicant may receive zero, one, or two points in the Best Technical Parameters column depending upon the size of the area and population to be covered by its proposed station as compared to the other proposals in its group. In the case of a tie, the Appendix lists any tiebreaker factors considered including the number of attributable authorizations and/or applications reported by each tied applicant. The lowest number value for pending applications is “one” because the subject application is included in the calculation. Some applicants erroneously claimed zero pending applications. These applicants have the notation 0(1) in the tie-breaker column, thus specifying that they claimed zero applications but are considered to have one application for purposes of the tie-breaker. Any applications that did not proceed to a tiebreaker because they were entitled to fewer points than the tied applicants are designated with the note “Elim Points.”

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<sup>1</sup> The “no” designation is used when applicants propose to serve different communities, but each certifies that it would not qualify for a Section 307(b) preference because it would not provide a new first or second service to ten percent of the population or more than 2,000 people within its respective service area.

4. Notes are also used to describe certain application characteristics. For example, the note “Trans Divest” is used to identify applicants which excluded existing translators from their diversity showings by pledging to request cancellation of the translator upon commencement of full service operations. The note “LPFM Divest” is used to denote applicants that excluded existing LPFM stations that would be divested. This field may also indicate that an applicant made an alternative diversity showing (“alt div show”), or attempted to amend its original comparative claim (“orig said no”; “used lowest #s”).

5. Finally, the Appendix contains a “See Text” column which refers the reader to a section or footnote within the text, typically in connection with a listed note. References to textual discussion are generally reserved for applications with omissions, errors, novel arguments, or which required consideration of rule waivers. The “See Text” column is blank for most applications because the applicants did not raise issues that required an analysis of these types of issues. This column is also used for miscellaneous notes.