

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

In the Matter of)	
)	
CALVARY CHAPEL OF SOUTHERN OCEAN COUNTY)	File No. BNPL-20010613AFK
)	Facility ID No. 134675
)	
Application for a Construction Permit for a New Low Power FM Station at West Creek, New Jersey)	
)	
PUBLIC BROADCASTING OF SOUTHERN OCEAN COUNTY, INC.)	File No. BNPL-20010611AGA
)	Facility ID No. 133539
)	
Application for a Construction Permit for a New Low Power FM Station at Eagleswood, New Jersey)	
)	
HERITAGE BAY HOMEOWNERS ASSOCIATION, INC.)	File No. BNPL-20010615BBG
)	Facility ID No. 135690
)	
Application for a Construction Permit for a new Low Power FM Station at Barnegat, New Jersey)	

MEMORANDUM OPINION AND ORDER

Adopted: February 6, 2008

Released: February 8, 2008

By the Commission:

I. INTRODUCTION

1. The Commission has before it the captioned, mutually exclusive applications of Calvary Chapel of Southern Ocean County (“Calvary Chapel”), Public Broadcasting of Southern Ocean County, Inc. (“PBSOC”), and Heritage Bay Homeowners Association, Inc. (“Heritage”), each seeking a construction permit for a new station in the Low Power FM (“LPFM”) Broadcast Service at West Creek, Eagleswood, and Barnegat, New Jersey, respectively. In accordance with our procedures,¹ the staff tallied the comparative point totals claimed by each applicant and listed those point totals in a Public Notice accepting the applications for filing, establishing a petition to deny period, and specifying the applications’ tentative selectee status.² Therein, Calvary Chapel was designated as the tentative selectee for the subject authorization. No parties filed petitions to deny or informal objections to these

¹ See *Creation of a Low Power Radio Service*, Report and Order, 15 FCC Rcd 2205 (2000) (“*LPFM Report and Order*”); *recon. generally denied*, Memorandum Opinion and Order on Reconsideration, 15 FCC Rcd 19208 (2000); *regulation modification granted by* Second Report and Order, 16 FCC Rcd 8026 (2001); Third Report and Order and Second Further Notice of Proposed Rulemaking, FCC 07-204 (rel. Dec. 11, 2007) (“*Third Report and Order*”).

² See *Closed Groups of Pending Low Power FM Mutually Exclusive Applications Accepted for Filing*, Public Notice, 19 FCC Rcd 4624 (2004).

applications. For the following reasons, we grant the Calvary Chapel application and dismiss those of PBSOC and Heritage.

II. DISCUSSION

2. Before applying the LPFM mutually exclusive selection procedure preference to determine the number of merit points to be awarded to each applicant, we first ascertain the basic eligibility of the applicants. In order to further our diversity goals and foster local, community-based service, we do not allow any broadcaster or other media entity subject to our ownership rules to control or to hold an attributable ownership interest in an LPFM station or enter broadcast-related operating agreements with an LPFM licensee.³ Additionally, to foster the local nature of LPFM service, we have limited eligibility to local entities during the first two years that LPFM licenses are available.⁴ Based on the record before us, we conclude that Calvary Chapel, PBSOC and Heritage are each qualified to hold an LPFM station authorization.

3. Mutually exclusive LPFM applications filed by qualified applicants are subject to the comparative selection procedures set forth in Section 73.872 of the Commission's Rules.⁵ This procedure awards a maximum of three points, based on three criteria deemed to be most relevant to predicting the applicant that is best qualified to provide the service for which LPFM spectrum has been allocated, with the applicant with the highest points awarded named the tentative selectee.⁶

- Each applicant that certified that it has had an *established community presence of at least two years' duration* is awarded one point. An applicant is deemed to have an established community presence if, for a period of at least two years prior to application, the *applicant* has been physically headquartered, has had a campus, or has had 75 percent of its board members residing within 10 miles of the reference coordinates of the proposed transmitting antenna.
- An applicant that has *pledged to operate at least 12 hours per day* is awarded one point.
- An applicant that has *pledged to originate locally at least eight hours of programming per day* is awarded one point. For purposes of this criterion, local origination is defined as the production of programming within 10 miles of the reference coordinates of the proposed transmitting antenna.⁷

4. Under this comparative selection process, the applicants here are awarded the following points:

- *Established Community Presence.* Calvary Chapel is entitled to a point because it has certified that, for a period of at least two years prior to the filing date of its application, it existed as an educational institution or organization and has been physically headquartered, has had a campus, or has had 75 percent of its board members residing within 10 miles of the coordinates of the

³ See 47 C.F.R. § 73.860.

⁴ See 47 C.F.R. § 73.853(b). The *Third Report and Order* amends this rule section. Pursuant to the amended 47 C.F.R. § 73.853(b), "[o]nly local applicants will be permitted to submit applications." The amended rule takes effect on March 17, 2008.

⁵ See 47 C.F.R. § 73.872.

⁶ See *id.*

⁷ See *id.*

proposed transmitting antenna.⁸ PBSOC and Heritage are not entitled to one point because neither has so certified.⁹

- *Proposed Operating Hours.* Calvary Chapel and PBSOC are each entitled to a point because they have each pledged to operate at least 12 hours per day.¹⁰ Heritage is not entitled to a point because it has not so pledged.¹¹
- *Local Program Origination.* Calvary Chapel and PBSOC are each entitled to a point because they have each pledged to originate at least eight hours of local programming per day.¹² Heritage is not entitled to a point because it has not so pledged.¹³

Total Points. Accordingly, Calvary Chapel is entitled to three points, PBSOC is entitled to two points, and Heritage is entitled to no points. Thus, Calvary Chapel is the prevailing tentative selectee in LPFM Mutually Exclusive Group No. 73. We conclude that grant of Calvary Chapel's application would serve the public interest, convenience and necessity.

III. ORDERING CLAUSES

5. Accordingly, IT IS ORDERED, that the applications of Public Broadcasting of Southern Ocean County, Inc. (File No. BNPL-20010611AGA) and Heritage Bay Homeowners Association, Inc. (File No. BNPL-20010615BBG) ARE DISMISSED.

6. IT IS FURTHER ORDERED, that the application of Calvary Chapel of Southern Ocean County (File No. BNPL-20010613AFK) IS GRANTED.

7. IT IS FURTHER ORDERED that copies of this *Memorandum Opinion and Order* shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Calvary Chapel of Southern Ocean County, 610 North Route 9, West Creek, New Jersey 08092, and to its counsel Harry C. Martin, Esq., Fletcher, Heald and Hildreth, PLC, 1300 North 17th Street, Arlington, Virginia 22209; to Public Broadcasting of Southern Ocean County, Inc., P.O. Box 47, West Creek, New Jersey 08092; and to Heritage Bay Homeowners Association, Inc., 100 Sandpiper Road, Barnegat, New Jersey 08005.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁸ See Calvary Chapel application at Section III, Question 1(a); see also Exhibit 7.

⁹ See PBSOC application at Section III, Question 1(a); see also Exhibit 7; see also Heritage application at Section III, Question 1(a); Exhibit 7.

¹⁰ See Calvary Chapel application at Section III, Question 2; see also PBSOC application at Section III, Question 2.

¹¹ See Heritage application at Section III, Question 2.

¹² See Calvary Chapel application at Section III, Question 3; see also PBSOC application at Section III, Question 3.

¹³ See Heritage application at Section III, Question 3.