



Federal Communications Commission
Washington, D.C. 20554
April 27, 2007

In Reply Refer To:
1800B3-ALV

Mr. Carl John Sims
I.G.W.T. Community Radio, Inc.
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In Re: I.G.W.T. Community Radio, Inc.
NEW (NCE FM), Jackson, MO
Facility ID No. 86622
BPED-19970508MD

American Family Association
NEW (NCE FM), Benton, MO
Facility ID No. 84495
BPED-19961129MN

Group No. 961122

Dear Applicants:

We have before us Group 961122 – two mutually exclusive applications for permits to construct new noncommercial educational (“NCE”) FM stations serving different communities. In such situations, the rules require the Commission to make a threshold determination as to whether grant of any of the applications would further the fair, efficient, and equitable distribution of radio service among communities.¹ For the reasons below, we determine that I.G.W.T. Community Radio, Inc. (“IGWT”) is entitled to a decisive Section 307(b) preference.

An NCE FM applicant is eligible to receive a Section 307(b) preference if it would provide a first or second reserved channel NCE aural service (in the aggregate) to at least ten percent of the population, provided that this constitutes at least 2,000 people, within the proposed station’s predicted 60 dBu contour.² If more than one applicant in a mutually exclusive group qualifies for a preference, we compare

¹ See 47 U.S.C. § 307(b); 47 C.F.R. § 73.7002(a).

² See 47 C.F.R. § 73.7002(b). With respect to population data, the Media Bureau directed applicants to use 2000 Census data, if available by June 4, 2001. See *Supplements and Settlements to Pending Closed Groups of Noncommercial Educational Broadcast Applications Due by June 4, 2001*, Public Notice, 16 FCC Rcd 6893 (MB Mar. 22, 2001). The “fair distribution” analysis for applications filed under former licensing procedures is based on technical proposals pending on the “snap shot” date of June 4, 2001. Amendments after this date that diminish the applicant’s comparative position are also considered. In this case, neither of the applicants has made such

(footnote continued...)

first service population coverage totals.³ An applicant will receive a dispositive fair distribution preference by proposing to serve at least 5,000 more potential listeners than the next highest applicant's first service total, assuming that the applicant proposes first service to at least ten percent of the population.⁴ If no applicant is entitled to a first service preference, we consider combined first and second service population totals and apply the same 5,000 listener, and ten percent of the population thresholds.

In the present group, IGWT would serve Jackson, Missouri, and American Family Association ("AFA") would serve Benton, Missouri. Each applicant claims that it would provide a new first or second NCE service to 10 percent of the population, and to at least 2,000 people, within its respective service area, and therefore, that it is eligible for a fair distribution preference. Both IGWT and AFA also assert that they are entitled to a first service preference.⁵ However, based on the applicants' submissions and calculations, neither applicant qualifies for a first service comparative preference. Accordingly, we consider whether IGWT or AFA would provide combined first and second service to 5,000 more persons than the other applicant. IGWT claims to provide a first or second service to 98,975 people (18,396 first service plus 80,579 second service). AFA claims to provide a first or second service to 34,401 people (18,178 first service plus 16,223 second service). Accordingly, pursuant to Section 73.7004 of the Commission's Rules, we identify IGWT as the tentative selectee. Group 961122 thus will not proceed to a point hearing.⁶

Accordingly, IT IS ORDERED, That I.G.W.T. Community Radio, Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Jackson, Missouri. Petitions to deny the application of the tentative selectee are due within thirty (30) days of public notice announcing the tentative selection of the IGWT application.⁷ 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 will, by public notice, dismiss the mutually exclusive application of American Family Association (File No. BPED-19961129MN) and grant the application of I.G.W.T. Community Radio, Inc.

engineering changes. In addition, each applicant timely supplemented its application with a Section 307(b) showing; each purports to be based on 2000 Census data and an application "snap shot" date of June 4, 2001.

³ See 47 C.F.R. § 73.7002(b). See also *Deadline for NCE Settlements and Supplements Extended to July 19, 2001; Date for Calculating Comparative Qualifications Remains June 4, 2001*, Public Notice, 16 FCC Rcd 10892, 10893 (MB May 24, 2001).

⁴ *Id.*


⁵ IGWT claims to provide 18,396 people with new first service. AFA claims to provide 18,178 people with new first service.

⁶ See 47 C.F.R. § 73.7002(b). The Media Bureau has delegated authority to make 307(b) determinations in NCE cases. See *Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, Report and Order, 15 FCC Rcd 7386 (2000), partially reversed on other grounds, *NPR v. FCC*, 254 F.3d 226 (DC Cir. 2001) ("*NCE Order*"). See also 47 C.F.R. § 0.283. In the *NCE Order*, the Commission concluded that "[i]n examining the fair distribution issues, we will use the general process set forth in the Section of our Competitive Bidding proceeding that addressed Section 307(b) considerations for AM stations." See *NCE Order*, 15 FCC Rcd at 7397 (citing *Comparative Bidding for Commercial Broadcasting and Instructional Television Fixed Services*, First Report and Order, 13 FCC Rcd 15920 (1998) (delegating authority to the staff to conduct Section 307(b) analyses with respect to AM applications prior to conducting auctions of competing applications)). In contrast, the *NCE Order* noted that the point system analysis conducted when Section 307(b) is not determinative is considered a simplified "hearing" for purposes of 47 U.S.C. § 155(c)(1). See *NCE Order*, 15 FCC Rcd at 7420.

⁷ See 47 C.F.R. § 73.7004. If any applicant previously raised issues against the tentative selectee, it must refile its objections within this thirty (30) day period.

(File No. BPED-19970508MD).

Sincerely,


Peter H. Doyle
Chief, Audio Division
Media Bureau