



Federal Communications Commission  
Washington, D.C. 20554

June 1, 2006

**DA 06-1169**  
In Reply Refer To:  
1800B3-ALV  
Released: June 1, 2006

Jacqueline Dearing  
Bloomington Normal Broadcasting Corp.  
16410 N. 800 E. Road  
Bloomington, IL 61704

Richard Crawford  
Pinebrook Foundation, Inc.  
1708 Highview Road  
East Peoria, IL 61611

Patrick Vaughn, Esq.  
American Family Association  
P.O. Drawer 2440  
Tupelo, MS 38803

In Re: Bloomington Normal Broadcasting Corporation  
NEW (NCE FM), Bloomington, Illinois  
Facility ID No. 93641  
BPED-19990602MS

American Family Association  
NEW (NCE FM), Gridley, Illinois  
Facility ID No. 93529  
BPED-19990601MA

Pinebrook Foundation, Inc.  
NEW (NCE FM), Gridley, Illinois  
Facility ID No. 91072  
BPED-19980702MB

Applications for NCE FM Construction Permits

**Group No. 980715**

Dear Applicants:

We have before us Group 980715 – three 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.<sup>1</sup> For the reasons below, we determine that Bloomington Normal Broadcasting Corporation (“BNBC”) 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

---

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

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 60 dBU contour.<sup>2</sup> If more than one applicant in a mutually exclusive group qualifies for a preference, we compare first service population coverage totals.<sup>3</sup> 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.<sup>4</sup> 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 threshold.

In the present group, BNBC would serve Bloomington, Illinois, American Family Association ("AFA") would serve Gridley, Illinois, and Pinebrook Foundation, Inc. ("PFI") would serve Gridley, Illinois. 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.<sup>5</sup> Only BNBC and AFA, however, assert that they are entitled to a first service preference.<sup>6</sup> Based on the applicants' submissions and calculations, it appears that BNBC will provide a new first service to at least 5,000 more people than AFA and therefore qualifies for a first service comparative preference. Accordingly, pursuant to Section 73.7004 of the Commission's rules, we identify BNBC as the tentative selectee. Group 980715 thus will not proceed to a point hearing.<sup>7</sup>

Accordingly, IT IS ORDERED, That the application of Bloomington Normal Broadcasting Corporation is accepted for filing. It is also ordered that Bloomington Normal Broadcasting Corporation

---

<sup>2</sup> See 47 C.F.R. § 73.7002(b). With respect to population information, applicants were to use the 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). Applicants were also to base their "fair distribution" analysis on the "snap shot" date of June 4, 2001, which is applicable unless the applicant subsequently makes engineering changes that would diminish its comparative position. *Id.* In this case, none of the applicants has made such 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 a "snap shot" date of June 4, 2001.

<sup>3</sup> 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).

<sup>4</sup> *Id.*

<sup>5</sup> BNBC's 60 dBU contour encompasses 148,970 people. BNBC's claimed aggregated first and second service is 28,370 people. AFA's 60 dBU contour encompasses 8,615 people. AFA's claimed aggregated first and second service is 6,168 people. PFI's 60 dBU contour encompasses 121,220 people. PFI's claimed aggregated first and second service is 19,165.

<sup>6</sup> BNBC claims to provide 22,593 people with new first service. AFA claims to provide 2,790 people with new first service.

<sup>7</sup> 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*, 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*, 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.

is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Bloomington, Illinois. Petitions to deny the tentative selectee are due within thirty (30) days following the issuance of a subsequently issued public notice announcing the acceptance and tentative selection of this application.<sup>8</sup> 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 other mutually exclusive applications and grant the application of Bloomington Normal Broadcasting Corporation (File No. BPED-19990602MS).

Sincerely,

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

cc: J. Geoffrey Bentley, Esq.  
Paul Brown, Esq.

---

<sup>8</sup> 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.