



Federal Communications Commission
Washington, D.C. 20554

March 18, 2024

DA 24-269
In Reply Refer to:
1800B3-SDW
Released March 18, 2024

New Hope Baptist Church – Gallup
c/o Mr. Jason Perry
1711 West Centre Avenue
Artesia, NM 88210
(sent by electronic mail to: nhbcartesia@gmail.com)

Good News Broadcasting Network, Inc.
c/o Donald E. Martin, Esq.
Law Office of Donald E. Martin
P.O. Box 8433
Falls Church, VA 22041
(sent by electronic mail to: dempc@prodigy.net)

In re: **NCE MX Group 152**

New Hope Baptist Church - Gallup
New NCE FM, Gallup, New Mexico
Facility ID No. 768308
Application File No. 0000167524

**Good News Broadcasting Network,
Inc.**
New NCE FM, Gallup, New Mexico
Facility ID No. 768192
Application File No. 0000167858

Petition to Deny

Dear Counsel and Applicants:

We have before us two mutually exclusive applications filed by Good News Broadcasting Network, Inc. (Good News) and New Hope Baptist Church – Gallup (New Hope) for construction permits for new noncommercial educational (NCE) FM stations in Gallup, New Mexico.¹ We also have before us the Petition to Deny the New Hope Application (Petition), filed by Good News.² For the reasons set forth below, we grant the Petition, dismiss the New Hope Application, and accept for filing the Good News Application as a singleton.

Background. Good News and New Hope filed their respective applications during the 2021 NCE FM filing window.³ The Media Bureau (Bureau) identified the applications as NCE MX Group 152.⁴ In the *Fifth Comparative Order*,⁵ the Commission compared the Good News Application and the New Hope Application under the point system. In the point system analysis, the Commission identified New Hope, the applicant with the most points,⁶ as the tentative selectee of NCE MX Group 152 and established a 30-day period for filing petitions to deny.⁷

In the Petition, Good News argues that the New Hope Application should be dismissed on the basis of section 73.3513(a)(3) of the Commission’s Rules.⁸ Good News notes that the New Hope Application was signed by Jason Perry, who is not identified as an officer or director of New Hope in either the New Hope Application or on the listing for New Hope on the website of the New Mexico Secretary of State (NMSOS).⁹ Good News also alleges that the New Hope Application should be denied because New Hope failed to disclose several individuals—who are listed as officers of New Hope on the

¹ Application File Nos. 0000167858 (Good News Application) and 0000167524 (New Hope Application).

² Pleading File No. 0000239677 (filed Feb. 22, 2024).

³ *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 2021).

⁴ *Media Bureau Identifies Groups of Mutually Exclusive Applications Submitted in the November 2021, Filing Window for New Noncommercial Educational Stations; Opens Window to Accept Settlements and Technical Amendments*, Public Notice, 36 FCC Rcd 16452 (MB 2021). This group originally included an application filed by Gallup Public Radio (Gallup) for a construction permit for a new NCE FM station in St. Michaels, Arizona. Application File No. 0000166062 (Gallup Application). Gallup was previously identified as the tentative selectee of the group. However, the Bureau later dismissed the Gallup Application due to a violation of the Signature Rule. *Comparative Consideration of 32 Groups of Mutually Exclusive Applications for Permits to Construct New Noncommercial Educational FM Stations*, Memorandum Opinion and Order, 37 FCC Rcd 12898, 12916 (Oct. 25, 2022); *NCE MX Group 152*, Letter Order, DA 23-924 (MB Oct. 3, 2023) (*Gallup Letter Order*); 47 CFR § 73.3513(a)(3) (Signature Rule). This dismissal of the Gallup Application was not challenged, and the decision is now final. Based on the elimination of the Gallup Application, the Bureau referred the group to the Commission to conduct a new point system analysis.

⁵ *Comparative Consideration of Six Groups of Mutually Exclusive Applications for Permits to Construct New Noncommercial Educational FM Stations*, Memorandum Opinion and Order, FCC 24-12, at 10, para. 25 (Jan. 23, 2024) (*Fifth Comparative Order*).

⁶ The Commission awarded two points to New Hope for diversity of ownership and one point to Good News for the best technical proposal.

⁷ *Fifth Comparative Order* at 25, para. 74.

⁸ Petition at 2 (citing 47 CFR § 73.3513(a)(3)).

⁹ *Id.* See also New Hope Application at Certification (signed by Jason Perry, Pastor).

NMSOS website—as parties to the application.¹⁰ Good News further argues that the Commission failed to credit it with two points for diversity of ownership.¹¹ New Hope did not file an opposition to the Petition.

Discussion. Pursuant to section 309(d) of the Communications Act of 1934, as amended (Act),¹² 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.¹³

We agree that the New Hope Application violates the Signature Rule. The Signature Rule requires that an application filed by a corporation—such as New Hope—must be signed by an officer.¹⁴ The Commission has made clear that it will “adhere strictly” to the Signature Rule requirements and has held that violations of the Signature Rule are not curable.¹⁵ Here, the New Hope Application was signed by Jason Perry, who is identified in the New Hope Application as a Pastor. Jason Perry is not identified as an officer nor a director of New Hope, and thus the New Hope Application must be dismissed.¹⁶

Eliminating New Hope renders the Good News Application a singleton. Accordingly, we will accept for filing the Good News Application.

Conclusion/Action. Accordingly, **IT IS ORDERED** that the Petition to Deny filed by Good News Broadcasting Network, Inc., on February 22, 2024 (Pleading File No. 0000167524), **IS GRANTED**.

¹⁰ Petition at 3.

¹¹ *Id.* at 3-4.

¹² 47 U.S.C. § 309(d).

¹³ 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).

¹⁴ See 47 CFR § 73.3513(a)(3); see also *Mary Ann Salvatoriello*, Memorandum Opinion and Order, 6 FCC Rcd 4705 (1991), and *Central Florida Communications Group, Inc.*, Hearing Designation Order, 6 FCC Rcd 522, 523, para. 3 (MMB 1991).

¹⁵ See *Frank Rackley, Jr.*, Memorandum Opinion and Order, 35 FCC Rcd 681, 684, para. 10 (2020); *Gallup Letter Order* at 5.

¹⁶ Given our dismissal of the New Hope Application based on its violation of the Signature Rule, we need not, and do not, address Good News’s other allegations.

IT IS FURTHER ORDERED that the application of New Hope Baptist Church – Gallup for a construction permit for a new noncommercial educational FM station at Gallup, New Mexico (Application File No. 0000167524) **IS DISMISSED**.

IT IS FURTHER ORDERED that the application of Good News Broadcasting Network, Inc. for a construction permit for a new noncommercial educational FM station at Gallup, New Mexico (Application File No. 0000167858) **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 application, we intend, by public notice, **TO GRANT** the application of Good News Broadcasting Network, Inc. (Application File No. 0000167858).

Sincerely,

Albert Shuldiner
Chief, Audio Division
Media Bureau