



Federal Communications Commission
Washington, D.C. 20554

July 16, 2025

DA 25-626
In Reply Refer to:
1800B3-JAC
Released July 16, 2025

Heme Aqui CA Church
c/o Dan J. Alpert, Esq.
2120 21st Rd. N
Arlington, VA 22201
(sent by email)

MENA Coalition, Inc.
c/o Dirán Deukmajian
1987 Paseo Gabriela
San Dimas, CA 91773
(sent by email)

In re: LPFM MX Group 12

Heme Aqui CA Church
New LPFM, Cucamonga, California
Facility ID No. 788625
Application File No. 0000233172

MENA Coalition, Inc.
New LPFM, San Dimas, California
Facility ID No. 787918
Application File No. 0000232301

Petition to Deny

Dear Applicants:

We have before us the above-referenced mutually exclusive applications for construction permits for new low power FM (LPFM) stations in Cucamonga and San Dimas, California, filed by Heme Aqui CA Church (Heme) and MENA Coalition, Inc. (MENA), respectively.¹ We also have before us a Petition to Deny the Heme Application, filed by MENA.² For the reasons set forth below, we grant the Petition, dismiss the Heme Application, and grant the MENA Application.

Background. Heme, MENA, and Iglesia Ministerios Voz de Jubilo (Iglesia)³ filed applications for construction permits for new LPFM stations during the 2023 LPFM filing window.⁴ The Media

¹ See Application File Nos. 0000233172 (Heme Application, filed Dec. 15, 2023) and 0000232301 (MENA Application, filed Dec. 11, 2023).

² See Pleading No. 0000271331 (filed May 22, 2025) (Petition). Heme did not file an opposition to the Petition.

³ Application File No. 0000231696 (Iglesia Application, filed Dec. 6, 2023).

⁴ *Media Bureau Announces Filing Procedures and Requirements for November 1 – November 8, 2023, Low Power FM Filing Window*, Public Notice, 38 FCC Rcd 6660 (MB 2023). Based on a request from LPFM advocates, the

Bureau (Bureau) identified these applications as LPFM MX Group 12.⁵ The Commission conducted a point system analysis and awarded Iglesia five points, awarded Heme and MENA four points each, and identified Iglesia as the tentative selectee of MX Group 12.⁶ The Bureau, however, subsequently dismissed the Iglesia Application and identified the Heme Application and MENA Application as the new tentative selectees of LPFM MX Group 12 on a time-share basis.⁷

In the Petition, MENA argues that “Heme fails to meet the basic qualification requirement to be local to its proposed antenna site” under section 73.853(b) of the Commission’s rules (rules).⁸ Specifically, MENA asserts that the residences of Heme’s directors are “more than 20 miles” from Heme’s proposed antenna site.⁹ MENA also asserts that the purported address of Heme’s headquarters is a vacant building which, along with the lack of evidence that Heme “has done anything since its inception other than file [its] application,” demonstrates that Heme is an “inchoate corporate shell.”¹⁰ MENA also argues that “the structure of Heme’s corporate board as described in the application does not comply with California law for religious nonprofit corporations.”¹¹

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*

Bureau subsequently delayed the window until December 6, 2023. *Media Bureau Announces Revised Dates for LPFM New Station Application Filing Window*, Public Notice, 38 FCC Rcd 9589 (MB 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, 38 FCC Rcd 11882 (MB 2023).

⁵ *Media Bureau Identifies Groups of Mutually Exclusive Applications Submitted in the December 2023 LPFM Filing Window*, Public Notice, 39 FCC Rcd 2355 (MB 2024).

⁶ *Commission Identifies Tentative Selectees in 93 Groups of Mutually Exclusive Applications Submitted in the December 2023 LPFM Window*, Public Notice, FCC 24-113 at Attach. A (Oct. 16, 2024). Heme, MENA, and Iglesia each received one point for each of the following criteria: (1) commitment to originate local programming; (2) commitment to maintain a main studio; (3) commitment to originate local programming and to maintain a main studio; and (4) diversity of ownership. *Id.* Iglesia also received one point for established community presence of at least two years. *Id.*

⁷ See *LPFM MX Group 12*, Letter Order, DA 25-354, 2025 WL 1189909 (MB Apr. 22, 2025) (*April 2025 Letter Order*) (dismissing Iglesia Application for failure to prosecute).

⁸ 47 CFR § 73.853(b).

⁹ Petition at 2.

¹⁰ *Id.* at 2-4 (citing *Comparative Consideration of Seven Groups of Mutually Exclusive Applications for Permits to Construct New Noncommercial Educational FM Stations*, Memorandum Opinion and Order, 30 FCC Rcd 5161, 5174-75, para. 40 (2015); *Comparative Consideration of 33 Groups of Mutually Exclusive Applications for Permits to Construct New or Modified Noncommercial Educational FM Stations*, Memorandum Opinion and Order, 26 FCC Rcd 9058, 9089, para. 91 (2011) (*2011 NCE Comparative Order*); *Maka’ainana Broadcasting Company*, Letter Order, 27 FCC Rcd 9295, 9299 (MB 2012)).

¹¹ Petition at 1-2. MENA asserts that one of Heme’s three directors has 70% voting control; however, MENA argues that California law states that directors of religious nonprofit corporations shall have one vote each, and therefore each of Heme’s directors should have one-third voting control. *Id.* at 5-6.

¹² 47 U.S.C. § 309(d).

facie inconsistent with the public interest.¹³ As explained below, we grant the Petition, dismiss the Heme Application, and grant the MENA Application.

We find that Heme fails to meet the localism requirements of section 73.853(b) of the rules.¹⁴ An LPFM applicant must qualify as a “local” entity at the time that it files its FCC Form 2100, Schedule 318 application (LPFM Application).¹⁵ To qualify as local, an LPFM applicant within the top 50 urban markets, such as Heme,¹⁶ must either: (1) be physically headquartered or have a campus within 10 miles of the transmitting antenna site proposed in its application; or (2) have 75% of its board members residing within 10 miles of the transmitting antenna site proposed in its application.¹⁷

Heme certifies in its Application that both its physical headquarters and 75% of its board members reside within 10 miles of the proposed transmitting antenna site.¹⁸ However, the address that Heme lists for all three of its board members, 20814 Sholic Road, Apple Valley, California 92308 (Apple Valley Address),¹⁹ is 33 miles from its proposed transmitting antenna site, the coordinates of which are 34° 06’ 22.0” N 117° 34’ 04.0” W (Proposed Transmitter Site) in the community of Rancho Cucamonga,²⁰ and thus beyond the 10 mile limit specified in section 73.853(b) of the rules.²¹

It is not clear from its Application which address Heme puts forth as its headquarters. There are two possibilities. First, it lists 16870 Merrill Ave., Fontana, California 92335 (Fontana Address), as its contact address and its proposed main studio address.²² Second, it lists the Apple Valley Address as its “Principal Office” with the California Secretary of State.²³ As discussed above, the Apple Valley address is more than 10 miles from the Proposed Transmitter Site, and therefore beyond the 10 mile limit

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 47 CFR § 73.853(b).

¹⁵ See Instructions for LPFM Application, Legal Certifications Section, Eligibility Certifications and Community-Based Criteria Certifications questions. See also LPFM Application, Legal Certifications Section, Eligibility Certifications questions.

¹⁶ Heme’s proposed community of license is in the Riverside-San Bernardino radio market, which is a top 50 market. See The Nielsen Company (US) LLC, Radio Market Survey Population & Information, Spring 2024, at 1 (2024) https://www.nielsen.com/wp-content/uploads/sites/2/2024/04/Populations_Rankings.pdf.

¹⁷ 47 CFR § 73.853(b). See also *Creation of a Low Power Radio Service*, Report and Order, 15 FCC Rcd 2205, 2219-20, para. 33 (2001) (*LPFM R&O*) (localism requirement may be met by relying on either headquarters or board member residences).

¹⁸ Heme Application at Legal Certifications Section, Community-Based Criteria questions.

¹⁹ *Id.* at Applicant Information Section, Parties to the Application; see also *id.* at Attach. “Heme Aquica Articles.pdf” (State Filing Attachment).

²⁰ *Id.* at Antenna Location Data Section, Coordinates question.

²¹ 47 CFR § 73.853(b).

²² Heme Application at Applicant Information Section, Applicant Name, Type, and Contact Information; *id.* at Point System Factors Section, Main Studio question.

²³ *Id.* at State Filing Attachment.

specified in section 73.853(b) of the rules.²⁴ While the Fontana Address is within 10 miles of the Proposed Transmitter Site, MENA provides photographs of the Fontana Address that show a vacant building with a sign in the window indicating that a tax preparation service previously occupied the building.²⁵ The photographs also show an electrical meter that is turned off, and MENA states that there is “no evidence of any current or recent activity of any kind at this site.”²⁶ Heme did not file an opposition to MENA’s Petition or provide any additional information.

When it established the LPFM service, the Commission required that an applicant be “based in the local community,” either through its “physical headquarter[s]” or board member residences.²⁷ In adopting the localism requirement, the Commission explained that “[g]iven the small coverage of LPFM stations, and our intention that the particular needs and interests of these small areas be served, local familiarity is more significant than it might be for a station serving a larger area and population.”²⁸ In the analogous full-service noncommercial educational FM context, the Commission has clarified that a local headquarters must be a primary place of business and not, for example, a post office box, vacation home, attorney’s office, or branch office, which are more easily feigned and/or present less of an opportunity for meaningful contact with the community.²⁹ Similarly, a headquarters must be operational and not merely an address used by a “paper” or “shell” organization.³⁰ Here, Heme did not respond to the Petition and has not provided any evidence that it uses the Fontana Address as its headquarters. In fact, nothing in the record indicates a connection between Heme and the Fontana Address beyond Heme’s inclusion of the address on its Application.³¹ Absent some showing that Heme uses the Fontana Address as its headquarters, the vacant nature of the property serves as evidence that the Apple Valley address is the correct headquarters for Heme. Allowing Heme to rely on the Fontana Address, which apparently is an unused commercial building where Heme has no actual physical presence, would eviscerate the Commission’s intention to ensure that the LPFM service is responsive to local needs, especially when Heme’s official “Principal Office” and residence(s) of its board members are in Apple Valley, a community approximately 40 miles from the community of license.³² We therefore find that the Fontana Address does not qualify as a headquarters for the purpose of satisfying the localism requirement.

²⁴ 47 CFR § 73.853(b).

²⁵ Petition at Exhibit 3.

²⁶ *Id.* at Exhibit 3; *id.* at 3.

²⁷ *LPFM R&O*, 15 FCC Rcd at 2219-20, paras. 33, 36 (“the community-based requirement that we adopt today does not rest on quantitative factors and is not based on promises of future conduct. Rather, we are adopting a simple, straightforward requirement that applicants be based in the local community.”).

²⁸ *Id.* at 2219, para. 33.

²⁹ *2011 NCE Comparative Order*, 26 FCC Rcd at 9089, para. 91. *See also Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, Report and Order, 15 FCC Rcd 7386, 7410, para. 54 (2000); *Reexamination of the Comparative Standards and Procedures for Licensing Noncommercial Educational Broadcast Stations and Low Power FM Stations*, Notice of Proposed Rulemaking, 34 FCC Rcd 851, 858, n.56 (2019).

³⁰ *2011 NCE Comparative Order*, 26 FCC Rcd at 9089, para. 91.

³¹ An independent review by the staff found that the Fontana Address is not listed in any of Heme’s filings with the State of California. *See* California Secretary of State, <https://bizfileonline.sos.ca.gov/search/business> (last visited July 11, 2025).

³² *See also LPFM R&O*, 15 FCC Rcd at 2219, para. 33 (“We chose the 10-mile distance as proportionate to most stations’ likely effective reach. We are concerned that a larger distance, in many areas of the country, could lead to ownership outside the bounds of the station’s real community and the people they will actually serve.”).

Because there is no indication in the Heme Application that Heme has a headquarters located within 10 miles of its proposed transmitting antenna site, or that 75% of its board members reside within the 10-mile limit, Heme has not sufficiently demonstrated that it is local. We therefore conclude that Heme does not qualify as local under section 73.853(b) of the rules,³³ and dismiss the Heme Application.³⁴ Dismissing the Heme Application renders the MENA Application as the sole remaining tentative selectee in LPFM MX Group 12.³⁵ Accordingly, we grant the MENA Application.

Conclusion/Actions. For the reasons set forth above, **IT IS ORDERED**, that the Petition to Deny filed by MENA Coalition, Inc., on May 22, 2025 (Pleading File No. 0000271331) **IS GRANTED**.

IT IS FURTHER ORDERED that the tentative selection of the application of Heme Aqui CA Church (Application File No. 0000233172) on December 15, 2023, for a construction permit for a new LPFM station in Cucamonga, California, **IS RESCINDED** and the application **IS DISMISSED**.

IT IS FURTHER ORDERED that the application filed by MENA Coalition, Inc. (Application File No. 0000232301) on December 11, 2023, for a construction permit for a new LPFM station in San Dimas, California **IS GRANTED**.

Sincerely,

Albert Shuldiner
Chief, Audio Division
Media Bureau

³³ 47 CFR § 73.853(b). In light of this finding, we need not address the remaining allegation in the Petition regarding Heme's corporate structure.

³⁴ See, e.g., *Bump FM Inc.*, Letter Order, 39 FCC Rcd 2304 (MB 2024) (dismissing LPFM application for insufficient demonstration of localism).

³⁵ Because we dismiss the Heme Application, MENA and Heme are no longer required to submit a time-sharing agreement. See *April 2025 Letter Order* at *2 (requiring MENA and Heme to submit a time-sharing agreement within 90 days of the release of the letter).