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In Re: New Life Evangelistic Center, Inc.
NEW (NCE FM), Bowling Green, Missouri
Facility ID No. 91919
BPED-19981020MC

Missouri River Christian Broadcasting, Inc.
NEW (NCE FM), Troy, Missouri
Facility ID No. 89852
BPED-19980126MC

Applications for NCE FM Construction Permits

Group No. 981014

Dear Applicants:

We have before us Group 981014 – 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 either of the applications would further the fair, efficient, and equitable distribution of radio service among communities.¹ For the reasons below, we determine that New Life Evangelistic Center, Inc. (“New Life”) 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 60 dBu contour.² If

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 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).

more than one applicant in a mutually exclusive group qualifies for a preference, we compare 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.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 threshold.

In the present group, New Life would serve Bowling Green, Missouri, and Missouri River Christian Broadcasting, Inc. ("Missouri River") would serve Troy, 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.⁵ Each applicant also asserts that it is entitled to a first service preference.⁶ Neither applicant, however, will provide new first service to 5,000 more people than the other applicant. Therefore, neither applicant qualifies for a first service comparative preference. Accordingly, we consider whether New Life or Missouri River would provide combined first and second service to 5,000 more people than the other applicant. Based on the applicants' submissions and calculations, New Life would provide a first or second service to 24,562 people (17,792 first service plus 6,770 second service). Missouri Life would provide a first or second service to 17,261 people (17,261 first service plus 0 second service). Accordingly, pursuant to Section 73.7004 of the Commission's rules, we identify New Life as the tentative selectee. Group 981014 thus will not proceed to a point hearing.⁷

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, neither 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.

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 New Life's 60 dBu contour encompasses 26,050 people. New Life's claimed aggregated first and second service is 24,562 people. Missouri River's 60 dBu contour encompasses 32,567 people. Missouri River's claimed aggregated first and second service is 17,261 people.

⁶ New Life claims to provide 17,792 people with new first service. Missouri River claims to provide 17,261 people with new first service.

⁷ 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.

Accordingly, IT IS ORDERED, That New Life Evangelistic Center, Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Bowling Green, Missouri. Petitions to deny the tentative selectee are due within thirty (30) days following the issuance of a subsequently issued public notice announcing the tentative selection of this application.⁸ 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 Missouri River Christian Broadcasting, Inc. (File No. BPED-19980126MC) and grant the application of New Life Evangelistic Center, Inc. (File No. BPED-19981020MC).

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: John Midlen, Esq.

⁸ 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.