



Federal Communications Commission  
Washington, D.C. 20554

February 23, 2024

**DA 24-164**

***In Reply Refer to:***

**1800B3-HD**

**Released: February 23, 2024**

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**In re: Weather Alert Radio Network**  
Applications for Construction Permits  
for New Low Power FM Stations in  
Communities in Alabama, Florida,  
Georgia, Louisiana, Mississippi, North  
Carolina, South Carolina, Texas,  
Virginia and the Virgin Islands

Dear Counsel:

We have before us the applications listed in the Attachment to this letter (Applications) filed by the Weather Alert Radio Network (WARN) for construction permits for new low power FM (LPFM) stations in communities located in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, Virginia, and the Virgin Islands.<sup>1</sup> As explained below, with respect to each of the Applications, WARN has failed to demonstrate that it is eligible to hold the LPFM authorization it seeks. Accordingly, we dismiss the Applications as defective pursuant to section 73.3566(a) of the Commission's rules (Rules).<sup>2</sup>

**Background.** WARN filed the Applications during a filing window for new LPFM station construction permits that the Commission opened between December 6, 2023, and December 15, 2023.<sup>3</sup> In each of the Applications, WARN certified that “[i]t proposes a public safety radio service and has jurisdiction within the service area of the proposed LPFM station.”<sup>4</sup> Attached to the Applications were

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<sup>1</sup> While the Commission generally prohibits an entity or party from holding an attributable interest in more than one LPFM station, WARN seeks to take advantage of an exception to the general prohibition which allows “not-for-profit organizations and governmental entities with a public safety purpose [to] be granted multiple licenses if: (1) One of the multiple applications is submitted as a priority application; and (2) The remaining non-priority applications do not face a mutually exclusive challenge.” See 47 CFR § 73.855. WARN has designated its application for a construction permit for a new LPFM station at Riverview, Florida as its priority application. See Application File No. 0000231542.

<sup>2</sup> 47 CFR § 73.3566(a).

<sup>3</sup> See *Media Bureau Announces Extension of LPFM New Station Filing Window*, Public Notice, DA 23-1150 (MB Dec. 11, 2023).

<sup>4</sup> Applications, Legal Certifications, Community-Based Criteria.

documents entitled “Exhibit in Support of LPFM Application Public Safety Radio Program” (Exhibits).<sup>5</sup> The Exhibits explain that WARN proposes to use each LPFM station to “provide current local weather information, preparedness information and local resource information 24 hours per day and 7 days per week.”<sup>6</sup> They also state that WARN has been in contact with various public safety organizations, “each of whom holds jurisdiction as a local, county, state or national government entity” and that the organizations “have agreed to work with [WARN] and have received information and correspondence regarding the programming and proposed application plans of [WARN’s] proposed LPFM stations” in that state.<sup>7</sup>

**Discussion.** The Commission restricts the types of entities that may hold LPFM authorizations and the types of service those entities may provide.<sup>8</sup> Among the entities eligible to hold LPFM authorizations are “[s]tate and local governments and non-government entities that will provide non-commercial public safety radio services.”<sup>9</sup> The Commission also requires that entities receiving LPFM authorizations be based in the community their proposed LPFM stations will serve.<sup>10</sup> In the case of a state or local government or non-government entity proposing a non-commercial public safety radio service, the Commission considers the entity to be community-based if it “has jurisdiction within the service area of the proposed LPFM station.”<sup>11</sup> As discussed below, we find that WARN is not eligible to hold an LPFM license because it will not provide a “public safety radio service” and is not community-based with respect to its proposed LPFM stations.

*Public Safety Radio Service.* We reject WARN’s claim that it is eligible to hold LPFM licenses because it is a non-governmental entity proposing to provide a public safety radio service.<sup>12</sup> In the LPFM context, the Commission uses the definition of “public safety radio services” set forth in section 309(j)(2)(A) of the Communications Act of 1934, as amended (Act).<sup>13</sup> That section defines “public safety radio services” as “including private internal radio services used by State and local governments and non-government entities and including emergency road services provided by not-for-profit organizations, that—(i) are used to protect the safety of life, health, or property; and (ii) are not made commercially available to the public.”<sup>14</sup> The Commission has explained that the phrase “public safety radio services” encompasses three categories of services: (1) traditional public safety services such as police, fire, and emergency medical services, (2) private internal radio services designated for non-

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<sup>5</sup> WARN attached the same exhibit to each application for a proposed LPFM station in a particular state. The exhibits varied slightly depending on the state involved but generally contained the same information.

<sup>6</sup> Exhibits at para. 2.

<sup>7</sup> *Id.* at para. 5.

<sup>8</sup> 47 CFR § 73.853(a).

<sup>9</sup> *Id.* § 73.853(a)(2). The other eligible entities and services are (1) nonprofit educational organizations that will use their LPFM stations to advance an educational program, and (2) Tribal Applicants that will provide non-commercial radio services. *Id.* § 73.853(a)(1), (3).

<sup>10</sup> *Id.* § 73.853(b).

<sup>11</sup> *Id.* § 73.853(b)(3).

<sup>12</sup> Applications, Legal Certifications, Community-Based Criteria, and Exhibits.

<sup>13</sup> *Creation of Low Power Radio Service*, Report and Order, MM Docket No. 99-25, 15 FCC Rcd 2205, 2215, para. 23 (2000) (stating that “public safety radio services used by state or local governments or not-for-profit organizations, as defined in 47 U.S.C. § 309(j)(2)(A), will be eligible for LPFM licenses”).

<sup>14</sup> 47 U.S.C. § 309(j)(2)(A).

commercial use by entities such as utilities, railroads, transit systems, and others that provide essential services to the public at large and that need reliable internal communications in order to prevent or respond to disasters or crises affecting their service to the public, and (3) private internal radio services used by not-for-profit organizations providing emergency road services.<sup>15</sup> WARN proposes to use each LPFM station to provide weather and weather-preparedness information to the general public. This type of service does not fall into any of the “public safety radio service” categories. The service WARN proposes, therefore, cannot qualify as a “public safety radio service” absent a waiver, which WARN did not request.

*Community-Based.* We also find that WARN is ineligible to hold the LPFM authorizations it seeks because it is not local (*i.e.*, based in the communities the proposed LPFM stations will serve). The Commission considers an LPFM applicant proposing a “public safety radio service” to be local with respect to its proposed LPFM station if the applicant has jurisdiction within the service area of its proposed LPFM station.<sup>16</sup> While WARN certified in the Applications that it is local with respect to each of the proposed LPFM stations, WARN offered no evidence that it has jurisdiction within any of those stations’ service areas. Instead, in the Exhibits, WARN asserts that it has “been in contact with” various public safety organizations, “each of whom holds jurisdiction as a local, county, state or national government entity regarding the dissemination of public safety information.” WARN goes on to claim that “[t]he organizations have agreed to work with [WARN] and have received information and correspondence regarding the programming and proposed application plans of [WARN]’s proposed LPFM stations.” WARN nowhere states that it has jurisdiction in the service areas of the proposed LPFM stations or that it has been authorized by any of the public safety organizations that do hold jurisdiction in those service areas, nor did it request a waiver of the jurisdiction requirement.

**Conclusion/Actions.** WARN has not satisfied the eligibility requirements set forth in sections 73.853(a) and 73.853(b) of the Rules, and did not submit requests for waiver of those requirements with the Applications. For this reason, we find that the Applications are patently defective and must be dismissed. Accordingly, **IT IS ORDERED**, that the applications for new LPFM stations filed by the Weather Alert Radio Network in December 2023 (and listed in the Attachment hereto)<sup>17</sup> **ARE DISMISSED** pursuant to section 73.3566(a) of the Commission’s rules.<sup>18</sup>

Sincerely,

Albert Shuldiner  
Chief, Audio Division  
Media Bureau

#### Attachment

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<sup>15</sup> *Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended*, Report and Order and Further Notice of Proposed Rulemaking, WT Docket No. 99-87, 15 FCC Rcd 22709, 22716, para. 16, 22740, para. 64, 22743, para. 71 (2000). *See also* H.R. Conf. Rep. No. 105-217, 105th Cong., 1st Sess., at 572 (1997).

<sup>16</sup> 47 CFR § 73.853(b)(3).

<sup>17</sup> Because we find that WARN has not satisfied the eligibility requirements of sections 73.853(a)(2) and 73.853(b)(1)-(3), we dismiss all of the Applications, including its priority application for Riverview, Florida (*see supra* note 1) as well as its non-priority applications (including singletons).

<sup>18</sup> 47 CFR § 73.3566(a).

**ATTACHMENT**

<b>Facility ID No.</b>	<b>Application File No.*</b>	<b>City</b>	<b>State</b>
782960	231543	Dauphin Island	AL
782952	231834	Foley	AL
782957	231835	Foley	AL
778100	231833	Robertsdale	AL
777979	231857	Seminole	AL
778102	231544	Spanish Fort	AL
778105	231521	Theodore	AL
778104	231522	Theodore	AL
778103	231523	Theodore	AL
782827	231573	Alma	FL
781915	231632	Baker	FL
781918	231634	Baker	FL
782831	231568	Big Pine Key	FL
782836	231569	Big Pine Key	FL
778145	231553	Brooksville	FL
781978	231639	Cantonment	FL
781979	231641	Cantonment	FL
781974	231647	Chiefland	FL
781976	231649	Chiefland	FL
778164	231565	Chipley	FL
782848	231593	Cocoa	FL
782849	231594	Cocoa	FL
782850	231595	Cocoa	FL
782838	231570	Crestview	FL
781986	231650	Crystal River	FL
778156	231571	Cudjoe Key	FL
778217	231572	Cudjoe Key	FL
781969	231869	Daytona Beach	FL
782841	231578	DeFuniak Springs	FL
782845	231580	DeFuniak Springs	FL
778146	231870	Dunnellon	FL
782822	231581	Everglades City	FL
782826	231582	Everglades City	FL
782729	231583	Everglades National Park	FL
782730	231585	Everglades National Park	FL
778131	231586	Fernandina Beach	FL
778129	231588	Fernandina Beach	FL
778132	231589	Fernandina Beach	FL
778133	231591	Fernandina Beach	FL
778141	231883	Fort Pierce	FL

<b>Facility ID No.</b>	<b>Application File No.*</b>	<b>City</b>	<b>State</b>
778142	231884	Fort Pierce	FL
778108	231510	Holiday	FL
778147	231901	Homosassa	FL
778136	231878	Inglis	FL
778137	231879	Inglis	FL
778179	231663	Key Lar	FL
778180	231665	Key Lar	FL
778158	231653	Key West	FL
778155	231657	Key West	FL
778218	231905	Labelle	FL
778177	231890	Lecanto	FL
778178	231891	Lecanto	FL
782852	231659	Marathon	FL
782854	231661	Marathon	FL
782881	231902	Marco Island	FL
782882	231903	Marco Island	FL
778228	231909	Middleburg	FL
778229	231910	Middleburg	FL
778112	231874	Nokomis	FL
782734	231942	Ochopee	FL
781965	231517	Ormond Beach	FL
781967	231963	Ormond Beach	FL
778134	231881	Port Saint Lucie	FL
778135	231882	Port Saint Lucie	FL
782728	231542	Riverview	FL
781960	231926	Santa Rosa Beach	FL
781963	231927	Santa Rosa Beach	FL
781984	231934	Sopchoppy	FL
781985	231935	Sopchoppy	FL
778159	231860	Sugarloaf Key	FL
778160	231861	Sugarloaf Key	FL
778161	231862	Sugarloaf Key	FL
778117	231848	Tavernier	FL
778118	231876	Tavernier	FL
778119	231877	Tavernier	FL
778163	231961	Trenton	FL
781991	231937	Venice	FL
778154	231886	Vero Beach	FL
778153	231887	Vero Beach	FL
778111	231628	Wabasso	FL
778113	231888	Wabasso	FL
778110	231889	Wabasso	FL

<b>Facility ID No.</b>	<b>Application File No.*</b>	<b>City</b>	<b>State</b>
778162	231959	Westville	FL
778270	231554	Brunswick	GA
781678	231601	Darien	GA
781675	231603	Darien	GA
781665	231643	Folkston	GA
781478	231644	Folkston	GA
781470	231620	Hinesville	GA
781471	231621	Hinesville	GA
782883	231911	Midway	GA
781667	231604	Saint Simons Island	GA
781669	231605	Saint Simons Island	GA
778257	231859	Shellman Bluff	GA
778269	231841	St Marys	GA
778150	231610	Townsend	GA
778151	231611	Townsend	GA
778152	231613	Woodbine	GA
781468	231614	Woodbine	GA
778215	231498	Abbeville	LA
778214	231499	Abbeville	LA
778230	231545	Bell City	LA
778212	231563	Chauvin	LA
778211	231564	Chauvin	LA
778216	231566	Covington	LA
778213	231567	Covington	LA
778116	231845	Houma	LA
778054	231529	New Iberia	LA
778053	231530	New Iberia	LA
778055	231532	New Iberia	LA
778093	231629	Thibodaux	LA
778094	231630	Thibodaux	LA
778139	231549	Biloxi	MS
778140	231550	Biloxi	MS
778138	231551	Biloxi	MS
778095	231866	Diamondhead	MS
778182	231846	Pascaula	MS
778097	231626	Pass Christian	MS
778096	231627	Pass Christian	MS
778183	231645	Poplarville	MS
778184	231646	Poplarville	MS
778099	231524	Saucier	MS
778098	231525	Saucier	MS
778051	231526	Vancleave	MS

<b>Facility ID No.</b>	<b>Application File No.*</b>	<b>City</b>	<b>State</b>
778050	231527	Vanceleave	MS
783155	231837	Barco	NC
778061	231503	Bath	NC
778062	231504	Bath	NC
782021	231596	Beaufort	NC
782031	231600	Beaufort	NC
782034	231636	Bolivia	NC
783029	231557	Buxton	NC
783033	231558	Buxton	NC
783109	231561	Cedar Island	NC
783113	231562	Cedar Island	NC
783024	231893	Hatteras	NC
783027	231894	Hatteras	NC
782088	231830	Havelock	NC
782090	231895	Havelock	NC
783158	231899	Holly Ridge	NC
783159	231900	Holly Ridge	NC
783019	231540	Jacksonville	NC
783018	231904	Jacksonville	NC
783012	231513	Kitty Hawk	NC
783014	231515	Kitty Hawk	NC
778016	231906	Leland	NC
783117	231516	Manteo	NC
783154	231908	Manteo	NC
783156	231913	Morehead City	NC
783157	231914	Morehead City	NC
782091	231922	New Bern	NC
782092	231925	New Bern	NC
783104	231916	Ocracoke	NC
783108	231917	Ocracoke	NC
778224	231850	Supply	NC
778225	231852	Supply	NC
778060	231955	Washington	NC
778086	231969	Washington	NC
778254	231957	Wilmington	NC
778255	231956	Wrightsville Beach	NC
778260	231855	Bluffton	SC
778259	231897	Hilton Head Island	SC
781694	231898	Hilton Head Island	SC
781875	231907	Longs	SC
778258	231858	Mount Pleasant	SC
781871	231940	Murrells Inlet	SC

<b>Facility ID No.</b>	<b>Application File No.*</b>	<b>City</b>	<b>State</b>
778223	231941	Ridgeland	SC
781708	231964	Walterboro	SC
777998	231502	Alvin	TX
778010	231505	Bay City	TX
778019	231507	Beaumont	TX
783193	231854	Bishop	TX
778015	231535	Deweyville	TX
778014	231536	Deweyville	TX
778013	231537	Deweyville	TX
783170	231509	Hitchcock	TX
778017	231831	Orange	TX
778128	231608	Port Aransas	TX
778149	231609	Port Aransas	TX
778227	231839	Port Arthur	TX
783189	231938	Port Lavaca	TX
783190	231939	Port Lavaca	TX
783166	231946	Refugio	TX
783167	231947	Refugio	TX
778126	231606	Rockport	TX
778127	231607	Rockport	TX
783188	231952	San Perlita	TX
783187	231954	San Perlita	TX
783171	231965	Santa Rosa	TX
783191	231944	Sarita	TX
783192	231945	Sarita	TX
783169	231519	Stowell	TX
778125	231840	Sweeny	TX
778006	231872	Victoria	TX
778007	231873	Victoria	TX
782963	231920	Suffolk	VA
782966	231921	Suffolk	VA
788761	233077	Charlotte Amalie	VI
788762	233078	Charlotte Amalie	VI
788764	233080	Charlotte Amalie	VI
788766	233087	Cruz Bay	VI
788765	233089	Cruz Bay	VI
788769	233093	Cruz Bay	VI