

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

In the Matter of	)	
	)	
<b>Threshold Fair Distribution Analysis of 15 Groups of Mutually Exclusive Applications for Permits to Construct New Noncommercial Educational FM Stations</b>	)	NCE FM 2021 Window, MX Group Numbers 12, 17, 21, 52, 67, 103, 105, 108A, 119, 120, 125, 148, 175, 208, and 217
	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted: March 9, 2022**

**Released: March 9, 2022**

By the Chief, Audio Division, Media Bureau

**I. BACKGROUND**

1. The Media Bureau (Bureau) has before it for comparative consideration 15 groups of mutually exclusive (MX) applications for new noncommercial educational (NCE) FM station construction permits.<sup>1</sup> By this Memorandum Opinion and Order (Order), the Bureau performs threshold fair distribution of service analyses and identifies the tentative selectee in each group. Petitions to deny the application of any of these tentative selectees must be filed within 30 days of the date of release of this Order.<sup>2</sup>

2. The groups addressed in this Order consist of applications that were filed in November 2021, during the filing window for new NCE FM applications.<sup>3</sup> These applicants have had an opportunity to settle among themselves,<sup>4</sup> and are now subject to a simplified, comparative process codified in Part 73, Subpart K, of the Commission's rules.<sup>5</sup> During the first step of this process, the Bureau, acting pursuant to delegated authority,<sup>6</sup> uses service area population data, Tribal Priority criteria, and certifications

<sup>1</sup> On November 29, 2021, the Bureau issued a public notice identifying 231 groups of mutually exclusive NCE FM applications. *See Media Bureau Identifies Groups of Mutually Exclusive Applications Submitted in the November 2021, Filing Window for New Noncommercial Educational Stations*, MB Docket No. 20-343, Public Notice, DA 21-1476 (MB rel. Nov. 29, 2021) (*NCE MX Public Notice*). Each of the groups analyzed herein was included on the *NCE MX Public Notice*. The Bureau continues to analyze and process the remaining NCE MX groups and will release additional Orders, identifying the tentative selectees, as soon as the analyses are complete.

<sup>2</sup> *See* 47 CFR § 73.7004(b).

<sup>3</sup> *See Media Bureau Announces NCE FM New Station Application Filing Window; Window Open from November 2, 2021, to November 9, 2021*, MB Docket No. 20-343, Public Notice, 36 FCC Rcd 7449 (MB rel. April 21, 2021). The window was available for FM reserved band (channels 201-220) proposals. *See* 47 CFR § 73.501.

<sup>4</sup> *See NCE MX Public Notice* at 2-5.

<sup>5</sup> 47 CFR §§ 73.7000 – 7005.

<sup>6</sup> *See Comparative Consideration of 76 Groups of Mutually Exclusive Applications*, Memorandum Opinion and Order, 22 FCC Rcd 6101, n.16 (2007). *See also* 47 CFR §§ 0.61 and 0.283.

provided by the applicants to perform a threshold fair distribution analysis.

## II. THRESHOLD FAIR DISTRIBUTION OF SERVICE PROCEDURES

3. Section 307(b) of the Communications Act of 1934, as amended (Section 307(b)) states that the Commission must “provide a fair, efficient, and equitable distribution” of broadcast service among the states and communities.<sup>7</sup> In accordance with this directive, the Commission considers the fair distribution of service as a first, or threshold, issue in its NCE FM comparative review process.<sup>8</sup> Accordingly, when applicants in a mutually exclusive NCE FM group<sup>9</sup> propose to serve different communities, the Bureau first performs a threshold “fair distribution” analysis to ascertain whether grant of any of the applications would best further the Section 307(b) objective.<sup>10</sup> In the first step of the Section 307(b), or fair distribution, analysis, the Bureau determines whether any of the applicants in the MX group is a federally recognized Native American Tribe or Alaska Native Village proposing to serve Tribal Lands<sup>11</sup> and claims the Tribal Priority.<sup>12</sup>

4. If there is no Tribal Applicant in the MX group,<sup>13</sup> the Bureau proceeds to the second step in the Section 307(b) analysis and determines whether any applicant would provide a first or second reserved band channel NCE aural service to a substantial population (the First or Second NCE Service Preference) and compares population coverage totals.<sup>14</sup> Specifically, during this step, an NCE FM applicant is eligible to receive a fair distribution preference (or Section 307(b) preference)<sup>15</sup> if it would

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<sup>7</sup> 47 U.S.C. § 307(b).

<sup>8</sup> See 47 CFR § 73.7002; *Reexamination of Comparative Standards for Noncommercial Educational Applicants*, Report and Order, 15 FCC Rcd 7386, 7396 (2000) (*NCE Order*) (concluding that “fair distribution of stations to communities should remain a threshold issue”), Memorandum Opinion and Order, 16 FCC Rcd 5074, 5077 (2001) (*NCE MO&O*) (“when competing FM applications propose to serve different communities, a proposal would be considered best, as a threshold matter, if it would provide service to a significant unserved or underserved population”).

<sup>9</sup> Conflicting NCE FM applications, which cannot all be granted consistent with the Commission's technical rules, are considered mutually exclusive. An MX group consists of all applications which are MX to at least one other application in the group.

<sup>10</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 CFR § 73.7002(a). Applicants’ Form 2100, Schedule 340, Fair Distribution of Service certifications enable the Bureau to consider whether service to one community over the other would best achieve the Commission’s directive to distribute radio service fairly among communities.

<sup>11</sup> See 47 CFR §§ 73.7000, 73.7002(b).

<sup>12</sup> An NCE FM applicant is eligible to receive a fair distribution preference, and ultimately be awarded the construction permit, if it identifies itself as a Tribal Applicant, proposes Tribal Coverage, and proposes the first reserved channel NCE service owned by any Tribal Applicant at a community of license located on Tribal Lands (the Tribal Priority). See 47 CFR § 73.7000 (defining a “Tribal Applicant” and “Tribal Coverage”); see also 47 CFR § 73.7002(b); *Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures*, First Report and Order, 25 FCC Rcd 1583 (2010) (establishing the Section 307(b) Tribal Priority).

<sup>13</sup> None of the MX groups addressed in this Order contain a Tribal Applicant. Accordingly, the first step of the Section 307(b) analysis, the Tribal Priority analysis, is unnecessary herein.

<sup>14</sup> See 47 CFR § 73.7002(b).

provide a first or second reserved band channel NCE aural service to at least 10% of the population (in the aggregate), within the proposed station's service area, provided that the population served is at least 2,000 people. If only one applicant in an MX group qualifies for the First or Second NCE Service Preference, its "fair distribution" (Section 307(b)) preference is dispositive,<sup>16</sup> and the applicant will be awarded the construction permit.

5. If more than one applicant in the MX group claims a First or Second NCE Service Preference, the applicant proposing to provide the greatest number of people with the highest level of service will be awarded a construction permit, if it will provide such service to at least 10% of the people within the station's 60 dBu contour *and* to at least 5,000 more people than the next best applicant.<sup>17</sup> First service will be preferred over second service.<sup>18</sup> Accordingly, the Bureau first examines the applicants' first service levels alone to determine whether one of the proposals is superior and should receive a decisive preference. If such applicants are equivalent with respect to first service, or no applicant qualifies for a first service preference, the Bureau considers combined first and second NCE aural service population totals. At each stage of the Section 307(b) analysis, any applicant that is comparatively disfavored in terms of Section 307(b) eligibility or service totals is eliminated. The process ends when the Bureau determines that one applicant is entitled to a Section 307(b) preference, or that either (1) none of the remaining applicants can be selected or eliminated based on a Section 307(b) preference, or (2) each remaining applicant proposes to serve the same community. Any remaining MX applicants proposing equivalent service overall, or proposing the same community, proceed to a point system analysis.<sup>19</sup>

6. Each applicant claiming a First or Second NCE Service preference must support its fair distribution claim with an exhibit identifying the population residing within the proposed station's 60 dBu service contour and the number of people that would receive a new first or second NCE aural service.<sup>20</sup> Further, any applicant which receives a decisive Section 307(b) preference is required to construct and operate technical facilities substantially as proposed, and cannot downgrade service to the area on which the preference was based for a period of four years of on-air operations.<sup>21</sup>

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<sup>15</sup> The terms "fair distribution preference" and "Section 307(b) preference" are used interchangeably to refer to the preference given to an MX application that is deemed to substantially further the fair distribution of service goals enunciated in Section 307(b) of the Act.

<sup>16</sup> As noted, in the case of an MX group with a Tribal Applicant, an applicant qualifying for a Tribal Priority, however, will prevail over any MX applicant claiming a First or Second NCE Service Preference.

<sup>17</sup> 47 CFR § 73.7002(b).

<sup>18</sup> *Id.*

<sup>19</sup> See 47 CFR §73.7003 (point system selection procedures).

<sup>20</sup> See *id.* § 73.7002(b). Applicants were required to use the most recently available, *i.e.*, 2010 Census, population data. See *Media Bureau Announces NCE FM New Station Filing Procedures and Requirements for November 2-9, 2021, Window*, DA 21-885, at 5-7 and n.24 (MB rel. July 23, 2021) (*NCE Filing Procedures Public Notice*); FCC Form 2100, Schedule 340, Instructions for Fair Distribution of Service at 12-14. An applicant's fair distribution showing must be computed as of the time of filing (close of the filing window for applications filed prior to the window) and cannot be enhanced thereafter. See 47 CFR § 73.7003(e) and (f)(3); *NCE Filing Procedures Public Notice* at 11; *NCE MO&O*, 16 FCC Rcd at 5082-83. However, an applicant that subsequently makes engineering changes that would diminish its fair distribution position must amend its application to reflect that diminished position. See 47 CFR §§ 1.65 and 73.7003(e).

<sup>21</sup> See 47 CFR § 73.7005(b); see also 47 CFR § 73.7002(c). During this period, such applicant may make minor modifications to its authorized facilities, provided that "(i) the modification does not downgrade service to the area on which the preference was based, or (ii) any potential loss of first and second NCE service is offset by at least

### III. GROUP-BY-GROUP ANALYSES

7. This Section contains narrative descriptions of our analyses, organized sequentially by group number. Unless otherwise noted, each component of the analysis is based on information provided by each of the respective applicants.<sup>22</sup>

8. **Group 12.** In Group 12, Tony V. Hammack Ministries (TVHM) proposes to serve Ash Flat, Arkansas, and Community Broadcasting, Inc. (CBI) proposes to serve West Plains, Missouri. Each claims that it is eligible for a fair distribution preference.<sup>23</sup> Only CBI, however, asserts that it is entitled to a first NCE service preference. Accordingly, TVHM is eliminated, and CBI is the tentative selectee for Group 12.

9. **Group 17.** This group consists of two applications to serve different communities in Arizona. Advance Ministries, Inc. (AMI) proposes to serve Clifton, Arizona. Arizona Board of Regents For Benefit of University of Arizona (ABR) proposes to serve Safford, Arizona. ABR asserts that it is eligible for a fair distribution preference.<sup>24</sup> AMI does not. Accordingly, AMI is eliminated. ABR is the tentative selectee for Group 17.

10. **Group 21.** In Group 21, Advance Ministries, Inc. (AMI) proposes to serve Safford, Arizona, and Cochise Community Radio Corporation (CCRC) proposes to serve Virden, New Mexico. CCRC asserts that it is eligible for a fair distribution preference.<sup>25</sup> AMI does not. Accordingly, AMI is eliminated. CCRC is the tentative selectee for Group 21.

11. **Group 52.** This group consists of two applications to serve different communities in Florida. Vida Ministry Inc. (VMI) proposes to serve Duck Key, Florida. Ethree Group, Inc. (EGI) proposes to serve Key Colony Beach, Florida. EGI asserts that it is eligible for a fair distribution preference.<sup>26</sup> VMI does not. Accordingly, VMI is eliminated. EGI is the tentative selectee for Group 52.

12. **Group 67.** This group consists of two applications that would serve different communities in Georgia. Elijah Radio (ER) proposes to serve Danville, and Keep It Moving Ministries, Inc. (KIMM) proposes to serve Eastman. Each applicant claims that it is eligible for a fair distribution preference based

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equal first and, separately, combined first and second NCE service population gain(s), and the applicant would continue to qualify for a decisive Section 307(b) preference.”). *Id.*

<sup>22</sup> See FCC Form 2100, Schedule 340, Noncommercial Educational Station for Reserved Channel Construction Permit Application, Fair Distribution of Service certifications. An applicant responding “Yes” to any of the certification questions was required to submit an attachment with a justification for its certification.

<sup>23</sup> See File Nos. 166694 and 167050, Fair Distribution of Service Section, and associated exhibits. TVHM’s 60 dBu contour encompasses 11,194 people. TVHM’s claimed combined first and second NCE service is 10,225 people (35 first service and 10,190 second service). CBI’s 60 dBu contour encompasses 42,967 people. CBI’s claimed first NCE service is 18,384 people. Thus, TVHM and CBI would each provide first or second NCE service to more than 2,000 people and at least 10% of the population within their respective 60 dBu contours.

<sup>24</sup> See File No. 167745, Fair Distribution of Service Section, and associated exhibit. ABR’s 60 dBu contour encompasses 34,200 people. ABR’s claimed first NCE service is 4,245 people. Thus, ABR would provide first NCE service to at least 10% of the population within its 60 dBu contour and to more than 2,000 people.

<sup>25</sup> See File No. 166569, Fair Distribution of Service Section, and associated exhibit. CCRC’s 60 dBu contour encompasses 39,189 people. CCRC’s claimed first NCE service is 5,473 people. Thus, CCRC would provide first NCE service to at least 10% of the population within its 60 dBu contour and to more than 2,000 people.

<sup>26</sup> See File No. 167098, Fair Distribution of Service Section, and associated exhibit. EGI’s 60 dBu contour encompasses 11,434 people. EGI’s claimed aggregated first and second NCE service is 10,652 people. EGI, therefore, would provide a combined first and second NCE service to at least 10% of the population within its 60 dBu contour and to more than 2,000 people.

on second NCE service.<sup>27</sup> ER would provide a second NCE service to 10,364 people. KIMM provides only a map with no numbers to support its claim. Accordingly, we are unable to determine whether KIMM satisfies the 10% threshold and 2000-person minimum criteria, or to compare the size of its claim to that of ER. Therefore, KIMM is eliminated, and ER is the tentative selectee in Group 67.

13. **Group 103.** The two applications in this group would serve different communities in Kentucky. Torstrick Ministries, Inc. (TM) proposes to serve Harlan, and Appalachian Educational Communication Corporation (AECC) proposes to serve Pineville. Each claims that it is eligible for a fair distribution preference based solely on second service.<sup>28</sup> TM would provide a first or second NCE service to 11,702 people (362 first service plus 11,340 second service). AECC would provide a first or second service to 6,043 people (0 first service plus 6,043 second service). TM would provide new NCE service to at least 5,000 more people than AECC. Accordingly, TM is the tentative selectee in Group 103.

14. **Group 105.** In this group, there are two applicants that would serve different communities in Louisiana. New Horizon Christian Fellowship (NHCF) proposes to serve Abita Springs while Christwood proposes to serve Covington. Each claims that it is eligible for a fair distribution preference.<sup>29</sup> Christwood, however, is the only applicant to claim a first NCE service preference. Specifically, Christwood claims that it would provide new first NCE service to 5,427 people. Accordingly, Christwood is entitled to a first service preference and is the tentative selectee in Group 105.

15. **Group 108A.**<sup>30</sup> This group consists of two applications to serve different communities in Pennsylvania. Central Pennsylvania Christian Institute, Inc. (CPCI) proposes to serve Greensburg, Pennsylvania. Calvary Chapel Of Westmoreland County (CCWC) proposes to serve Mount Pleasant, Pennsylvania. CCWC asserts that it is eligible for a fair distribution preference.<sup>31</sup> CPCI does not. Accordingly, CPCI is eliminated. CCWC is the tentative selectee for Group 108A.

16. **Group 119.** This group consists of two applications to serve different communities in Michigan. West Central Michigan Media Ministries (West) proposes to serve Coldwater. Smile FM (Smile) proposes to serve Litchfield. Each claims that it is eligible for a fair distribution preference.<sup>32</sup>

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<sup>27</sup> See File Nos. 167252 and 167201, Fair Distribution of Service Section, and associated exhibits. ER's 60 dBu contour encompasses 96,950 people, and its claimed second NCE service is 10,364 people. These numbers reflect the smaller figures ER submitted in an amendment to its original higher fair distribution claim. Thus, ER would continue to provide second NCE service to at least 10% percent of the population within its 60 dBu contour and to more than 2,000 people. In its application, KIMM states that its 60 dBu contour encompasses 5,658 people, but neglects to specify how many people it would provide with a first or second NCE service.

<sup>28</sup> See File Nos. 166440 and 167442, Fair Distribution of Service Section, and associated exhibits. TM's 60 dBu contour encompasses 84,375 people, and its claimed aggregated first and second NCE service is 11,702 people. AECC's 60 dBu contour encompasses 21,465 people, and its claimed aggregated first and second NCE service is 6,043 people. Thus, each would provide combined first and second NCE service to at least 10% percent of the population within its respective 60 dBu contour and to more than 2,000 people.

<sup>29</sup> See File Nos. 166487 and 166866, Fair Distribution of Service Section, and associated exhibits. NHCF's 60 dBu contour encompasses 159,756 people, and its claimed aggregated first and second NCE service is 17,840 people. Christwood's 60 dBu contour encompasses 52,640 people, and its claimed first and second NCE service is 14,196 people. NHCF and Christwood would each provide first and second NCE service to at least 10% of the population within its respective 60 dBu contour and to more than 2,000 people.

<sup>30</sup> Group 108, which originally contained eight applications, was bifurcated as a result of technical amendments. The remaining applications in the MX group will be evaluated as Group 108B in a subsequent order.

<sup>31</sup> See File No. 167554, Fair Distribution of Service Section, and associated exhibit. CCWC's 60 dBu contour encompasses 95,556 people. CCWC's claimed first NCE service is 9,657 people. Thus, CCWC would provide first NCE service to at least 10% of the population within its 60 dBu contour and to more than 2,000 people.

West would provide a first NCE service to 5,447 people. Smile would provide a first NCE service to 28,854 people. Because Smile would provide a first NCE service to at least 5,000 more people than West, Smile is the tentative selectee in Group 119.

17. **Group 120.** This group consists of two applications to serve different communities in Minnesota. We Have This Hope Christian Radio, Inc. (Hope) proposes to serve Brownton. Minn-Iowa Christian Broadcasting, Inc. (Minn-Iowa) proposes to serve Hutchinson. Minn-Iowa asserts that it is eligible for a fair distribution preference.<sup>33</sup> Hope does not. Accordingly, Hope is eliminated. Minn-Iowa is the tentative selectee for Group 120.

18. **Group 125.** This group consists of two applications to serve different communities in Missouri. Our Lady's Peace Prayer Center, Inc. (Our Lady) proposes to serve Butler. The Association for Community Education, Inc. (Community) proposes to serve Windsor. Community asserts that it is eligible for a fair distribution preference.<sup>34</sup> Our Lady does not. Accordingly, Our Lady is eliminated. Community is the tentative selectee for Group 125.

19. **Group 148.** This group consists of two applications to serve different communities in New Mexico. Gallup Public Radio (Gallup) proposes to serve Zuni Pueblo. People to People (People) proposes to serve Ramah. Each applicant claims that it is eligible for a fair distribution preference based solely on second service population totals.<sup>35</sup> Gallup claims that it would provide a new first or second service to 7,429 people (28 first service plus 7,401 second service). People does not state how many people it would provide with its claimed second service, and thus we are unable to determine whether it satisfies the 10% threshold and 2000-person minimum criteria, or to compare the size of its claim to that of Gallup. Accordingly, Gallup is the tentative selectee for Group 148.

20. **Group 175.** This group consists of two applications to serve different communities in Oklahoma. Missions Unlimited of Oregon (MUO) proposes to serve Clinton. Saint Eugene Church (SEC) proposes to serve Weatherford. MUO asserts that it is eligible for a fair distribution preference based on second service population totals.<sup>36</sup> SEC does not claim eligibility for a fair distribution preference. Accordingly, SEC is eliminated. MUO is the tentative selectee for Group 175.

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<sup>32</sup> See File Nos. 167590 and 167796, Fair Distribution of Service Section, and associated exhibits. West's 60 dBu contour encompasses 37,620 people. West's claimed first NCE service is 5,447 people. Smile's 60 dBu contour encompasses 35,051 people. Smile's claimed first NCE service is 28,854 people. Thus, each would provide first NCE service to at least 10% of the population within its 60 dBu contour and to more than 2,000 people.

<sup>33</sup> See File No. 165771, Fair Distribution of Service Section, and associated exhibits. Minn-Iowa's 60 dBu contour encompasses 16,215 people. Minn-Iowa's claimed first NCE service is 2,371 people. Thus, Minn-Iowa would provide first NCE service to at least 10% of the population within its 60 dBu contour and to more than 2,000 people.

<sup>34</sup> See File No. 167019, Fair Distribution of Service Section, and associated exhibits. Community's 60 dBu contour encompasses 36,152 people. Community's claimed first NCE service is 32,169 people. Thus, it would provide first NCE service to at least 10% of the population within its 60 dBu contour and to more than 2,000 people.

<sup>35</sup> See File Nos. 166066 and 167091, Gallup and People Applications, Fair Distribution of Service Section, and associated exhibits. Gallup's 60 dBu contour encompasses 7,822 people. Gallup's claimed aggregated first and second NCE service is 7,429 people. Thus, it would provide combined first and second NCE service to at least 10% of the population within its 60 dBu contour and to more than 2,000 people. People's 60 dBu contour encompasses 2,474 people. People, however, does not state how many people it claims to provide with a first or second NCE service.

<sup>36</sup> See File No. 167706, Fair Distribution of Service Section, and associated exhibits. MUO's 60 dBu contour encompasses 44,179 people. While MUO does not claim a first service preference in its application, MUO claims that it would provide a first or second NCE service to 10,094 people (2,953 first service plus 7,141 second service). Thus, MUO would provide combined first and second NCE service to at least 10% of the population within its 60 dBu contour and to more than 2,000 people.

21. **Group 208.** This group consists of two applications to serve different communities in Utah. Remante Broadcasting Network (RBN) proposes to serve Moroni. University of Utah (UOU) proposes to serve Soldier Summit. Each applicant claims that it is eligible for a fair distribution preference based solely on second service population totals.<sup>37</sup> RBN would provide a first or second NCE service to 59,108 people (0 first service plus 59,108 second service). UOU would provide a first or second NCE service to 3,579 people (0 first service plus 3,579 second service). Because RBN would provide a first or second NCE service to at least 5,000 more people than UOU, RBN is the tentative selectee in Group 208.

22. **Group 217.** This group consists of two applications to serve different communities in Washington. Colville Family Radio (CFR) proposes to serve Colville. Spokane Public Radio (SPR) proposes to serve Kettle Falls. SPR asserts that it is eligible for a fair distribution preference.<sup>38</sup> CFR does not. Accordingly, CFR is eliminated. SPR is the tentative selectee for Group 217.

#### IV. ADDITIONAL MATTERS

23. **Acceptability Studies.** Once the Bureau identifies a tentative selectee pursuant to the fair distribution analysis, the next step is to consider whether the selectee's application has defects.<sup>39</sup> If the Bureau finds the application acceptable for filing, we announce acceptance by the release of this Order, and petitions to deny may be filed within 30 days following the release date of the Order.

24. The Bureau has studied the applications of all of the tentative selectees identified herein and determined that each application is acceptable for filing. Each of the tentative selectees identified in this Order appears to be fully qualified to become the licensee of the new NCE FM station it has proposed. We tentatively conclude that the grant of each application would serve the public interest, convenience, and necessity. It is our intention to grant each application if, after the 30-day petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application. Such determinations of grantability may, of course, involve additional matters that may impact the timing or outcome of a decision. For example, a proposal to serve an area near the United States border with Canada or Mexico cannot become ripe for grant prior to the successful completion of international coordination.

25. **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

26. 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

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<sup>37</sup> See File Nos. 167147 and 166314, Fair Distribution of Service Section, and associated exhibits. RBN's 60 dBu contour encompasses 83,926 people. RBN's claimed aggregated first and second NCE service is 59,108 people. UOU's 60 dBu contour encompasses 26,015 people. UOU's claimed aggregated first and second NCE service is 3,579 people. Thus, each would provide combined first and second NCE service to at least 10% of the population within its 60 dBu contour and to more than 2,000 people.

<sup>38</sup> See File No. 166622, Fair Distribution of Service Section, and associated exhibit. SPR's 60 dBu contour encompasses 25,081 people. SPR's claimed first NCE service is 2,736 people. Thus, SPR would provide first NCE service to at least 10% of the population within its 60 dBu contour and to more than 2,000 people.

<sup>39</sup> If a tentative selectee's application is found unacceptable for filing, it is dismissed. The applicant then has one opportunity to submit a curative amendment and a petition for reconsideration requesting reinstatement *nunc pro tunc* within 30 days, provided that the amendment is minor and does not alter the fair distribution analysis. See 47 CFR § 73.3522(b)(1). A tentative selectee that is unable to cure the defect is disqualified.

petitions to deny, petitions for reconsideration, review on the Commission's own motion, and appeals.<sup>40</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.

27. **Group 12.** Accordingly, IT IS ORDERED, that the Application filed by Community Broadcasting, Inc. (File No. 167050) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in West Plains, 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 intend, by public notice, TO DISMISS the mutually exclusive application of Tony V. Hammack Ministries (File No. 166694) and TO GRANT the application of Community Broadcasting, Inc. (File No. 167050) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

28. **Group 17.** Accordingly, IT IS ORDERED, that the Application filed by Arizona Board Of Regents For Benefit Of University Of Arizona (File No. 167745) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Safford, 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 intend, by public notice, TO DISMISS the mutually exclusive application of Advance Ministries, Inc. (File No. 167538) and TO GRANT the application of Arizona Board Of Regents For Benefit Of University Of Arizona (File No. 167745) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

29. **Group 21.** Accordingly, IT IS ORDERED, that the Application filed by Cochise Community Radio Corporation (File No. 166569) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Virden, New Mexico, 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 intend, by public notice, TO DISMISS the mutually exclusive application of Advance Ministries, Inc. (File No. 167539) and TO GRANT the application of Cochise Community Radio Corporation (File No. 166569) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

30. **Group 52.** Accordingly, IT IS ORDERED, that the Application filed by Ethree Group, Inc. (File No. 167098) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Key Colony Beach, 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 intend, by public notice, TO DISMISS the mutually exclusive application of Vida Ministry Inc. (File No. 167107) and TO GRANT the application of Ethree Group, Inc. (File No. 167098) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

31. **Group 67.** Accordingly, IT IS ORDERED, That the Application filed by Elijah Radio (File No. 167252) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Danville, Georgia, and its application IS ACCEPTED FOR FILING, establishing a deadline

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<sup>40</sup> See 5 U.S.C. §§ 702, 704, 706; 47 U.S.C. §§ 309(d), 402(b), 405; 47 CFR §§ 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).

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 intend, by public notice, TO DISMISS the mutually exclusive application of Keep It Moving Ministries, Inc. (File No. 167201) and TO GRANT the application of Elijah Radio (File No. 167252) CONDITIONED UPON that selectee's compliance with Section 73.7002(c) of the Commission's Rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

32. **Group 103.** Accordingly, IT IS ORDERED, That the Application filed by Torstrick Ministries, Inc. (File No. 166440) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Harlan, 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 intend, by public notice, TO DISMISS the mutually exclusive application of Appalachian Educational Communication Corporation (File No. 167442) and TO GRANT the application of Torstrick Ministries, Inc. (File No. 166440) CONDITIONED UPON that selectee's compliance with Section 73.7002(c) of the Commission's Rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

33. **Group 105.** Accordingly, IT IS ORDERED, That the Application filed by Christwood (File No. 166866) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Covington, 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 intend, by public notice, TO DISMISS the mutually exclusive application of New Horizon Christian Fellowship (File No. 166487) and TO GRANT the application of Christwood (File No. 166866) CONDITIONED UPON that selectee's compliance with Section 73.7002(c) of the Commission's Rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

34. **Group 108A.** Accordingly, IT IS ORDERED, that the Application filed by Calvary Chapel Of Westmoreland County (File No. 167554) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Mount Pleasant, Pennsylvania, 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 intend, by public notice, TO DISMISS the mutually exclusive application of Central Pennsylvania Christian Institute, Inc. (File No. 167465) and TO GRANT the application of Calvary Chapel Of Westmoreland County (File No. 167554) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed

35. **Group 119.** Accordingly, IT IS ORDERED, That the Application filed by Smile FM (File No. 167796) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Litchfield, Michigan, 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 intend, by public notice, TO DISMISS the mutually exclusive application of West Central Michigan Media Ministries (File No. 167590) and TO GRANT the application of Smile FM (File No. 167796) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

36. **Group 120.** Accordingly, IT IS ORDERED, That the Application filed by Minn-Iowa Christian Broadcasting, Inc. (File No. 165771) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Hutchinson, 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 intend, by public notice, TO DISMISS the mutually exclusive application of We Have This Hope Christian Radio, Inc. (File No. 167170) and TO GRANT the application of Minn-Iowa Christian Broadcasting, Inc. (File No. 165771) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

37. **Group 125.** Accordingly, IT IS ORDERED, That the Application filed by The Association For Community Education, Inc. (File No. 167019) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Windsor, 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 intend, by public notice, TO DISMISS the mutually exclusive application of Our Lady's Peace Prayer Center, Inc. (File No. 167272) and TO GRANT the application of The Association For Community Education, Inc. (File No. 167019) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

38. **Group 148.** Accordingly, IT IS ORDERED, That the Application filed by Gallup Public Radio (File No. 166066) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Zuni Pueblo, New Mexico, 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 intend, by public notice, TO DISMISS the mutually exclusive application of People To People (File No. 167091) and TO GRANT the application of Gallup Public Radio (File No. 166066) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

39. **Group 175.** Accordingly, IT IS ORDERED, That the Application filed by Missions Unlimited of Oregon (File No. 167706) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Clinton, Oklahoma, 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 intend, by public notice, TO DISMISS the mutually exclusive application of Saint Eugene Church (File No. 167492) and TO GRANT the application of Missions Unlimited of Oregon (File No. 167706) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

40. **Group 208.** Accordingly, IT IS ORDERED, That the Application filed by Remante Broadcasting Network (File No. 167147) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Moroni, Utah, 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 intend, by public notice, TO DISMISS the mutually exclusive application of University of Utah (File No. 166314) and TO GRANT the application of Remante Broadcasting Network (File No. 167147) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

41. **Group 217.** Accordingly, IT IS ORDERED, That the Application filed by Spokane Public Radio (File No. 166622) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Kettle Falls, Washington, 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 intend, by public notice, TO DISMISS the mutually exclusive application of Colville Family Radio (File No. 166127) and TO GRANT the application of Spokane Public Radio (File No. 166622) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner  
Chief, Audio Division  
Media Bureau