



Federal Communications Commission
Washington, D.C. 20554

DA 24-266
In Reply Refer to:
1800B3-CEG
Released March 18, 2024

Iglesia Cristiana de Jehova
c/o Emilia Manson
170 Broadway
Newport, RI 02840
iglesiacristianadenewport@gmail.com

Aaron Read
97 Central Ave
East Providence, RI 02914
aareonread1@gmail.com

In re: Iglesia Cristiana de Jehova
New LPFM, Newport, RI
Facility ID No. 787748
Application File No. 231695

Informal Objection

Dear Applicant and Objector:

We have before us the above-referenced application (Application) for a construction permit for a new low power FM (LPFM) station at Newport, Rhode Island, filed by Iglesia Cristiana de Jehova (ICJ) on December 6, 2023, and amended on February 1, 2024. We also have an informal objection (Objection) to the Application filed by Aaron Read (Read) on December 26, 2023.¹ For the reasons set forth below, we grant the Objection and dismiss the Application.

Background. ICJ filed the Application on December 6, 2023, during the 2023 LPFM filing window.² In the Application, ICJ certified that it was eligible for an LPFM authorization because, *inter alia*, it is a nonprofit educational institution or organization.³ In support of this certification, ICJ provided a copy of its articles of incorporation, executed January 1, 2022.⁴

In the Objection, Read alleges that ICJ is “a revoked entity” according to the Rhode Island Secretary of State (Secretary of State) corporation search database, explaining that ICJ’s Certificate of Incorporation/Authority was revoked by the Secretary of State on June 16, 2022, for failure to maintain a

¹ Pleading File No. 234040. On January 26, 2024, ICJ filed an opposition to the Objection (Opposition). Pleading File No. 236943.

² *Media Bureau Announces Filing Procedures and Requirements for November 1 – November 8, 2023, Low Power FM Filing Window*, Public Notice, DA 23-642 (MB July 31, 2023) (*Procedures Public Notice*). Based on a request from LPFM advocates, the Bureau subsequently delayed the window until December 6, 2023. *Media Bureau Announces Revised Dates for LPFM New Station Application Filing Window*, Public Notice, DA 23-984 (MB Oct. 17, 2023). The Bureau subsequently extended the close of the window until December 15, 2023. *Media Bureau Announces Extension of LPFM New Station Application Filing Window*, Public Notice, DA 23-1150 (MB Dec. 11, 2023).

³ See Application, Legal Certifications, Eligibility Certifications and Community-Based Criteria, Questions 1, 2.

⁴ Application, Attach. entitled “Articles of Incorporation” at 2.

registered office.⁵ Thus, Read argues, the Application fails to demonstrate that ICJ is a legal entity eligible to apply for an LPFM license.⁶

In the Opposition, ICJ explains that it has now updated its office address information and resolved this matter with the Secretary of State.⁷ In considering this argument, we take official notice of the following documents, publicly available on the Secretary of State's Business Portal:⁸ (1) the Certificate of Revocation of Certificate of Incorporation/Authority dated June 16, 2022 ; and (2) the Reinstatement dated January 16, 2024 (RI SOS Filing No. 202444086750).⁹

Discussion. Pursuant to section 309(d) of the Communications Act of 1934, as amended (Act),¹⁰ petitions to deny and informal objections must provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with the public interest.¹¹

An LPFM applicant must meet basic eligibility requirements¹² and certify its eligibility to own and operate an LPFM station at the time that it files its FCC Form 2100, Schedule 318 application (LPFM Application).¹³ Specifically, each applicant claiming eligibility as a nonprofit educational organization must certify it is a noncommercial educational institution, corporation, foundation, association, or entity that is recognized under state law at the time its application is submitted.¹⁴ Each applicant must also submit an explanatory exhibit in connection with its application.¹⁵ Applicants who fail to meet these requirements are subject to dismissal.¹⁶

Here, the record establishes that on December 6, 2023—the date that the Application was filed—ICJ's previously authorized Certificate of Incorporation/Authority [to transact business in Rhode Island] had been officially revoked by the Secretary of State (on June 16, 2022) and was not reinstated until

⁵ Objection at 1.

⁶ *Id.*

⁷ Opposition at 1.

⁸ Available at <https://business.sos.ri.gov/CorpWeb/CorpSearch/CorpSearch.aspx> (last visited February 15, 2024).

⁹ See 47 U.S.C. § 309(d)(1).

¹⁰ 47 U.S.C. § 309(d).

¹¹ See, e.g., *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197 n.10 (1990), *aff'd sub nom. Garden State Broad. L.P. v. FCC*, 996 F.2d 386 (D.C. Cir. 1993), *rehearing denied* (Sep. 10, 1993); *Gencom, Inc. v. FCC*, 832 F.2d 171, 181 (D.C. Cir. 1987); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864, para. 6 (1986) (petitions to deny and informal objections must contain adequate and specific factual allegations sufficient to warrant the relief requested).

¹² See 47 CFR § 73.853.

¹³ See Instructions for LPFM Application, Legal Certifications, Eligibility Certifications. See also LPFM Application, Legal Certifications, Eligibility Certifications.

¹⁴ See *id.*; 47 U.S.C. § 397(6)(A); *Procedures Public Notice at 5-6; Applications for Review of Decisions Regarding Six Applications for New Low Power FM Stations*, Memorandum Opinion and Order, 28 FCC Rcd 13390, 13397-98, para. 22 (2013) (*Six Applications*).

¹⁵ See LPFM Application, Legal Certifications, Eligibility Certifications. See also *Procedures Public Notice at 6* (nonprofit educational organizations “also must submit complete copies of the documents establishing their nonprofit status, such as corporate charters or articles of incorporation.”).

¹⁶ See *Procedures Public Notice at 6*.

January 16, 2024. ICJ provides no argument or evidence that it sought, or that its January 16, 2024, reinstatement was effective *nunc pro tunc*, or that it was organized and performing the functions of a nonprofit entity at the time of application filing, or that it could otherwise be considered a *de facto* nonprofit entity under any other state law regarding corporate formation.¹⁷ Therefore, we find that ICJ has failed to establish that at the time the Application was filed, ICJ was legally recognized or authorized by the State of Rhode Island as a valid nonprofit corporate entity.

An LPFM applicant's status as a valid nonprofit organization at the time it files its application is fundamental to our determination of the applicant's qualifications to hold an LPFM authorization.¹⁸ We have found that an organization is ineligible to hold an NCE license when its corporate status has lapsed, or the corporation has been administratively dissolved, by the relevant secretary of state for failure to make required filings.¹⁹ Because we find that ICJ failed to demonstrate its authorized legal existence under pertinent state law at the time it filed the Application, we grant the Objection and dismiss the Application.

In general, a dismissed LPFM applicant has one opportunity to file a minor curative amendment to its application and petition for reconsideration requesting reinstatement of the application *nunc pro tunc*. Any such amendment and petition must be filed within 30 days of the dismissal, propose only minor changes, and comply with all relevant rules. In this case, a petition for reconsideration requesting reinstatement of the Application must include a showing that, although its authority to transact business in Rhode Island had been revoked for administrative reasons, ICJ continued to qualify as a *de facto* nonprofit entity under Rhode Island state law, or that the January 16, 2024, reinstatement of its Certificate of Incorporation/Authority had retroactive effect or was otherwise effective *nunc pro tunc* under state law as of the date the Application was filed.²⁰

Conclusion/Action. Accordingly, **IT IS ORDERED** that the informal objection filed by Aaron Read on December 26, 2023, (Pleading File No. 234040) **IS GRANTED**.

¹⁷ Cf. *New Bohemia Group, Inc.*, Letter Decision, 24 FCC Rcd 1357, 1360 (MB 2009) (granting new NCE FM application where applicant's corporate status had lapsed with the State of Iowa, but applicant had sought *nunc pro tunc* reinstatement of its corporate status with the state).

¹⁸ *Six Applications*, 28 FCC Rcd at 13395-96, para. 14.

¹⁹ See, e.g., *Sanctuary Church*, Letter Decision, 2023 WL 3071003, DA 23-335 (MB 2023).

²⁰ See *Procedures Public Notice* at 12.

IT IS FURTHER ORDERED that the application of Iglesia Cristiana de Jehova for a construction permit for a new low power FM station at Newport, Rhode Island (Application File No. 231695) **IS DISMISSED**.

Sincerely,

Albert Shuldiner
Chief, Audio Division
Media Bureau