

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

In the Matter of)
)
Comparative Consideration of 24 Groups of) NCE MX Group Numbers 366, 502, 505,
Mutually Exclusive Applications) 508, 509B, 511A, 512, 513, 515, 517B, 518,
for Permits to Construct New or Modified) 524, 526, 527, 532, 534, 536A, 536B, 541,
Noncommercial Educational FM Stations filed in) 543, 544, 545, 546B, and 546C
the October 2007 Filing Window)

MEMORANDUM OPINION AND ORDER

Adopted: September 1, 2010

Released: September 2, 2010

By the Commission:

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I. BACKGROUND

1. By this Memorandum Opinion and Order (“Order”), the Commission considers 24 groups of mutually exclusive applications for new or modified noncommercial educational (“NCE”) FM station construction permits.¹ The Commission resolves such conflicting NCE proposals by applying comparative procedures codified in Part 73, Subpart K, of the Commission’s Rules (the “Rules”).² This Order uses a point system to tentatively select applications for grant and initiates a 30-day period for filing petitions to deny against the applicants tentatively selected.³

¹ Each application was filed or amended during a filing window that was open from October 12, 2007, through October 22, 2007. Applications for new stations or major modifications that were on file prior to the October window, but not cut off from competing applications, were required to amend their applications to be considered along with applications filed during the window. See *Media Bureau Announces NCE FM New Station and Major Change Filing Procedures for October 12-October 19, 2007 Window*, Public Notice, 22 FCC Rcd 15050 (MB 2007) (“*Procedures Notice*”); *Media Bureau to Extend Window for NCE FM New Station and Major Change Applications; Window Will Close on October 22, 2007*, Public Notice, 22 FCC Rcd 18680 (MB 2007).

² 47 C.F.R. §§ 73.7000 – 73.7005.

³ See *id.* § 73.7004(b).

II. GENERAL NCE PROCEDURES

2. The Commission's analysis of mutually exclusive groups of NCE applications generally consists of three main components. First, if applicants propose service to different communities, the staff performs a threshold fair distribution study pursuant to Section 307(b) of the Communications Act of 1934, as amended (the "Act").⁴ The Commission generally has used the population data and applicant certifications submitted in conjunction with Section 307(b) claims to make these comparative determinations. Second, application conflicts not resolved under this "fair distribution" analysis⁵ are compared under an NCE point system,⁶ which is a simplified, "paper hearing" process.⁷ The Commission generally has awarded the number of points claimed by each applicant in Section IV of its application. Third, if necessary, the Commission makes a tie-breaker determination, based on applicant-provided numbers and certifications contained in Section V of each application. Each of these steps is described in greater detail below.

A. Section 307(b) --Threshold Fair Distribution Study.

3. When mutually exclusive applications for permits to construct NCE FM stations propose to serve different communities, the Media Bureau ("Bureau") determines whether grant of any of the applications would best further the fair, efficient, and equitable distribution of radio service among communities.⁸ An NCE FM applicant is eligible to receive a Section 307(b) preference if it would provide within the proposed station's 60 dBu contour a first or second reserved band channel NCE aural

⁴ See 47 U.S.C. § 307(b).

⁵ See 47 C.F.R. § 73.7002 (procedures for selecting among mutually exclusive applicants for stations proposing to serve different communities).

⁶ See 47 C.F.R. § 73.7003 (point system selection procedures).

⁷ See *Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, Notice of Proposed Rulemaking, 10 FCC Rcd 2877 (1995), *further rules proposed*, Further Notice of Proposed Rulemaking, 13 FCC Rcd 21167 (1998), *rules adopted*, Report and Order, 15 FCC Rcd 7386 (2000) ("*NCE Order*"), *vacated in part on other grounds sub nom.*, *National Public Radio v. FCC*, 254 F.3d 226 (D.C. Cir. 2001), *clarified*, Memorandum Opinion and Order, 16 FCC Rcd 5074 ("*NCE MO&O*"), *Erratum*, 16 FCC Rcd 10549, *recon. denied*, Memorandum Opinion and Second Order on Reconsideration, 17 FCC Rcd 13132 (2002) ("*NCE Reconsideration Order*"), *aff'd sub nom. American Family Ass'n v. FCC*, 365 F.3d 1156 (D.C. Cir. 2004) ("*American Family*"), *cert. denied*, 543 U.S. 1000 (2004) (history pertaining only to non-reserved band FM channels omitted).

⁸ See 47 U.S.C. § 307(b) ("In considering applications for licenses ... when and insofar as there is demand for the same, the Commission shall make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same."); 47 C.F.R. § 73.7002(a). A Section 307(b) analysis is ordinarily conducted at the staff level because the Bureau has delegated authority to make Section 307(b) determinations in NCE cases. See *NCE Order*, 15 FCC Rcd at 7397. See also 47 C.F.R. §§ 0.61 and 0.283. In contrast, the point system analysis, which is conducted when Section 307(b) is not determinative, must be conducted by the Commission as this analysis is considered a simplified "hearing" for purposes of 47 U.S.C. § 155(c)(1). *NCE Order*, 15 FCC Rcd at 7420. The staff has referred the Section 307(b) analyses in each of the present groups to the Commission for consolidated analysis because Section 307(b) factors did not entirely resolve all applications in these groups and the Commission must, therefore, consider the remaining applications in a point hearing.

service to at least ten percent of the population (in the aggregate), provided that such service is to at least 2,000 people.⁹

4. If more than one applicant in a mutually exclusive group qualifies for a Section 307(b) preference, each applicant's first service population coverage totals are compared.¹⁰ An applicant proposing a first NCE aural service to ten percent of the population and at least 2,000 people will receive a dispositive fair distribution preference over applicants for different communities that would not provide such first service.¹¹ Such an application also would receive a dispositive fair distribution preference over applicants for different communities that would provide a first NCE aural service to at least 5,000 fewer potential listeners than the next highest applicant's first service total.¹² If no applicant is entitled to a first service preference, we consider combined first and second NCE aural service population totals and apply the same 5,000-listener threshold. At each stage of the Section 307(b) analysis between applicants for different communities, any applicant that is comparatively disfavored in terms of eligibility or service totals is eliminated. Comparable applicants proceed to the next level of analysis, provided that different communities are still represented in the remaining pool of applicants. The process ends when the Commission determines that none of the remaining applicants can be selected or eliminated based on a Section 307(b) preference, or that each remaining applicant proposes to serve the same community. At that stage, the remaining applicants proceed to a point system analysis.

B. Point System Selection Process.

5. The Commission compares mutually exclusive groups of NCE FM applications under the point system set forth in Section 73.7003 of the Rules.¹³ The NCE point system awards a maximum of seven merit points, based on four distinct criteria.¹⁴ First, three points are awarded to applicants that certify that they have been local and established for at least two years. Applicants with a headquarters, campus, or 75 percent of their board members residing within 25 miles of the reference coordinates of the community of license are considered local. A governmental unit is considered local within its area of jurisdiction. To qualify for localism points based on board composition, the applicant also must certify that its governing documents require that such board composition be maintained. The applicant also must certify that it has placed documentation supporting its certification in a local public inspection file, and that it has submitted that documentation to the Commission. Any applicant awarded localism points in this Order has provided support for its certification. Thus, the specific point system determinations for each group of mutually exclusive applications that follow only discuss an applicant's documentation if it is insufficient to justify awarding localism points.

6. Second, two points are awarded for local diversity of ownership if the principal community contours of the applicant's proposed station and any other station in which any party to the

⁹ See 47 C.F.R. § 73.7002(b). Applicants were required to use the 2000 Census population data and to count all reserved band aural authorizations, including stations for which a construction permit, but not a license, has been issued. See *Procedures Notice*, 22 FCC Rcd at 15052.

¹⁰ See 47 C.F.R. § 73.7002(b).

¹¹ *Id.*

¹² *Id.*

¹³ See 47 C.F.R. § 73.7003.

¹⁴ See 47 C.F.R. § 73.7003(b).

application holds an attributable interest do not overlap.¹⁵ To be awarded such points, an applicant's governing documents must include a provision to maintain that diversity in the future. Applicants that are organizations governed by state charters that cannot be amended without legislative action are permitted to base the governing document component of their local diversity certifications on other safeguards that reasonably assure that board characteristics will be maintained.¹⁶ Any applicant awarded diversity of ownership points in this Order has submitted copies of pertinent governing documents to support its certification or, for applicants such as state universities that are governed by laws which cannot be amended without legislative action, an appropriate alternative showing. Thus, the specific point system determinations for each group of mutually exclusive applications that follow only discuss an applicant's documentation if it is insufficient to justify awarding diversity points. An applicant that proposes a full service NCE station that would replace an attributable FM translator may exclude the translator for calculating ownership diversity points if it has pledged to request cancellation of the translator authorization upon the new station's commencement of operations.¹⁷ The Commission has stated that it will, on a waiver basis, similarly allow applicants to exclude Class D (10 watt) FM stations that will be replaced by the proposed full service NCE station.¹⁸ The Bureau has also extended this waiver treatment to low power FM ("LPFM") stations.¹⁹

7. Third, two points are awarded for certain statewide networks providing programming to accredited schools. These points are available only to applicants that cannot claim a credit for local diversity of ownership.²⁰

8. Fourth, an applicant that proposes the best technical proposal in the group (*i.e.*, proposes service to the largest population and area, excluding substantial areas of water) may receive up to two points. The applicant receives one point if its proposed service area *and* population are ten percent greater than those of the next best area and population proposals, or two points if both are 25 percent greater than those of the next best area and population proposals as measured by each proposed station's predicted 60 dBu signal strength contour.²¹ If the best technical proposal does not meet the 10 percent threshold, no applicant is awarded points under this criterion. In considering this criterion, we have

¹⁵ See 47 C.F.R. § 73.7003(b)(2). Parties with attributable interests are defined as the applicant, its parent, subsidiaries, their officers, and members of their governing boards. See 47 C.F.R. § 73.7000. Interests of certain entities providing more than 33 percent of the applicant's equity and/or debt are also attributable. *Id.*

¹⁶ See *NCE MO&O*, 16 FCC Rcd at 5095.

¹⁷ *Id.* at 5102-03.

¹⁸ See *Consideration of 76 Groups of Mutually Exclusive Applications for Permits to Construct New or Modified NCE FM Stations*, Memorandum Opinion and Order, 22 FCC Rcd 6101, 6120 (2007) ("*NCE Omnibus*").

¹⁹ See, e.g., *Comparative Consideration of 59 Groups of Mutually Exclusive Applications for Permits to Construct New or Modified Noncommercial Educational FM Stations*, Memorandum Opinion and Order, 25 FCC Rcd 1681, 1686 (2010); *Comparative Consideration of 32 Groups of Mutually Exclusive Applications for Permits to Construct New or Modified Noncommercial Educational FM Stations*, Memorandum Opinion and Order, 25 FCC Rcd 5013 (2010). See also *Procedures Notice*, 22 FCC Rcd at 15052-53. An applicant seeking to avoid attribution of an LPFM interest must, as part of its window-filed application, submit a request for waiver of the Rule that would otherwise result in the attribution of the LPFM interest in the applicant's point system determination and propose to surrender the LPFM interest. The Commission will waive the LPFM cross-ownership rule so that an NCE FM construction permit may issue to an LPFM licensee, provided that the LPFM license must be divested prior to commencement of program tests by the new NCE FM station. See 47 C.F.R. § 73.860(a).

²⁰ See 47 C.F.R. § 73.7003(b)(3). The statewide network credit is an alternative for applicants that need multiple stations to serve large numbers of schools and, therefore, do not qualify for the local diversity of ownership credit.

generally accepted applicants' coverage and population claims. We have rounded any numbers expressed in decimals to the nearest whole numbers.

9. Finally, the Commission tallies the total number of points awarded to each applicant. The applicant with the highest score in a group is designated the "tentative selectee." All other applicants are eliminated.

C. Tie-Breakers.

10. Applicants tied with the highest number of points awarded in a particular group proceed to a tie-breaker round, in accordance with Section 73.7003(c) of the Rules.²² The first tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant.²³ The applicant with the fewest attributable authorizations prevails. If the tie is not broken by this first factor, we apply a second tie-breaker: the number of radio station applications attributable to each applicant. Applicants are required to include applications for construction permits filed for other aural services prior to the window, the current application, as well as all other applications filed within the window.²⁴ If that second factor fails to break the tie, we use mandatory timesharing as the tie-breaker of last resort.

D. Timely Documentation of Comparative Qualifications.

11. The NCE application, FCC Form 340, is certification-based, but requires applicants to document their claims by submitting supporting information both to the Commission and to a local public file.²⁵ Applicant point claims must be readily ascertainable from timely-filed application exhibits. Certifications which require the applicant to submit documentation, but which are not supported with any such timely submitted documentation, cannot be credited. For example, the Commission herein rejects claims where the applicant certifies that it qualifies for points for diversity of ownership or as an established local applicant but fails to supply supporting information referred to in the certification. Every applicant claiming points for diversity of ownership must certify that the proposed station's service area would not overlap that of an attributable existing station, that its governing documents require that such diversity be maintained, and "that it has placed documentation of its diversity qualifications in a local public file and has submitted to the Commission copies of that documentation."²⁶ Similar

(...continued from previous page)

²¹ *Id.* § 73.7003(b)(4). See *NCE Omnibus*, 22 FCC Rcd at 6121-22 (if there is one top applicant in terms of area and population, but no single next best applicant for both factors, the Commission will compare the top applicant's proposed area to the next best area of one applicant and the top applicant's population to the next best population of another applicant).

²² 47 C.F.R. § 73.7003(c).

²³ *Id.* § 73.7003(c)(1). Applicants are required to count all attributable full service commercial and NCE radio stations and certain FM translator stations. An applicant may exclude fill-in translators and any translator which the applicant seeks to replace with its full service proposal filed in this window. Applicants requesting and receiving a rule waiver may similarly exclude an LPFM or Class D FM station.

²⁴ See *NCE Omnibus*, 22 FCC Rcd at 6123.

²⁵ See *NCE Order*, 15 FCC Rcd at 7423.

²⁶ See *FCC Form 340*, Instructions, Question IV(2). With respect to documenting current diversity, the preferred information is a map showing no overlap or a statement that the party to the application holds no attributable interest in any station. To document future diversity, the applicant would generally submit a copy of the governing documents referenced in the certification.

certifications and documents are required of applicants claiming points as established local applicants.²⁷ While there is some flexibility in the type of documentation an applicant may provide, an applicant submitting no timely documentation at all cannot have made a valid certification. We have adjusted the points of such applicants downward.

III. POINT SYSTEM DETERMINATIONS

12. This Section contains narrative descriptions of our point system analyses in each mutually exclusive proceeding, organized chronologically by assigned group number. Unless otherwise noted, each component of the analysis is based on applicant-provided information.²⁸ We have provided readers with an Appendix that condenses the group-by-group narratives that follow into chart form for quick reference. A more detailed guide to the Appendix and its use of abbreviations appears at the beginning of that Section.

13. At the outset, we note that each group of applicants has had an opportunity to resolve application conflicts by settlement and technical amendment. In addition, we note that applicants were required to report their qualifications as of the date of application (or close of the filing window for already pending, non-cut-off applications). Any changes made thereafter may potentially have diminished, but could not enhance, an applicant's comparative position.

14. **Group 366.** This group is comprised of three applications proposing service to two different communities in Maryland. Pensacola Christian College, Inc. ("PCC") and Delmarva Educational Association ("Delmarva") would each serve California, Maryland. Body of Christ Farm Community, Inc. ("BCFC") proposes to serve Mechanicsville. When applicants propose different communities, the Commission must first determine whether one applicant is credited with a dispositive fair distribution preference. Each applicant claims eligibility for a fair distribution preference²⁹ and a first service preference. PCC claims that it would provide a first NCE service to 54,614 people; Delmarva to 88,413 people; and BCFC to 60,035. BCFC is eliminated because Delmarva's application to serve the different community of California would serve over 5,000 more people. PCC cannot be eliminated under the fair distribution criterion because it proposes to serve the same community as Delmarva's best proposal. Delmarva and PCC therefore must proceed to a point hearing to determine which will serve the community of California.

²⁷ See *FCC Form 340*, Instructions, Question IV(1). Examples of acceptable documentation include corporate materials from the secretary of state, lists of names, addresses, and length of residence of board members, copies of governing documents requiring a 75 percent local governing board, and course brochures indicating that classes have been offered at a local campus for the preceding two years.

²⁸ Specifically, information relating to the applicants' Section 307(b) claims including, where applicable, populations receiving first and/or second NCE radio services were reported by the applicants in their responses to Questions III(a) and (b) of their applications and associated exhibits. Claims to qualify as established local applicants, for diversity of ownership, and as statewide networks were reported in the responses to Questions IV(1), (2) and (3) respectively, and in supporting documentation. Applicants reported the area and population figures used in our analyses of technical parameters in responses to Question IV(4) and associated exhibits. Tie-breaker information concerning the applicants' attributable interests in other radio station authorizations and other radio station applications were reported in responses to Questions V(1) and (2), respectively.

²⁹ See PCC, Delmarva, and BCFC Applications, Questions III(1), III(2), and associated exhibits. PCC claims that it would provide aggregated first and second NCE service to 54,614 of the 62,973 people encompassed within its 60 dBu contour; Delmarva to 100,175 of the 101,341 people; and BCFC to 72,337 of the 73,372 people. Thus, each would provide combined first and second NCE service to at least ten percent of the population within its 60 dBu contour and to more than 2,000 people.

15. Neither applicant claims points as an established local applicant. Each applicant claims two points for diversity of ownership. PCC, however, does not adequately support its diversity claim. Accordingly, we award two points only to Delmarva under this criterion. Neither applicant claims points as a statewide network. With respect to technical parameters, PCC claims that its proposed 60 dBu contour would encompass 689 square kilometers with a population of 62,973. Delmarva's proposed 60 dBu contour would encompass 1,102 square kilometers with a population of 101,341. Delmarva is entitled to two points under the best technical proposal criterion because it proposes to serve at least 25 percent more area and population than PCC. Accordingly, Delmarva receives four points, and PCC is not credited with any points.³⁰ Delmarva is therefore the tentative selectee in Group 366.

16. **Group 502.** This group consists of 15 applications proposing service to 13 different communities in Arkansas and Texas. Pensacola Christian College, Inc. ("PCC") and From His Heart Ministries ("FHM") would each serve Mandeville, Arkansas. The other applicants proposing service in Arkansas are: Way-FM Media Group, Inc. ("Way-FM") for Russellville; American Heritage Media, Inc. ("AHMI") for College City; Community Broadcasting, Inc. ("CBI") for Walnut Ridge; Calvary Chapel of Jacksonville ("CCJ") for Vilonia; Marantha Broadcasting Ministry, Inc. ("Marantha") for Hot Springs; Calico Rock Mennonite Fellowship, Inc. ("CRMF") for Calico Rock; Houston Christian Broadcasters, Inc. ("HCB") for Lake Hamilton; Educational Media Foundation ("EMF") for Searcy; The Newgate Group ("Newgate") for Fulton; and KMZD Radio, Inc. ("KMZD") for Joplin. CBI and Millennium Broadcasting Corporation ("Millennium") would each serve New Boston, Texas. Finally, Sisco Ministries Outreach, Incorporated ("Sisco") proposes to serve Atlanta, Texas.

17. In eight applications, the applicant claims and documents eligibility for a fair distribution preference.³¹ CRMF and Millennium also claim to be eligible for a preference, but each fails to identify the number of people who would receive a first or second NCE service.³² Accordingly, CRMF and Millennium are eliminated. The following five applicants certify ineligibility for a preference and are therefore also eliminated: AHMI, PCC, FHM, KMZD, and Sisco. In four of the eight remaining applications, the applicant certifies that it qualifies for a first NCE service preference. CCJ, Marantha, HCB, and CBI-New Boston do not, and are therefore each eliminated. Way-FM claims that it will provide a new first NCE service to 14,537 people; CBI-Walnut Ridge to 9,617 people; EMF to 9,213 people; and Newgate to 12,600 people. Considering each proposal with respect to the one proposing to serve the next largest population, none exceeds the next best by at least 5,000 people. Accordingly, we consider the applicants' combined first and second NCE service population totals of 29,650 people, 25,424 people, 9,213 people, and 29,193 people, respectively. EMF is eliminated because CBI's next

³⁰ If the Commission had accepted PCC's claim of two points for diversity of ownership, it would not have changed the outcome of this MX group. Specifically, Delmarva's credited total of four points still would have exceeded PCC's claimed total of two points.

³¹ See Way-FM, CBI, CCJ, Marantha, HCB, EMF, and Newgate Applications, Questions III(1), III(2), and associated exhibits. Way-FM claims that it would provide aggregated first and second NCE service to 29,650 of the 82,604 people encompassed within its 60 dBu contour; CBI to 25,424 of the 73,321 people within its proposed Walnut Ridge contour, and to 10,411 of the 99,133 people within its proposed New Boston contour; CCJ to 39,683 of the 135,221 people; Marantha to 18,180 of the 164,887 people; HCB to 15,927 of the 155,440 people; EMF to 9,213 of the 60,900 people; and Newgate to 29,193 of the 32,523 people. Thus, each would provide combined first and second NCE service to at least ten percent of the population within its 60 dBu contour and to more than 2,000 people.

³² Each applicant submits a map but no numbers to verify its claim.

best proposal for a different community will serve at least 5,000 more people. The Way-FM, CBI-Walnut Ridge, and Newgate proposals are comparable³³ and therefore must proceed to a point hearing.

18. Newgate is the only applicant to claim eligibility for points as an established local applicant. Newgate, however, fails to submit sufficient documentation to support its claim and therefore will not be awarded points under this criterion.³⁴ Each applicant claims two points for diversity of ownership. Way-FM and Newgate fail to support their respective diversity claims and accordingly will not be awarded points under this criterion. No applicant claims points as a statewide network. With respect to technical parameters, Way-FM claims that its proposed 60 dBu contour would encompass 3,680 square kilometers with a population of 82,604; CBI-Walnut Ridge, 5,672 square kilometers and 73,321 people; and Newgate, 3,397 square kilometers and 32,523 people. No applicant is eligible for points under the best technical proposal criterion because no applicant proposes to serve both the most area and population, at least 10 percent greater than the next best applicant. Accordingly, CBI-Walnut Ridge is credited with a total of two points; Way-FM and Newgate are each not credited with any points. CBI-Walnut Ridge is therefore the tentative selectee in Group 502.

19. **Group 505.** This group is comprised of 12 applications proposing to serve seven different communities in California. The following five applicants propose to serve Merced: Family Life Broadcasting, Inc. (“FLB”), Regents of the University of California (“Cal Regents”), California State University, Sacramento (“CSU”), Centro Palebra de Fe Church (“CPFC”), and Centro Cristiano de Fe, Inc. (“CCF”). CPFC and Calvary Chapel of Modesto, Inc. (“CCM”) would each serve Angeles Camp. The remaining applicants are: Calvary Chapel of Twin Falls, Inc. (“CCTF”) for Jamestown; West Side Theatre Foundation (“WSTF”) for Newman; Blue Mountain Coalition for Youth and Families (“BMYF”) for San Andreas; Centro Cristiano Sion (“Sion”) for Mono Vista; and De La Cruz International Ministries, Inc. (“DCIM”) for Sonora. WSTF, BMYF, and CCM certify that they each are eligible for a fair distribution preference.³⁵ The other applicants do not, and therefore, the following are eliminated: CCTF, FLB, Cal Regents, CSU, CPFC (both proposals), Sion, DCIM, and CCF. None of the remaining three applicants claim that they are entitled to a first service preference. Accordingly, we consider the claims of WSTF, BMYF, and CCM to provide aggregated first and second NCE service to 14,360 people, 10,028 people, and 7,452 people, respectively. These proposals are comparable because none exceeds the next best by at least 5,000. Accordingly, WSTF, BMYF, and CCM must proceed to a point hearing.

20. WSTF and BMYF each claim three points as established local applicants; CCM does not. Each applicant claims two points for diversity of ownership with CCM’s claim based on a pledge to divest LPFM station KEQP-LP, Modesto, California. None of the applicants claim points as statewide

³³ For purposes of this Order, we define proposals as “comparable” when no proposal exceeds the next best by at least 5,000 people.

³⁴ To support its localism claim, Newgate submits one page of its Articles of Incorporation, filed with the Secretary of the State of Texas. Such information alone is insufficient to determine whether Newgate merits points as an established local applicant. Applicants must certify that they have been local and established for at least two years and must provide support for such certifications. Applicants with a headquarters, campus, or 75 percent of their board members residing within 25 miles of the reference coordinates of the community of license are considered local. A governmental unit is considered local within its area of jurisdiction. *See supra* paras. 5, 11. Newgate does not establish that it meets any of these qualifications.

³⁵ *See* WSTF, BMYF, and CCM Applications, Questions III(1), III(2), and associated exhibits. WSTF claims that it would provide aggregated first and second NCE service to all 14,360 of the 14,360 people encompassed within its 60 dBu contour; BMYF to 10,028 of the 14,950 people; and CCM to 7,452 of the 56,476 people. Thus, each would provide combined first and second NCE service to at least ten percent of the population within its 60 dBu contour and to more than 2,000 people.

networks. With respect to technical parameters, WSTF claims that its proposed 60 dBu contour would encompass 311 square kilometers with a population of 14,360; BMYF, 699 square kilometers and 14,950 people; and CCM, 2,045 square kilometers and 56,476 people. CCM is entitled to two points under the best technical proposal criterion because it proposes to serve at least 25 percent more area and population than BMYF's next best proposal. Accordingly, WSTF and BMYF are credited with a total of five points each; CCM is credited with four points. CCM is therefore eliminated, and WSTF and BMYF proceed to a tie-breaker.

21. The first issue considered in a tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant. The applicant with the fewest authorizations prevails. WSTF and BMYF certify that they each have no attributable interests in any radio authorizations. Accordingly, we proceed to the second issue considered in a tie-breaker – the number of pending radio applications attributable to each applicant. WSTF and BMYF certify that they each have an attributable interest in one radio application. Accordingly, we proceed to the tiebreaker of last resort -- mandatory timesharing. WSTF and BMYF are thus both tentative selectees in Group 505 on a time-sharing basis.

22. **Group 508.** This group consists of nine applications proposing service to seven different communities in Colorado. The Praise Network, Inc. ("TPN") and The Helpline ("Helpline") each proposes service to Fort Morgan. Make a Difference Foundation, Inc. ("MDF") and Wren Communications, Inc. ("Wren") would each serve Brush. The other applicants are: Calvary Chapel of Twin Falls, Inc. ("CCTF") for Atwood; MDF for Sterling; Calvary Chapel Aurora ("CCA") for Living Springs; and De Mujer a Mujer International ("DMMI"), which filed two applications, one for Strasburg and the other for Leader. TPN and MDF-Brush claim that they each are eligible for a fair distribution preference.³⁶ The other applicants do not, and accordingly, CCTF, MDF-Sterling, Helpline, CCA, DMMI (both proposals), and Wren are each eliminated.³⁷ Neither TPN nor MDF-Brush claims a preference for first NCE service alone; instead, each relies on first and second NCE service population totals. TPN's and MDF-Brush's claimed aggregated first and second NCE service totals of 16,013 people and 13,024 people, respectively, are comparable. Accordingly, TPN and MDF-Brush proceed to a point hearing.

23. Neither applicant claims points as an established local applicant. Each applicant claims two points for diversity of ownership. TPN fails to support its claim, and therefore will not receive diversity points. Neither applicant claims points as a statewide network. With respect to technical parameters, TPN's proposed 60 dBu contour would encompass 1,150 square kilometers with a population of 22,501. MDF-Brush's proposed 60 dBu contour would encompass 580 square kilometers with a

³⁶ See TPN and MDF-Brush Applications, Questions III(1), III(2), and associated exhibits. TPN's 60 dBu contour encompasses 22,501 people, and its claimed aggregated first and second NCE service is 16,013 people. MDF's 60 dBu contour encompasses 20,272 people, and its claimed aggregated first and second NCE service is 13,024 people. Thus, each would provide combined first and second NCE service to at least ten percent of the population within its 60 dBu contour and to more than 2,000 people.

³⁷ Helpline initially certified that it was ineligible for a preference. On January 7, 2008, it amended its application to, *inter alia*, claim a first service preference. Helpline's post-filing window amendment is a prohibited attempt to enhance its comparative position and will not be considered. The Commission has repeatedly disallowed the late submission of requested information in comparative cases, finding that such an allowance would "inevitably lead to abuse of the Commission's processes, applicant gamesmanship, and unfair advantage." *Silver Springs Communications*, Memorandum Opinion and Order, 3 FCC Rcd 5049, 5050 (1988), *rev. denied*, 4 FCC Rcd 4917 (1989) (concluding that the rejection of an untimely filed notice of appearance in a comparative case is necessary in order to maintain the integrity of the Commission's processes and to insure that an applicant's gamesmanship does not result in an unfair advantage). See also *LRB Broadcasting*, Memorandum Opinion and Order, 8 FCC Rcd 3076 (1993).

population of 20,272. TPN qualifies for one point under the best technical proposal criterion because its proposal will serve at least 10 percent more area and population than MDF-Brush's proposal. Accordingly, MDF-Brush is credited with a total of two points, and TPN receives one point. MDF-Brush is the tentative selectee in Group 508.

24. **Group 509B.**³⁸ This group consists of 11 applications proposing service to six different communities in Florida and Georgia. Four applicants propose service to Lake City, Florida: Grace Covenant Baptist Church ("GCBC"), Community Radio Foundation of Florida, Inc. ("CRFF"), Lake City Christian Radio, Inc. ("LCCR"), and Call Communications Group, Inc. ("Call"). Holguy Sainthilaire ("Holguy") would serve Jacksonville, Florida, and De Mujer a Mujer International ("DMMI") proposes to serve Columbia, Florida. Two applicants propose service to Saint Mary's, Georgia: Cumberland Island Environmental Education Foundation, Inc. ("CIEEF") and Community Public Radio, Inc. ("CPR"). Grace Public Radio ("GPR") and Calvary Fellowship, Inc. ("Calvary") propose to serve Woodbine, Georgia. Finally, Clean Air Broadcasting Corporation ("Clean Air") would serve Brunswick, Georgia. GPR is the only applicant to certify that it is eligible for a fair distribution preference. GPR, however, fails to identify the number of people that would receive a new first or second NCE service.³⁹ Accordingly, GPR does not qualify for a fair distribution preference, and the entire group proceeds to a point hearing.

25. GCBC and CIEEF each claim to be eligible for points as established local applicants; the other nine applicants do not. GCBC, CRFF, LCCR, Call, DMMI, GPR, Clean Air, and Calvary claim two points each for diversity of ownership. Holguy, CIEEF, and CPR do not. CRFF, LCCR, Call, and GPR fail to submit the requisite documentation to support their respective diversity claims, and accordingly, none will receive points under this criterion. CIEEF is the only applicant to claim points as a statewide network. CIEEF, however, fails to support its claim and therefore will not be credited with statewide network points. With respect to technical parameters, GCBC claims that its proposed 60 dBu contour would encompass 247 square kilometers with a population of 25,280; CRFF, 313 square kilometers and 32,548 people; LCCR, 175 square kilometers and 24,198 people; Call, 264 square kilometers and 26,519 people; DMMI, 345 square kilometers and 14,774 people; CIEEF, 2,330 square kilometers and 57,835 people; CPR, 1,203 square kilometers and 51,249 people; GPR, 767 square kilometers and 11,273 people; Clean Air, 1,789 square kilometers and 55,222 people; and Calvary, 2,071 square kilometers and 46,841 people. Holguy fails to provide numbers to support its technical proposal.⁴⁰ No applicant is eligible for points under the best technical proposal criterion because CIEEF's proposal to serve the largest area and population does not exceed Calvary's next best area proposal and Clean Air's next best population proposal by at least 10 percent. Accordingly, GCBC is credited with a total of five points; CIEEF is awarded three points; DMMI, Clean Air, and Calvary each receives two points; and CRFF, LCCR, Call, Holguy, CPR, and GPR are each not credited with any points.⁴¹ GCBC is therefore the tentative selectee in Group 509B.

³⁸ Group 509 was bifurcated as a result of the dismissal of one application in the group. We consider Group 509B herein. The nine applications in Group 509A were considered in a previous order. See *Threshold Fair Distribution Analysis of 22 Groups of Mutually Exclusive Applications*, Memorandum Opinion and Order, 24 FCC Rcd 14531 (2009) ("December 2009 NCE Order").

³⁹ GPR submits a map with no numbers to support its claim.

⁴⁰ Because Holguy provided no numbers, we will consider it to serve zero square kilometers with a population of zero. See, e.g., *NCE Omnibus*, 22 FCC Rcd at 6121 (when, in two-applicant group, one applicant provided technical numbers and the other did not, applicant providing the numbers was awarded maximum technical points).

⁴¹ If the Commission had accepted the claims of CRFF, LCCR, Call, and GPR for two points for diversity of ownership, it would not have changed the outcome of this MX group. Specifically, GCBC's credited total of five points still would have exceeded CRFF's, LCCR's, Call's, and GPR's claimed totals of two points each.

26. **Group 511A.**⁴² This group consists of three applications proposing service to three different communities in Iowa. The applicants are: Western Iowa Tech Community College (“WITC”) for Denison; Harvest Time Apostolic Ministries (“Harvest”) for Jefferson; and Breath of the Spirit Ministries (“BSM”) for Arthur. WITC and BSM certify that they each are eligible for a fair distribution preference.⁴³ Harvest does not claim a preference and is therefore eliminated. WITC and BSM claim that they would provide a first NCE service to 11,157 people and 6,311 people, respectively, and no second NCE service. These proposals are comparable because neither exceeds the other by at least 5,000 people. Accordingly, WITC and BSM proceed to a point hearing.

27. WITC certifies that it is entitled to three points as an established local applicant; BSM does not. Neither applicant claims points for diversity of ownership or as a statewide network. With respect to technical parameters, WITC’s proposed 60 dBu contour would encompass 833 square kilometers with a population of 11,157. BSM’s proposed 60 dBu contour would encompass 6,386 square kilometers with a population of 61,251. BSM qualifies for two points under the best technical proposal criterion because its proposal will serve at least 25 percent more area and population than WITC’s proposal. Accordingly, WITC is credited with a total of three points, and BSM receives two points. WITC is the tentative selectee in Group 511A.

28. **Group 512.** This group is comprised of 26 applications proposing service to 20 different communities in Illinois and Indiana. Good News Radio, Inc. (“GNR”) and Jill Walker Ministries (“JWM”) each proposes service to Arcola, Illinois. The other Illinois applicants are: GNR for Watseka; Connersville Apostolic Lighthouse Incorporated (“Connersville”) for Ridge Farm; Tightrope Broadcasting, Inc. (“Tightrope”) for Fithian; and Harvest Christian Fellowship, Inc. (“HarvestCF”) for Ste. Marie. Four applicants would each serve Kokomo, Indiana: Temple Baptist Church (“Temple”), Triangle Foundation, Inc. (“Triangle”), Friends of Radio Maria, Inc. (“FRM”), and The Trustees of Indiana University (“IU Trustees”). Hoosier Broadcasting Corporation (“Hoosier”) and Family Stations, Inc. (“Family”) each proposes to serve Lafayette, Indiana. Linda Jerome Foundation (“LJF”) and Electronic Applications Radio Service, Inc. (“EARS”) would each serve Tipton, Indiana. The remaining applicants, each proposing service in Indiana, are: Good Samaritan Educational Radio, Inc. (“GSER”) for Veedersburg; LJF for Crawfordsville; Horizon Christian Fellowship of Indianapolis, Inc. (“HCFI”) for Sheridan; The Dwelling Place, Inc. (“Dwelling”) for Williamsport; Pensacola Christian College, Inc. (“PCC”) for Rossville; Bethel Christian Life Center, Inc. (“Bethel”) for Battle Ground; Indiana Educational Broadcast Corporation (“IEBC”) for Delphi; FRM for Shadeland; Community Radio for Hoosiers, Inc. (“CRH”) with two applications, one to serve Yeoman and the other to serve Wolcott; Father Pettit Home Association (“FPHA”) for Peru; and Basalt of the Earth, Inc. (“Basalt”) for Otterbein.

29. In 15 of the 26 applications in the group, the applicant certifies and documents eligibility for a fair distribution preference.⁴⁴ Connersville and LJF (both proposals) also claim to be

⁴² Group 511, which originally contained 20 applications, was bifurcated by settlements in which 10 applications were voluntarily dismissed and four applications were detached or amended to singletons. We consider Group 511A herein. Group 511B was considered in a previous order. See *Threshold Fair Distribution Analysis of 28 Groups of Mutually Exclusive Applications*, Memorandum Opinion and Order, 24 FCC Rcd 12390 (2009).

⁴³ See WITC and BSM Applications, Questions III(1), III(2), and associated exhibits. WITC’s 60 dBu contour encompasses 11,157 people, and its claimed aggregated first and second service is all 11,157 people. BSM’s contour encompasses 61,251 people, and its claimed aggregated first and second service is 6,311 people. Thus, each would provide combined first and second NCE service to at least ten percent of the population within its 60 dBu contour and to more than 2,000 people.

⁴⁴ See GNR, JWM, GSER, HCFI, Dwelling, PCC, Triangle, Bethel, IEBC, CRH-Yeoman, FRM-Kokomo, FPHA, IU Trustees, and Basalt Applications, Questions III(1), III(2), and associated exhibits. GNR claims that it would

(continued....)

eligible for a preference, but each fails to identify the number of people who would receive a first or second service. Accordingly, Connersville and LJF are eliminated. The following eight applicants certify that they each are ineligible for a preference and are therefore also eliminated: Tightrope, HarvestCF, Temple, Hoosier, EARS, FRM-Shadeland, CRH-Wolcott, and Family.⁴⁵ In 10 of the remaining 15 applications, the applicant claims a first service preference. GNR-Arcola, JWM, GSER, Dwelling, and PCC do not claim a first service preference and are therefore each eliminated. GNR-Watseka certifies that it will provide a first NCE service to 2,963 people; HCFI to 36,737 people; Triangle to 67,873 people; Bethel to 50,156 people; IEBC to 13,875 people; CRH-Yeoman to 2,100 people; FRM-Kokomo to 24,751 people; FPHA to 66,184 people; IU Trustees to 23,662 people; and Basalt to 9,391 people. GNR-Watseka, HCFI, Bethel, IEBC, CRH-Yeoman, FRM-Kokomo, IU Trustees and Basalt are eliminated because each will serve at least 5,000 fewer people than FPHA's next best proposal for a different community. The FPHA and Triangle proposals are comparable. Accordingly, we consider the applicants' claims to provide aggregated first and second NCE service to 107,527 people and 109,194 people, respectively. Because these proposals are also comparable, FPHA and Triangle must proceed to a point hearing.

30. FPHA and Triangle each certify that they are entitled to three points as established local applicants and two points for diversity of ownership. Triangle, however, initially failed to support its diversity claim and, accordingly, will not receive points under this criterion.⁴⁶ Neither applicant claims points as a statewide network. With respect to technical parameters, FPHA's proposed 60 dBu contour would encompass 2,072 square kilometers with a population of 145,908. Triangle's proposed 60 dBu contour would encompass 2,055 square kilometers with a population of 109,297. Neither applicant qualifies for points under the best technical proposal criterion because neither will serve at least 10 percent more area and population than the other. Accordingly, FPHA is credited with a total of five points, and Triangle receives three points. FPHA is the tentative selectee in Group 512.

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provide aggregated first and second NCE service to all 14,957 of the 32,979 people encompassed within its 60 dBu contour for its Arcola proposal, and to 16,156 of the 18,846 people for its Watseka proposal; JWM to 10,185 of the 25,527 people; GSER to all 2,760 of the 2,760 people; HCFI to 67,392 of the 117,459 people; Dwelling to 21,115 of the 124,446 people; PCC to all 11,637 of the 11,637 people; Triangle to 109,194 of the 109,297 people; Bethel to 77,874 of the 210,835 people; IEBC to 31,608 of the 102,430 people; CRH-Yeoman to all 2,100 of the 2,100 people; FRM-Kokomo to 50,376 of the 74,736 people; FPHA to 107,527 of the 145,908 people; IU Trustees to 54,172 of the 72,864 people; and Basalt to 9,391 of the 24,053 people. Thus, each would provide combined first and second NCE service to at least ten percent of the population within its 60 dBu contour (or within the area of newly-added service in the case of EMF) and to more than 2,000 people.

⁴⁵ Tightrope initially certified that it was ineligible for a preference. On January 7, 2008, it amended its application to, *inter alia*, claim a second service preference. Tightrope's post-filing window amendment is a prohibited attempt to enhance its comparative position and will not be considered. *See supra* note 37.

⁴⁶ Triangle states that it is the licensee of LPFM station WWCC-LP, West Lafayette, Indiana. In its initial filing, it did not pledge to divest the LPFM station, and it provided no information from which the Commission or other parties could verify that it timely modified its governing documents to maintain diversity in the future. On March 12, 2010, Triangle submitted a letter to the FCC, requesting that the Commission accept a document to support its diversity claim. Triangle explained that upon review of its application, it noted that the diversity document was missing, "possibly due to an error in the validation procedure." Triangle's late-filed submission is incomplete. Although Triangle pledges to divest LPFM station WWCC-LP, Triangle has not shown, as required, that its governing documents limit its ability to acquire other stations in the same area after divesting the LPFM station. Accordingly, even if we were to consider this late submission, we would not award points to Triangle under this criterion. Moreover, if the Commission had accepted Triangle's claim of two points for diversity of ownership, it would not have changed the outcome of this MX Group. Specifically, although Triangle and FPHA would then have been tied with five points each, FPHA would have prevailed under the first tie-breaker criterion.

31. **Group 513.** This group consists of two applications proposing service to different communities in Kansas. Harvest Time Apostolic Ministries (“Harvest”) would serve Nashville, and Joshua Springs Calvary Chapel (“JSCC”) proposes to serve Sun City. Neither applicant claims that it is eligible for a fair distribution preference. The applicants therefore proceed to a point hearing.

32. Neither applicant certifies that it is entitled to points as an established local applicant or as a statewide network. Each applicant claims two points for diversity of ownership. Although Harvest certifies that it currently has no authorizations, Harvest provides no indication that it timely adopted governing documents that would require it to maintain diversity in the future. Accordingly, we will not award points to Harvest under this criterion. With respect to technical parameters, Harvest’s proposed 60 dBu contour would encompass 605 square kilometers with a population of 1,027. JSCC’s proposed 60 dBu contour would encompass 5,951 square kilometers with a population of 19,333. JSCC qualifies for two points under the best technical proposal criterion because its proposal will serve at least 25 percent more area and population than Harvest’s proposal. Accordingly, JSCC is credited with a total of four points, and Harvest is not credited with any points. JSCC is the tentative selectee in Group 513.⁴⁷

33. **Group 515.** This group is comprised of 13 applications proposing service to 10 different communities in Massachusetts and Rhode Island. AMFMTech Educational Broadcasting, Inc. (“AMFMT”) and The Executive Committee of the Trustees of Boston University (“BU Trustees”) would each serve Ware, Massachusetts. Quaboag Hills Public Radio, Inc. (“QHPR”) filed two applications to serve Palmer, Massachusetts, each for Channel 218. The other Massachusetts applicants are: Home Improvement Ministries (“HIM”) for West Brookfield; The Marconi Broadcasting Foundation (“Marconi”) for Milford; Horizon Christian Fellowship (“Horizon”) for Whitinsville; and Galaxy Radio, Inc. (“Galaxy”) for East Brookfield. Bryant University (“Bryant”) and St. Joseph’s Radio Station, Inc. (“SJRS”) each proposes to serve Pascoag, Rhode Island. The remaining applicants, each proposing service in Rhode Island, are: Providence Community Radio, Inc. (“PCR”) for Harrisville; Marconi for Forestdale; and Rhode Island Public Radio (“RIPR”) for Woonsocket.

34. In 10 applications, the applicant certifies eligibility for a fair distribution preference.⁴⁸ HIM and Marconi (both proposals) do not, and are therefore each eliminated. Because none of the remaining applicants claim a first service preference, we consider the aggregated first and second NCE service claims. QHPR certifies that it will provide aggregated first and second NCE service to 13,434 people and 12,450 people with its two Palmer proposals; AMFMT to 22,231 people; Horizon to 42,278 people; BU Trustees to 29,977 people; Galaxy to 7,588 people; PCR to 35,954 people; Bryant to 34,998 people; RIPR to 25,269 people; and SJRS to 37,911 people. QHPR (both proposals), AMFMT, BU Trustees, Galaxy, and RIPR are eliminated because each will serve at least 5,000 fewer people than Bryant’s next best proposal for a different community. Considering each of the remaining proposals with

⁴⁷ If the Commission had accepted Harvest’s claim of two points for diversity of ownership, it would not have changed the outcome of this MX Group. Specifically, JSCC’s credited total of four points would still have exceeded Harvest’s claimed total of two points.

⁴⁸ See QHPR, AMFMT, Horizon, BU Trustees, Galaxy, PCR, Bryant, RIPR, and SJRS Applications, Questions III(1), III(2), and associated exhibits. QHPR claims that it would provide aggregated first and second NCE service to all 13,434 of the 13,434 people encompassed within the 60 dBu contour of its first Palmer proposal, and to all 12,450 of the 12,450 people for its second Palmer proposal; AMFMT to 22,231 of the 24,629 people; Horizon to 42,278 of the 77,826 people; BU Trustees to 29,977 of the 46,159 people; Galaxy to 7,588 of the 24,868 people; PCR to 35,954 of the 77,000 people; Bryant to 34,998 of the 106,701 people; RIPR to 25,269 of the 92,665 people; and SJRS to 37,911 of the 100,703 people. Thus, each would provide combined first and second NCE service to at least ten percent of the population within its 60 dBu contour and to more than 2,000 people.

respect to the one proposing to serve the next largest population, none exceeds the next best by at least 5,000 people. Accordingly, Horizon, PCR, Bryant, and SJRS must proceed to a point hearing.

35. PCR, Bryant, and SJRS each certify that they qualify for three points as established local applicants. Horizon does not claim points under this criterion. Each applicant, with the exception of Bryant, claims two points for diversity of ownership. None of the applicants claim points as statewide networks. With respect to technical parameters, Horizon claims that its proposed 60 dBu contour would encompass 508 square kilometers with a population of 77,826; PCR, 444 square kilometers and 77,000 people; Bryant, 593 square kilometers and 106,701 people; and SJRS, 534 square kilometers and 100,703 people. No applicant is eligible for any points under the best technical proposal criterion because Bryant's proposal to serve the largest area and population does not exceed SJRS's next best proposal by at least 10 percent. Accordingly, PCR and SJRS are credited with a total of five points each; Bryant receives three points; and Horizon is credited with two points. Bryant and Horizon are therefore each eliminated, and PCR and SJRS proceed to a tie-breaker.

36. The first issue considered in a tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant. The applicant with the fewest authorizations prevails. PCR and SJRS certify that they each have no attributable interests in any radio authorizations. Accordingly, we proceed to the second issue considered in a tie-breaker – the number of pending radio applications attributable to each applicant. PCR and SJRS certify that they each have an attributable interest in one radio application. Accordingly, we proceed to the tiebreaker of last resort - mandatory timesharing. PCR and SJRS are thus both tentative selectees in Group 515 on a time-sharing basis.

37. **Group 517B.**⁴⁹ This group consists of four applications proposing service to three different communities in Wisconsin. Liberty and Freedom Inc. ("LFI") and Optima Enrichment, Inc. ("Optima") would each serve Baraboo. Wisconsin Academy Seventh-Day Adventist Church ("WASDA") and Harvest Christian Fellowship, Inc. ("HarvestCF") propose to serve Columbus and Yuba, respectively. LFI, WASDA, and Optima certify that they each are eligible for a fair distribution preference.⁵⁰ HarvestCF does not and is therefore eliminated. Each of the three remaining applicants certifies that it qualifies for a first NCE service preference. LFI claims that it will provide a new first NCE service to 18,436 people; WASDA to 10,471 people; and Optima to 18,806 people. WASDA is eliminated because LFI's next best proposal for a different community will serve at least 5,000 more people. The fair distribution analysis ends here because the two remaining applicants, LFI and Optima, propose to serve the same community. LFI and Optima therefore must proceed to a point hearing.

38. Neither applicant claims to be eligible for points as an established local applicant. Each applicant claims two points for diversity of ownership. Optima, however, does not support its diversity claim. Although Optima's application reflects that it currently has no other authorizations, it provides no information from which the Commission or other parties could verify that Optima timely modified its governing documents to maintain diversity in the future. Accordingly, we will not award points to Optima under this criterion. Neither applicant claims points as a statewide network. With respect to technical parameters, LFI's proposed 60 dBu contour would encompass 5,478 square

⁴⁹ Group 517, which originally contained 27 applications, was bifurcated by a settlement in which one application was voluntarily dismissed and one application was amended to a singleton. We consider Group 517B herein. Group 517A, consisting of 21 applications, will be considered in a separate order.

⁵⁰ See LFI, WASDA, and Optima Applications, Questions III(1), III(2), and associated exhibits. LFI claims that it would provide aggregated first and second NCE service to 101,425 of the 125,811 people encompassed within its 60 dBu contour; WASDA to 44,051 of the 90,934 people; and Optima to 74,385 of the 84,281 people. Thus, each would provide combined first and second NCE service to at least ten percent of the population within its 60 dBu contour and to more than 2,000 people.

kilometers with a population of 125,811. Optima's proposed 60 dBu contour would encompass 3,497 square kilometers with a population of 84,281. LFI qualifies for two points under the best technical proposal criterion because its proposal serves at least 25 percent more area and population than Optima's proposal. Accordingly, LFI is credited with a total of four points; Optima is not credited with any points.⁵¹ LFI is therefore the tentative selectee in Group 517B.

39. **Group 518.** This group consists of 14 applications proposing service to ten different communities in Montana. The following three applicants propose to serve Bozeman: Board of Regents – Mountain University System (“MU Regents”), Family Stations, Inc. (“Family”), and Guild of St. Peter Education Association (“Guild”). Western Family Television, Inc. (“WFT”) and Last Chance Public Radio Association (“LCPR”) would each serve Helena. Queen of Victory Educational Radio Association (“Victory”) and Mission Valley Christian Fellowship of San Diego (“MVCF”) each proposes service to Butte. The other applicants are: Calvary Chapel of Helena, Inc. (“CCH”) for Montana City; Harrison School District # 23 (“Harrison School”) for Harrison; Willow Creek School District # 15, J15-17 (“WC School”) for Willow Creek; Montana State University – Billings (“MSU”) for Emigrant; Broadwater County Disaster and Emergency Services (“Broadwater”) for Toston; Mountain Air Radio, Inc. (“MAR”) for Livingston; and Hi-Line Radio Fellowship, Inc. (“Hi-Line”) for Anaconda.

40. Five applicants claim eligibility for a fair distribution preference.⁵² The following nine applicants do not, and are therefore each eliminated: MU Regents, Harrison School, WC School, WFT, Broadwater, Hi-Line, Family, Victory, and MVCF. Each of the five remaining applicants certifies that it qualifies for a first NCE service preference. CCH claims that it will provide a new first NCE service to 6,643 people; MSU to 11,438 people; MAR to 11,012 people; LCPR to 6,513 people; and Guild to 10,407 people. Because the first service claims are comparable, we consider the applicants' combined first and second NCE service population totals of 8,539 people, 14,756 people, 11,012 people, 8,269 people, and 12,516 people, respectively. The proposals are also comparable. Accordingly, CCH, MSU, MAR, LCPR, and Guild proceed to a point hearing.

41. Each applicant, with the exception of MAR, claims points as an established local applicant. CCH, MAR, LCPR, and Guild claim two points each for diversity of ownership. MSU does not claim points under this criterion. LCPR bases its diversity claim on a pledge to divest FM translator station K244EH, Helena, Montana. Guild's claim includes a pledge to divest LPFM station KOFK-LP, Bozeman, Montana. MAR fails to support its diversity claim and will not be credited with points under this criterion. None of the applicants claim points as statewide networks. With respect to technical parameters, CCH claims that its proposed 60 dBu contour would encompass 6,303 square kilometers with a population of 64,814; MSU, 6,474 square kilometers and 23,760 people; MAR, 949 square kilometers and 11,012 people; LCPR, 9,757 square kilometers and 64,262 people; and Guild, 2,484 square kilometers and 69,078 people. No applicant is eligible for any points under the best technical proposal criterion because no applicant proposes to serve both the most area and population. Accordingly, CCH, LCPR, and Guild are credited with a total of five points each; MSU receives three points; and MAR is not

⁵¹ If the Commission had accepted Optima's claim of two points for diversity of ownership, it would not have changed the outcome of this MX group. Specifically, LFI's credited total of four points would still have exceeded Optima's claimed total of two points.

⁵² See CCH, MSU, MAR, LCPR, and Guild Applications, Questions III(1), III(2), and associated exhibits. CCH claims that it would provide aggregated first and second NCE service to 8,539 of the 64,814 people encompassed within its 60 dBu contour; MSU to 14,756 of the 23,760 people; MAR to all 11,012 of the 11,012 people; LCPR to 8,269 of the 64,262 people; and Guild to 12,516 of the 69,078 people. Thus, each would provide combined first and second NCE service to at least ten percent of the population within its 60 dBu contour and to more than 2,000 people.

credited with any points.⁵³ MSU and MAR are therefore each eliminated, and CCH, LCPR, and Guild proceed to a tie-breaker.

42. The first issue considered in a tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant. The applicant with the fewest authorizations prevails. Guild certifies that it has one attributable interest; CCH and LCPR certify that they each have no attributable interests in any radio authorizations. Guild is therefore eliminated, and CCH and LCPR proceed to the second issue considered in a tie-breaker – the number of pending radio applications attributable to each applicant. CCH and LCPR certify that they each have an attributable interest in one radio application. Accordingly, we proceed to the tiebreaker of last resort - mandatory timesharing. CCH and LCPR are thus both tentative selectees in Group 518 on a time-sharing basis.

43. **Group 524.** This group consists of 42 applications for different communities in the states of Arizona, California, and New Mexico. The following four applicants propose service to the community of Willcox, Arizona: Community Radio Foundation of Florida, Inc. (“CRFF”), Diamond Mountain (“Diamond”), St. Paul Cultural Broadcasting, Inc. (“St. Paul”), and Educational Broadcast Service (“EBS”). De La Cruz International Ministries, Inc. (“DCIM”) and Centro Cristiano de Fe, Inc. (“CCF”) would each serve Nogales, Arizona. The other Arizona applicants are: Arizona Board of Regents for the Benefit of the University of Arizona (“UA Regents”) for Sierra Vista; Duncan Unified School District (“DUSD”) for Duncan; Christian Ministries of the Valley, Inc. (“CMV”) for Bisbee; Iglesia Jesucristo es mi Refugio de Austin, Inc. (“IJRA”) for Palominas; and Cochise Community Radio Corporation (“Cochise”), which filed three separate applications to serve the communities of Huachuca City, Patagonia, and Tombstone. The sole applicant proposing service in California is Iglesia Alto Refugio (“IAR”) for Rincon. The remaining 28 applications propose service to communities in New Mexico. Specifically, five applicants propose to serve Silver City: GILA/Mimbres Community Radio (“GILA”), Regents of New Mexico State University (“NMSU Regents”), Colina Alta Ministries, Inc. (“Colina”), Cochise, and Community Access Television of Silver City (“CATSC”), which filed two applications, one for Channel 205 and the other for Channel 209. Four applicants would each serve Ruidoso: Christian Business Owners of Lincoln County (“CBOL”), Oscar Aguero Ministry (“OAM”), Life on the Way Communications, Inc. (“LWC”), and Sky High Broadcasting, Inc. (“SHB”). Three applicants propose to serve Truth or Consequences: SHB, Tixs for Kids (“Tixs”), and NMSU Regents. Three applicants would each serve Deming: Radio Bilingue, Inc. (“RBI”), DCIM, and K.C. Home Association (“KCHA”). Two applicants propose service to Lordsburg: Cochise and NMSU Regents, which filed one application for Channel 205 and the other for Channel 210. Iglesia Shekira (“Shekira”) and NMSU Regents would each serve Alamogordo. The remaining applicants are: RBI for Hatch; Earthrise Institute (“Earthrise”) for Cloudcroft; Roswell Humane Society (“RHS”) for Dexter; Available Media, Inc. (“AMI”) for Roswell; El Paso Counts (“EPC”) for Chaparral; and Shekira for Salem and San Antonio.

44. In twenty-four of the 42 applications, the applicant claims and documents eligibility for a fair distribution preference.⁵⁴ CRFF, CBOL, and RHS also certify eligibility for a preference, but each

⁵³ If the Commission had accepted MAR’s claim of two points for diversity of ownership, it would not have changed the outcome of this MX group. Specifically, CCH’s, LCPR’s, and Guild’s credited totals of five points each would still have exceeded MAR’s claimed total of two points.

⁵⁴ See UA Regents, DUSD, CMV, Diamond, Cochise, OAM, CATSC, RBI, LWC, GILA, SHB, Tixs, NMSU Regents, EPC, and KCHA Applications, Questions III(1), III(2), and associated exhibits. UA Regents claims that it would provide aggregated first and second NCE service to 73,996 of the 94,210 people encompassed within its proposed 60 dBu contour; DUSD to all 17,330 of the 17,330 people; CMV to 19,774 of the 37,569 people; Diamond to 5,653 of the 5,658 people; Cochise to all 16,429 of the 16,429 people within its proposed Huachuca City contour, to 15,935 of the 18,894 people for Tombstone, to all 30,442 of the 30,442 people for Silver City, and to all 3,732 of the 3,732 people for Lordsburg; OAM to 19,938 of the 70,935 people; CATSC to all 18,913 of the 18,913 people

(continued....)

submits only a map with no numbers to support its claim. Accordingly, CRFF, CBOL, and RHS are eliminated. In the remaining 15 applications, the applicant certifies ineligibility for a fair distribution preference. Accordingly, DCIM (both proposals), St. Paul, CCF, IJRA, Cochise-Patagonia, EBS, IAR, Earthrise, Shekira (all three proposals), AMI, NMSU Regents-Alamagordo, and Colina are each eliminated.

45. In 16 of the 24 remaining applications, the applicant claims eligibility for a preference based on a new first NCE service. The other eight applicants certify that they each are not eligible for a first service preference. Accordingly, UA Regents, CMV, Diamond, Cochise-Huachuca City, OAM, LWC, SHB-Ruidoso, and EPC are each eliminated. DUSD certifies that it would provide a first NCE service to 17,230 people; Cochise-Tombstone to 2,370 people; CATSC to 18,913 people with each of its Silver City proposals; RBI to 2,278 people for Deming, and to 18,447 people for Hatch; GILA to 31,434 people; SHB-Truth or Consequences to 13,000 people; Tixs to 13,000 people; NMSU Regents to 20,114 people for Truth or Consequences, to 30,074 people for Silver City, and to 3,783 people with each of its Lordsburg proposals; Cochise to 30,442 people for Silver City and to 3,732 people for Lordsburg; and KCHA to 4,102 people. DUSD, Cochise (Tombstone and Lordsburg proposals), RBI (both proposals), SHB-Truth or Consequences, Tixs, NMSU Regents (Truth or Consequences and Lordsburg proposals), and KCHA are eliminated because each would serve at least 5,000 fewer people than NMSU Regents' proposal for the different community of Silver City. Each of the remaining applications proposes service to Silver City. Accordingly, the fair distribution analysis ends, and CATSC, GILA, NMSU Regents-Silver City, and Cochise-Silver City must proceed to a point hearing to determine which will serve the Silver City community.

46. CATSC, GILA, and NMSU Regents each claim three points as established local applicants. Cochise does not. CATSC and GILA each claim two points for diversity of ownership. CATSC, however, fails to adequately support its diversity claim and therefore will not be awarded points under this criterion.⁵⁵ Neither NMSU Regents nor Cochise claims diversity points. No applicant claims points as a statewide network. With respect to technical parameters, CATSC claims that its proposed 60 dBu contour for each of its Silver City proposals would encompass 1,742 square kilometers with a population of 18,913; GILA, 16,796 square kilometers and 31,434 people; NMSU Regents, 4,840 square kilometers and 30,074 people; and Cochise, 6,249 square kilometers and 30,442 people. No applicant is eligible for points under the best technical proposal criterion because GILA's proposal to serve the largest area and population does not exceed both Cochise's next best area and population by at least 10 percent. Accordingly, GILA is credited with a total of five points; CATSC and NMSU Regents are each credited with three points; and Cochise is not credited with any points. GILA is the tentative selectee in Group 524.

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within each of its proposed Silver City contours; RBI to all 22,765 of the 22,765 people for Deming, and to all 18,892 of the 18,892 people for Hatch; LWC to 20,122 of the 21,702 people; GILA to all 31,434 of the 31,434 people; SHB to 13,000 of the 32,456 people for Ruidoso, and to 13,000 of the 18,245 people for Truth or Consequences; Tixs to 13,000 of the 14,252 people; NMSU Regents to all 22,258 of the 22,258 people for Truth or Consequences, to all 30,074 of the 30,074 people for Silver City, and to all 3,783 of the 3,783 people for each of its Lordsburg proposals; EPC to 5,001 of the 47,282 people; and KCHA to all 24,596 of the 24,596 people. Thus, each would provide combined first and second NCE service to at least ten percent of the population within its 60 dBu contour and to more than 2,000 people.

⁵⁵ CATSC states that it is the licensee of KOOT-LP, Silver City, New Mexico. It does not pledge to divest the LPFM station, and it provides no information from which the Commission or other parties could verify that it timely modified its governing documents to maintain diversity in the future.

47. **Group 526.** This group consists of eight applications proposing service to seven different communities in Kansas, Missouri, and Oklahoma. Calvary Chapel of Joplin (“CC Joplin”) and Catholic Hour, Inc. (“CHI”) would each serve Columbus, Kansas. VCY America Inc. (“VCY”) proposes to serve Baxter Springs, Kansas, and Nassuna Broadcasting, Inc. (“Nassuna”) would serve Diamond, Missouri. The remaining applicants, each proposing service in Oklahoma, are: Family Life Connection Radio – K Life, Inc. (“K Life”) for Adair; Creative Educational Media Corporation (“CEMC”) for Picher; Community Broadcasting, Inc. (“CBI”) for Miami; and Cherokee Nation (“Cherokee”) for Murphy. Each applicant, with the exception of Nassuna, certifies that it is eligible for a fair distribution preference.⁵⁶ Nassuna is therefore eliminated. K Life and Cherokee certify that they each are entitled to a first service preference. The other five remaining applicants do not, and accordingly, VCY, CC Joplin, CHI, CEMC, and CBI are each eliminated. K Life claims that it would provide a first NCE service to 9,789 people; Cherokee to 13,709 people. Because the first service proposals are comparable, we consider K Life’s and Cherokee’s combined first and second NCE service population totals of 14,082 people and 13,709 people, respectively. Because the combined service proposals are also comparable, K Life and Cherokee must proceed to a point hearing.

48. K Life and Cherokee each claim three points as established local applicants and two points for diversity of ownership. Neither applicant claims points as a statewide network. With respect to technical parameters, K Life’s proposed 60 dBu contour would encompass 2,142 square kilometers with a population of 46,283. Cherokee’s proposed 60 dBu contour would encompass 3,499 square kilometers with a population of 70,755. Cherokee qualifies for two points under the best technical proposal criterion because its proposal will serve at least 25 percent more area and population than K Life’s proposal. Accordingly, Cherokee is credited with a total of seven points, and K Life is credited with five points. Cherokee is the tentative selectee in Group 526.

49. **Group 527.** This group consists of four applications proposing service to two different communities in Oregon. West Lane Translator, Inc. (“WLT”), Lane County School District No. 4J (“Lane School”), and WS Educational Broadcasting (“WS”) each proposes to serve Florence. UCB USA, Inc. (“UCB”) would serve Dunes City. Each applicant states that it is not eligible for a fair distribution preference. The entire group therefore proceeds to a point hearing.

50. WLT is the only applicant to claim eligibility for points as an established local applicant. Each applicant claims two points for diversity of ownership with the claim of Lane School based on a pledge to divest FM translator station K211BP, Florence, Oregon. Lane School, however, has not shown that its governing documents limit its ability to acquire other stations in the same area after divesting the FM translator station. Similarly, WS failed to support its diversity claim. Accordingly, we will not award points to either Lane School or WS under this criterion. None of the applicants claim points as statewide networks. With respect to technical parameters, WLT claims that its proposed 60 dBu contour would encompass 885 square kilometers with a population of 14,017; UCB, 828 square kilometers and 13,916 people; Lane School, 742 square kilometers and 13,630 people; and WS, 1,772 square kilometers and 14,041 people. No applicant is eligible for points under the best technical proposal criterion because WS’s proposal to serve the largest area and population does not exceed both WLT’s next best area and population by at least 10 percent. Accordingly, WLT is credited with a total of five

⁵⁶ See VCY, CC Joplin, CHI, K Life, CEMC, CBI, and Cherokee Applications, Questions III(1), III(2), and associated exhibits. VCY claims that it would provide aggregated first and second NCE service to 13,704 of the 77,912 people encompassed within its 60 dBu contour; CC Joplin to 11,279 of the 31,186 people; CHI to 22,267 of the 46,233 people; K Life to 14,082 of the 46,283 people; CEMC to 13,749 of the 78,052 people; CBI to 21,449 of the 105,866 people; and Cherokee to 13,709 of the 70,755 people. Thus, each would provide combined first and second NCE service to at least ten percent of the population within its 60 dBu contour and to more than 2,000 people.

points; UCB receives two points; and Lane School and WS are each not credited with any points. WLT is therefore the tentative selectee in Group 527.⁵⁷

51. **Group 532.** This group is comprised of 13 applications proposing service to eight different communities in Iowa and South Dakota. Silver Fish Broadcasting, Inc. (“Silver”) proposes to serve Sheldon, Iowa. The other 12 applications propose service to communities in South Dakota. Specifically, three applicants would serve Hartford: Mission Valley Christian Fellowship of San Diego (“MVCF”), Eastside Baptist Church of Sioux Falls (“EBCSF”), and Catholic Chancery Office (“CCO”). Family Worship Center Church, Inc. (“FWCC”) and Bethesda Christian Broadcasting (“BCB”) would each serve Mitchell. FWCC and The Praise Network, Inc. (“TPN”) each proposes service to Yankton. Community Broadcasting, Inc. (“CBI”) and Calvary Chapel Sioux Falls (“CCSF”) would each serve Parker. The remaining applicants are: VCY America Inc. (“VCY”) for Lennox; Educational Media Foundation (“EMF”) for Tea; and Grace Community Church of Amarillo (“Grace”) for Canova.

52. In ten applications, the applicant claims and documents eligibility for a fair distribution preference.⁵⁸ MVCF, CBI, and Grace certify that they each are not eligible for a preference, and accordingly, are eliminated. In six of the ten remaining applications, the applicant claims eligibility for a first NCE service preference. Silver, VCY, EMF, and EBCSF do not, and are therefore each eliminated. FWCC certifies that it would provide a first NCE service to 17,678 people with its Mitchell proposal and to 6,004 people for Yankton; TPN to 5,662 people; BCB to 18,793 people; CCO to 20,629 people; and CCSF to 7,069 people. FWCC-Yankton, TPN, and CCSF are eliminated because each will serve at least 5,000 fewer people than FWCC-Mitchell’s next best proposal for a different community. The FWCC-Mitchell, BCB, and CCO proposals are comparable with respect to first NCE service. Accordingly, we consider the applicants’ claims to provide aggregated first and second NCE service to 21,324 people, 46,520 people, and 47,126 people, respectively. FWCC-Mitchell is eliminated because CCO’s proposal for the different community of Hartford would serve at least 5,000 more people. The CCO and BCB proposals are comparable and therefore must proceed to a point hearing.

53. CCO claims three points as an established local applicant; BCB does not. Each applicant claims two points for diversity of ownership. BCB, however, fails to support its diversity claim and therefore will not receive points under this criterion. Neither applicant claims points as a statewide network. With respect to technical parameters, BCB claims that its proposed 60 dBu contour would encompass 8,968 square kilometers with a population of 89,374. CCO claims that its proposed 60 dBu contour would encompass 9,237 square kilometers with a population of 91,195. Neither applicant qualifies for points under the best technical proposal criterion because CCO’s proposal to reach the largest area and population does not exceed BCB’s proposal by at least ten percent. Accordingly, CCO is

⁵⁷ If the Commission had accepted Lane School’s and WS’s claims of two points each for diversity of ownership, it would not have changed the outcome of this MX Group. Specifically, WLT’s credited total of five points would still have exceeded Lane School’s and WS’s claimed totals of two points each.

⁵⁸ See Silver, VCY, FWCC, EMF, TPN, BCB, EBCSF, CCO, and CCSF Applications, Questions III(1), III(2), and associated exhibits. Silver claims that it would provide aggregated first and second NCE service to 8,060 of the 12,734 people encompassed within its proposed 60 dBu contour; VCY to 2,692 of the 11,812 people; FWCC to all 21,324 of the 21,324 people within its proposed Mitchell contour, and to 8,493 of the 27,194 people for Yankton; EMF to 15,254 of the 53,345 people; TPN to 23,050 of the 23,085 people; BCB to 46,520 of the 89,374 people; EBCSF to 9,924 of the 51,063 people; CCO to 47,126 of the 91,195 people; and CCSF to 30,087 of the 41,073 people. Thus, each would provide combined first and second NCE service to at least ten percent of the population within its 60 dBu contour and to more than 2,000 people.

credited with a total of five points, and BCB is not credited with any points. CCO is therefore the tentative selectee in Group 532.⁵⁹

54. **Group 534.** The five applications in this group would serve three different communities in Texas. Christian Ministries of the Valley, Inc. (“CMV”), Colonias Unidas (“Colonias”), and Comunidad Cristiana (“CC”) each proposes to serve Rio Grande. World Radio Network, Inc. (“WRN”) would serve Falcon Heights, and The Worship Center of Kingsville (“Kingsville”) proposes service to Zapata. Each applicant states that it is eligible for a fair distribution preference,⁶⁰ and each applicant, with the exception of Kingsville, certifies that it qualifies for a first NCE service preference. Kingsville is therefore eliminated. WRN claims that it would provide a new first NCE service to 53,903 people; CMV to 37,796 people; Colonias to 50,837 people; and CC to 15,688 people. The CMV and CC proposals are eliminated because each would serve at least 5,000 fewer people than WRN’s next best proposal for a different community. Because the first service claims of WRN and Colonias are comparable, we consider the applicants’ proposed aggregated first and second NCE service to 53,904 people and 50,839 people, respectively. These proposals are also comparable. WRN and Colonias therefore proceed to a point hearing.

55. Colonias claims that it qualifies for points as an established local applicant; WRN does not. Each applicant claims two points for diversity of ownership. WRN, however, fails to submit documentation to support its diversity claim, and therefore does not qualify for points under this criterion. Neither applicant claims points as a statewide network. With respect to technical parameters, Colonias’ proposed 60 dBu contour would encompass 5,907 square kilometers with a population of 53,904. WRN’s proposed 60 dBu contour would encompass 1,572 square kilometers with a population of 50,839. Neither applicant is eligible for any points under the best technical proposal criterion because WRN’s proposal to serve the largest area and population does not exceed both Colonias’ proposed area and population by at least 10 percent. Accordingly, Colonias is credited with a total of five points, and WRN is not credited with any points. Colonias is therefore the tentative selectee in Group 534.⁶¹

56. **Group 536A.**⁶² The seven applications in this group propose service to four different communities in Texas. American Family Association (“AFA”) and La Promesa Foundation (“Promesa”) would each serve Wellington. AFA has a second application in the group, proposing service to Dumas. Living River Ministries, Inc. (“LRM”) and Cross of Our Lord Jesus Christ Ministries (“CLJCM”) would each serve White Deer. Top O Texas Educational Broadcasting Foundation (“TOTEB”) and Great Plains Christian Radio, Inc. (“GPCR”) each proposes service to Pampa. AFA and Promesa claim eligibility for

⁵⁹ If the Commission had accepted BCB’s claim of two points for diversity of ownership, it would not have changed the outcome of this MX Group. Specifically, CCO’s credited total of five points would still have exceeded BCB’s claimed total of two points.

⁶⁰ See WRN, CMV, Colonias, CC, and Kingsville Applications, Questions III(1), III(2), and associated exhibits. WRN claims that it would provide aggregated first and second NCE service to all 53,904 of the 53,904 people encompassed within its proposed 60 dBu contour; CMV to all 37,796 of the 37,796 people; Colonias to all 50,839 of the 50,839 people; CC to 15,688 of the 49,869 people; and Kingsville to all 11,496 of the 11,496 people. Thus, each would provide combined first and second NCE service to at least ten percent of the population within its 60 dBu contour and to more than 2,000 people.

⁶¹ If the Commission had accepted WRN’s claim of two points for diversity of ownership, it would not have changed the outcome of this MX Group. Specifically, Colonias’ credited total of five points would still have exceeded WRN’s claimed total of two points.

⁶² Group 536, which originally contained 14 applications, was bifurcated as a result of the voluntary dismissal of one application and the amendment to singletons of four applications in the group. We consider Group 536A herein. Group 536B is considered separately in this Order.

a fair distribution preference.⁶³ LRM, TOTEB, GPCR, and CLJCM do not, and therefore each is eliminated. AFA-Wellington and Promesa claim eligibility for a preference based on new first NCE service. AFA certifies that its Dumas proposal is not eligible for a first service preference, and is therefore eliminated. The fair distribution analysis ends here because the two remaining applicants, AFA-Wellington and Promesa, propose to serve the same community. AFA-Wellington and Promesa must proceed to a point hearing.

57. Neither applicant claims points as an established local applicant. Each applicant claims two points for diversity of ownership with Promesa's claim based on a pledge to surrender the license for FM translator station K219DJ, Wellington, Texas. AFA does not support its diversity claim and therefore will not be awarded points under this criterion. Neither applicant claims points as a statewide network. With respect to technical parameters, AFA's proposed 60 dBu contour would encompass 1,388 square kilometers with a population of 3,019. Promesa's proposed 60 dBu contour would encompass 1,854 square kilometers with a population of 5,043. Promesa qualifies for two points under the best technical proposal criterion because it will serve at least 25 percent more area and population than AFA. Accordingly, Promesa is credited with a total of four points, and AFA is not credited with any points. Promesa is the tentative selectee in Group 536A.⁶⁴

58. **Group 536B.**⁶⁵ This group consists of two applications proposing service to different communities in Texas. Primera Iglesia Evangelica de Apostoles y Profetas ("PIEAP") would serve Panhandle, and Educational Music Foundation ("EMusic") proposes to serve Borger. Neither applicant claims that it is eligible for a fair distribution preference. The applicants therefore must proceed to a point hearing.

59. Neither applicant certifies that it is entitled to points as an established local applicant or as a statewide network. Each applicant claims two points for diversity of ownership. With respect to technical parameters, PIEAP's proposed 60 dBu contour would encompass 419 square kilometers with a population of 2,812. EMusic's proposed 60 dBu contour would encompass 3,730 square kilometers with a population of 24,637. EMusic qualifies for two points under the best technical proposal criterion because its proposal will serve at least 25 percent more area and population than the PIEAP proposal. Accordingly, EMusic is credited with a total of four points, and PIEAP is credited with two points. EMusic is the tentative selectee in Group 536B.

60. **Group 541.** This group consists of 32 applications for different communities in the states of Delaware, Maryland, and Virginia. The Delaware applicants are: Iglesia Cristiana Ebenezer ("Iglesia") for Seaford and University of Delaware ("University") for Georgetown. Three applicants propose to serve Lexington Park, Maryland: Hispanic Family Christian Network, Inc. ("HFCN"), Calvary Broadcasting, Inc. ("Calvary Broadcasting"), and American Educational Broadcasting, Inc.

⁶³ See AFA and Promesa Applications, Questions III(1), III(2), and associated exhibits. AFA claims that it would provide aggregated first and second NCE service to all 3,019 of the 3,019 people encompassed within its proposed Wellington 60 dBu contour, and to all 14,916 of the 14,916 within its Dumas contour. Promesa claims that it would provide aggregated first and second NCE service to all 5,043 of the 5,043 people within its proposed contour. Thus, each would provide combined first and second NCE service to at least ten percent of the population within its 60 dBu contour and to more than 2,000 people.

⁶⁴ If the Commission had accepted AFA's claim of two points for diversity of ownership, it would not have changed the outcome of this MX group. Specifically, Promesa's credited total of four points would still have exceeded AFA's claimed total of two points.

⁶⁵ See *supra* note 62.

("AEB"). Allegheny East Conference Corporation of the Seventh-Day Adventists ("Allegheny") and Salisbury University Foundation Inc. ("Salisbury") each proposes service to Cambridge, Maryland. The remaining applicants proposing service in Maryland are: Priority Radio, Inc. ("Priority") for Oxford; St. Mary's College of Maryland ("St. Mary's") for St. Mary's City; JKJ Educational Foundation ("JKJ") for California; Chesapeake Catholic Radio, Inc. ("CCR") for Leonardtown; and Hope Christian Church of Marlton, Inc. ("Hope") for Church Creek. The remaining applicants propose service in Virginia. Specifically, three applicants would serve Tappahannock: Hampton Roads Educational Telecommunications Association, Inc. ("Hampton"), Empowered People, Inc. ("EPI"), and Action, Inc. ("Action"). Three applicants would each serve Spotsylvania: Commonwealth Public Broadcasting Corporation ("Commonwealth"), Virginia Tech Foundation, Inc. ("VTF"), and JKJ. Three applicants propose to serve Bowling Green: Calvary Chapel of Twin Falls, Inc. ("CCTF"), Calvary Chapel of Spotsylvania ("CCS"), and The Helpline ("Helpline"). The remaining Virginia applicants are: Calvary Chapel of Staunton ("Calvary Staunton") for Greenville; Virginia Organizing Project ("VOP") for Scottsville; Synergy Project, Inc. ("Synergy") for Montpelier; RV Ministries, Inc. ("RV") for Milford; Liberty University, Inc. ("Liberty") for Nassawadox and for Columbia; Stucomm, Inc. ("Stucomm") for Staunton; Hampton for Eastville; James Madison University Board of Visitors ("JMU") for Buckingham; St. Paul Cultural Broadcasting, Inc. ("St. Paul") for Cape Charles; and Educational Media Foundation ("EMF") for a major modification to its licensed station KDRH(FM), Powhatan.

61. In 24 of the 32 applications, the applicant claims and documents eligibility for a fair distribution preference.⁶⁶ Commonwealth also certifies that it is eligible for a fair distribution preference but fails to submit any documentation to support its claim. Accordingly, Commonwealth is eliminated. In the remaining seven proposals, the applicant certifies ineligibility for a fair distribution preference. Accordingly, Iglesia, University, HFCN, CCTF, RV, JKJ-Spotsylvania, and St. Paul are each eliminated.⁶⁷

62. In 15 applications, the applicant claims eligibility for a preference based on a new first NCE service. The remaining nine applicants each certify that they are not eligible for a first service preference. Accordingly, Priority, Salisbury, Hope, Calvary Staunton, Synergy, Stucomm, Hampton-Eastville, CCS, and VTF are each eliminated. Allegheny claims that it would provide a first NCE service to 2,379 people; St. Mary's to 65,916 people; JKJ-California to 61,494 people; CCR to 75,092 people; Calvary Broadcasting to 71,709 people; AEB to 11,021 people; VOP to 3,617 people; Liberty to 8,435

⁶⁶ See Priority, Allegheny, St. Mary's, JKJ-California, Salisbury, CCR, Hope, Calvary Broadcasting, AEB, Calvary Staunton, VOP, Synergy, Liberty, Stucomm, Hampton, CCS, EPI, VTF, JMU, Helpline, Action, and EMF Applications, Questions III(1), III(2), and associated exhibits. Priority claims that it would provide aggregated first and second NCE service to 42,895 of the 47,498 people encompassed within its proposed 60 dBu contour; Allegheny to 25,049 of the 27,985 people; St. Mary's to all 72,617 of the 72,617 people; JKJ-California to 61,494 of the 61,881 people; Salisbury to all 31,194 of the 31,194 people; CCR to 97,347 of the 97,488 people; Hope to 53,384 of the 80,650 people; Calvary Broadcasting to 93,609 of the 93,819 people; AEB to 11,021 of the 69,367 people; Calvary Staunton to 19,697 of the 60,819; VOP to 11,241 of the 31,313 people; Synergy to 7,600 of the 41,255 people; Liberty to 20,599 of the 31,289 people for Nassawadox, and to all 15,723 of the 15,723 people for Columbia; Stucomm to 15,813 of the 55,307 people; Hampton to 37,698 of the 38,600 for Tappahannock, and to 6,072 of the 15,084 people for Eastville; CCS to 34,656 of the 136,199 people; EPI to 33,434 of the 36,788 people; VTF to 37,523 of the 120,554 people; JMU to 21,358 of the 27,190 people; Helpline to 26,140 of the 32,361 people; Action to all 13,466 of the 13,466 people; and EMF to 6,633 of the 20,355 people within its newly-added area. Thus, each would provide combined first and second NCE service to at least ten percent of the population within its 60 dBu contour (or within the area of newly-added service in the case of EMF) and to more than 2,000 people.

⁶⁷ JKJ-Spotsylvania and St. Paul each initially certified that they were ineligible for a fair distribution preference. On November 19, 2007, JKJ and St. Paul amended their applications to, *inter alia*, claim a second service preference and first service preference, respectively. JKJ's and St. Paul's post-filing window amendments are prohibited attempts to enhance their comparative positions and will not be considered. See *supra* note 37.

people for Nassawadox, and to 7,129 people for Columbia; Hampton-Tappahannock to 21,603 people; EPI to 17,859 people; JMU to 18,965 people; Helpline to 11,799 people; Action to 8,788 people; and EMF to 6,633 people within the newly-added area. Allegheny, St. Mary's, JKJ-California, AEB, VOP, Liberty (both proposals), Hampton-Tappahannock, EPI, JMU, Helpline, Action and EMF are each eliminated because CCR's next best proposal for a different community would serve at least 5,000 more people than each proposal. The CCR and Calvary Broadcasting applications are comparable with respect to first NCE service because neither would provide first NCE service to 5,000 more people than the other. Accordingly, we consider CCR's and Calvary Broadcasting's proposed aggregated first and second NCE service to 97,374 people and 93,609 people, respectively. These proposals are also comparable. Accordingly, CCR and Calvary proceed to a point hearing.

63. Neither CCR nor Calvary Broadcasting claims points as an established local applicant. Each applicant claims two points for diversity of ownership. Calvary Broadcasting, however, fails to support its diversity claim and therefore will not receive points under this criterion. Neither applicant claims points as a statewide network. With respect to technical parameters, CCR's proposed 60 dBu contour would encompass 4,642 square kilometers with a population of 97,488. Calvary Broadcasting's proposed 60 dBu contour would encompass 2,023 square kilometers with a population of 93,819. Neither applicant qualifies for points under the best technical proposal criterion because CCR's proposal to reach the largest area and population does not exceed both Calvary Broadcasting's proposed area and population by at least ten percent. Accordingly, CCR is credited with a total of two points; Calvary Broadcasting is not credited with any points. CCR is the tentative selectee in Group 541.

64. **Group 543.** This group is comprised of 17 applications proposing service to 12 different communities in Washington. Grays Harbor LP FM ("GraysLP"), Washington State University ("WSU"), and Grays Harbor Seventh-Day Adventist Church ("GraysSDA") each proposes service to Aberdeen. Three applicants propose to serve Hoquiam: Pacific Lutheran University ("PLU"), Sacred Heart Radio, Inc. ("SHR"), and Chehalis Valley Educational Foundation ("CVEF"). Samsno Educational Media ("Samsno") and Horizon Christian Fellowship ("Horizon") would each serve Montesano. The remaining applicants, each proposing service in Washington, are: Mason County Christian Radio ("Mason") for Shelton; Alliance for Democracy, South Puget Sound Chapter ("AFD") for Littlerock; Samsno for McCleary; Educational Media Foundation ("EMF") for Ocean Park; GraysLP for Elma; Northwest Indy Radio ("Indy") for Ocean Shores; PLU for Raymond; Lewis County Educational Broadcasting ("Lewis") for Onalaska; and The KBOO Foundation ("KBOO") for Chehalis.

65. In 14 of the 17 applications, the applicant certifies eligibility for a fair distribution preference.⁶⁸ AFD, Lewis, and KBOO do not, and accordingly, are each eliminated. In 10 of the remaining 14 applications, the applicant claims a first NCE service preference. Mason, PLU-Raymond, WSU, and GraysSDA do not claim a first service preference, and are therefore each eliminated. Samsno claims that it will provide first NCE service to 8,407 people with its McCleary proposal, and to 56,716 people for Montesano; EMF to 41,889 people; GraysLP to 10,654 people for Elma, and to 52,138 people for Aberdeen; Indy to 50,931 people; Horizon to 51,268 people; PLU-Hoquiam to 43,909 people; SHR to

⁶⁸ See Mason, Samsno, EMF, GraysLP, Indy, Horizon, PLU, SHR, WSU, GraysSDA, and CVEF Applications, Questions III(1), III(2), and associated exhibits. Mason claims that it would provide aggregated first and second NCE service to 9,242 of the 15,257 people encompassed within its 60 dBu contour; Samsno to 8,407 of the 27,109 people within its McCleary contour, and to all 58,241 of the 58,241 people for Montesano; EMF to 56,955 of the 61,135 people; GraysLP to 23,086 of the 28,526 people for Elma, and to 60,567 of the 60,594 people for Aberdeen; Indy to all 52,319 of the 52,319 people; Horizon to 57,099 of the 57,621 people; PLU to all 44,498 of the 44,498 people for Hoquiam, and to 8,935 of the 9,913 people for Raymond; SHR to all 51,816 of the 51,816 people; WSU to all 42,113 of the 42,113 people; GraysSDA to 44,385 of the 44,951 people; and CVEF to 49,268 of the 49,286 people. Thus, each would provide combined first and second NCE service to at least ten percent of the population within its 60 dBu contour and to more than 2,000 people.

51,352 people; and CVEF to 48,574 people. Samsno-McCleary and GraysLP-Elma are each eliminated because EMF's next best proposal for a different community will serve at least 5,000 more people. Similarly, EMF and PLU are eliminated because each will serve at least 5,000 fewer people than Indy's next best proposal for a different community. The remaining six proposals are comparable. Accordingly, we consider the applicants' claims to provide aggregated first and second NCE service to 60,567 people, 58,241 people, 52,319 people, 57,099 people, 51,816 people, and 49,269 people, respectively. Considering each proposal with respect to the one proposing to serve the next largest population, none exceeds the next best by at least 5,000 people, and the proposals are therefore comparable. Accordingly, GraysLP-Aberdeen, Samsno-Montesano, Indy, Horizon, SHR, and CVEF must proceed to a point hearing.

66. GraysLP-Aberdeen and Indy each claim three points as established local applicants; the other four applicants do not. Each applicant claims two points for diversity of ownership. GraysLP-Aberdeen's and Samsno-Montesano's claims are based on pledges to divest LPFM stations KGHO-LP, Hoquiam, Washington, and KCFL-LP, Fall City, Washington, respectively. Indy fails to support its diversity claim, and accordingly, Indy will not receive points under this criterion.⁶⁹ None of the applicants claim points as statewide networks. With respect to technical parameters, GraysLP-Aberdeen claims that its proposed 60 dBu contour would encompass 2,842 square kilometers and 60,594 people; Samsno-Montesano, 2,825 square kilometers and 58,241 people; Indy, 2,609 square kilometers and 52,319 people; Horizon, 3,539 square kilometers and 57,621 people; SHR, 2,106 square kilometers and 51,816 people; and CVEF, 1,987 square kilometers and 49,286 people. No applicant is eligible for points under the best technical proposal criterion because no applicant proposes to serve both the largest area and population. Accordingly, GraysLP-Aberdeen is credited with a total of five points; Indy receives three points; and Samsno-Montesano, Horizon, SHR, and CVEF are credited with two points each. GraysLP-Aberdeen is therefore the tentative selectee in Group 543.

67. **Group 544.** This group consists of 14 applications proposing service to 11 different communities in Wisconsin. The I-C-N Company ("ICN") and Templo Apostoles y Profetas Bethel ("TAPB") each proposes to serve Turtle Lake. The Board of Regents of the University of Wisconsin System ("UW Regents") and Immanuel Baptist Church ("IBC") would each serve Rice Lake. Optima Enrichment, Inc. ("Optima") and Family Life Broadcasting, Inc. ("FLB") each proposes service to Delafield. The remaining applicants are: Community Public Radio, Inc. ("CPR") for Barron; Waupaca Area Public Radio, Inc. ("WAPR") for Waupaca; Crossfire Incorporated ("Crossfire") for Rockland; Jubilation Ministries, Inc. ("JMI") for West Bend; JKJ Educational Foundation ("JKJ") for Stevens Point; Optima for Hancock; Peace Education Project of Peace Action Wisconsin ("PEP") for Chenequa; and Evangel Ministries, Inc. ("EMI") for Tomah.

68. In eight of the 14 applications, the applicant certifies eligibility for a fair distribution preference.⁷⁰ The other six applications do not, and accordingly, ICN, TAPB, JMI, Optima-Delafield, FLB, and JKJ are each eliminated. Four applicants claim a first NCE service preference. CPR, UW

⁶⁹ Indy states that it is the licensee of four FM translator stations in western Washington. It does not pledge to divest the FM translators, if necessary, and it provides no information from which the Commission or other parties could verify that it timely modified its governing documents to maintain diversity in the future.

⁷⁰ See CPR, WAPR, Crossfire, UW Regents, Optima-Hancock, IBC, PEP, and EMI Applications, Questions III(1), III(2), and associated exhibits. CPR claims that it would provide aggregated first and second NCE service to 50,803 of the 101,534 people encompassed within its 60 dBu contour; WAPR to 22,974 of the 28,723 people; Crossfire to 40,738 of the 56,757 people; UW Regents to 36,482 of the 63,408 people; Optima-Hancock to 21,486 of the 71,832 people; IBC to 46,552 of the 101,698 people; PEP to 9,519 of the 50,061 people; and EMI to all 15,573 of the 15,573 people. Thus, each would provide combined first and second NCE service to at least ten percent of the population within its 60 dBu contour and to more than 2,000 people.

Regents, IBC, and PEP do not, and accordingly are each eliminated. WAPR, Crossfire, Optima-Hancock, and EMI claim to provide first NCE service to 18,946 people, 9,580 people, 20,218 people, and 2,667 people, respectively. Crossfire and EMI are each eliminated because WAPR's next best proposal for a different community will serve at least 5,000 more people. The WAPR and Optima-Hancock proposals are comparable. Accordingly, we consider the applicants' claims to provide aggregated first and second NCE service to 22,974 people and 21,486 people, respectively. Because these proposals are also comparable, WAPR and Optima-Hancock must proceed to a point hearing.

69. WAPR claims three points as an established local applicant; Optima does not. Each applicant claims two points for diversity of ownership. Optima, however, does not adequately support its diversity claim. Although Optima's application reflects that it currently has no other authorizations, it provides no information from which the Commission or other parties could verify that Optima timely modified its governing documents to maintain diversity in the future. Accordingly, we will not award points to Optima under this criterion. Neither applicant claims points as a statewide network. With respect to technical parameters, WAPR's proposed 60 dBU contour would encompass 1,251 square kilometers with a population of 28,723 people. Optima's proposed 60 dBU contour would encompass 3,856 square kilometers with a population of 71,832 people. Optima is eligible for two points under the best technical proposal criterion because it proposes to serve at least 25 percent more area and population than WAPR. Accordingly, WAPR is credited with a total of five points, and Optima is credited with two points.⁷¹ WAPR is the tentative selectee in Group 544.

70. **Group 545.** This group is comprised of 25 applications proposing service to different communities in Illinois and Wisconsin. Faith Evangelical Lutheran Church ("FELC") and BVM Helping Hands ("BVM") would each serve Antioch, Illinois. The other Illinois applicants are: Appalachian Educational Communication Corporation ("AECC") for McHenry; Educational Media Foundation ("EMF") for Round Lake Beach; Calvary Chapel of Elk Grove Village ("CEG") for Wauconda; Clean Air Broadcasting Corporation ("Clean Air") for Round Lake; Primera Iglesia Evangelica de Apostoles y Profetas ("PIEAP") for Riverstream; and Family Life Broadcasting, Inc. ("FLB") for Waukegan. Three applicants propose to serve Kenosha, Wisconsin: The WBEZ Alliance, Inc. ("WBEZ"), The Institute for One Wisconsin, Inc. ("IOW"), and JKJ Educational Foundation ("JKJ"). The remaining applicants, each proposing service in Wisconsin, are: VCY America Inc. ("VCY") for Ripon; Cornerstone Community Radio, Inc. ("Cornerstone") with two applications, one for Sheboygan and the other for Portage; Board of Regents of the University of Wisconsin System ("UW Regents") for Port Washington; WRVM, Inc. ("WRVM") for Fod Du Lac; IOW for Oak Creek; Bethesda Christian Broadcasting ("BCB") for Taycheedah and Erdman; FLB for Racine; Christian Vision, Inc. ("CVI") for West Bend; Harvest Time Apostolic Ministries ("Harvest") for Barton; Optima Enrichment, Inc. ("Optima") for Markesan; Milwaukee Symphony Orchestra, Inc. ("MSO") for Suakville; and Basalt of the Earth, Inc. ("Basalt") for Wisconsin Dells.

71. In 20 of the 25 applications, the applicant certifies eligibility for a fair distribution preference.⁷² AECC, PIEAP, FLB-Racine, JKJ, and Harvest certify ineligibility for a preference, and

⁷¹ If the Commission had accepted Optima's claim of two points for diversity of ownership, it would not have changed the outcome of this MX group. Specifically, WAPR's credited total of five points would still have exceeded Optima's claimed total of four points.

⁷² See FELC, EMF, CEG, Clean Air, FLB-Waukegan, BVM, VCY, Cornerstone, UW Regents, WRVM, WBEZ, IOW, BCB, CVI, Optima, MSO, and Basalt Applications, Questions III(1), III(2), and associated exhibits. FELC claims that it would provide aggregated first and second NCE service to 129,162 of the 129,615 people encompassed within its 60 dBU contour; EMF to 179,169 of the 186,361 people; CEG to 262,926 of the 264,382 people; Clean Air to 125,222 of the 149,113 people; FLB-Waukegan to 191,505 of the 198,047 people; BVM to 130,480 of the 149,260 people; VCY to 52,542 of the 71,502 people; Cornerstone to 75,854 of the 94,556 people for Sheboygan, and to all 66,912 of the 66,912 people for Portage; UW Regents to 25,678 of the 211,763 people;

(continued...)

each is therefore eliminated.⁷³ FELC, BVM, VCY, Optima, and Basalt each claims a first service preference. The other applicants do not, and accordingly, the following are each eliminated: EMF, CCEG, Clean Air, FLB-Waukegan, Cornerstone (both proposals), UW Regents, WRVM, WBEZ, IOW (both proposals), BCB (both proposals), CVI, and MSO. FELC claims that it will provide first NCE service to 32,595 people; BVM to 33,745 people; VCY to 23,075 people; Optima to 26,487 people; and Basalt to 4,245. VCY, Optima, and Basalt are each eliminated because FELC's next best proposal for a different community will serve at least 5,000 more people. The fair distribution analysis ends here because FELC and BVM, the sole remaining applicants, propose service to the same community. FELC and BVM therefore proceed to a point hearing.

72. FELC and BVM each claim three points as established local applicants and two points for diversity of ownership. FELC, however, fails to adequately support its claims, and therefore, will not receive points under either criterion.⁷⁴ Neither applicant claims points as a statewide network. With respect to technical parameters, FELC's proposed 60 dBu contour would encompass 423 square kilometers with a population of 129,615. BVM's proposed 60 dBu contour would encompass 1,116 square kilometers with a population of 149,260. BVM qualifies for one point under the best technical proposal criterion because it will serve at least 10 percent more area and population than FELC. Accordingly, BVM is credited with a total of six points; FELC is not credited with any points. BVM is therefore the tentative selectee in Group 545.⁷⁵

73. **Group 546B.**⁷⁶ This group consists of three applications proposing service to two different communities in Montana. Double Edge Productions ("DEP") and Family Stations, Inc. ("Family") each proposes to serve Billings. Hi-Line Radio Fellowship, Inc. ("Hi-Line") would serve Hardin. DEP is the only applicant to timely claim that it is eligible for a fair distribution preference.⁷⁷

(...continued from previous page)

WRVM to 17,699 of the 82,761 people; WBEZ to 224,057 of the 346,498 people; IOW to 61,835 of the 489,805 people for Oak Creek, and to all 84,032 of the 84,032 people for Kenosha; BCB to 14,518 of the 44,942 people for Taycheedah, and to 35,976 of the 87,794 people for Erdman; CVI to 43,819 of the 348,065 people; Optima to 68,283 of the 77,875 people; MSO to 27,867 of the 177,767 people; and Basalt to 4,545 of the 40,398 people. Thus, each would provide combined first and second NCE service to at least ten percent of the population within its 60 dBu contour and to more than 2,000 people.

⁷³ JKJ certified that it was not eligible for a fair distribution preference in its initial application. On November 19, 2007, JKJ amended its application to, *inter alia*, claim a second service preference. JKJ's post-filing window amendment is a prohibited attempt to enhance its comparative position and will not be considered. *See supra* note 37.

⁷⁴ FELC fails to provide any documentation to support its localism claim. FELC bases its diversity claim on a pledge to divest WFEL-LP, Antioch, Illinois. FELC, however, has not shown that its governing documents limit its ability to acquire other stations in the same area after divesting the LPM station.

⁷⁵ If the Commission had accepted FELC's claims of three points for localism and two points for diversity of ownership, it would not have changed the outcome of this MX group. Specifically, BVM's credited total of six points would still have exceeded FELC's claimed total of five points.

⁷⁶ Group 546, which originally contained 25 applications, was truncated by settlements in which several applications were voluntarily dismissed and others became singletons. We consider Groups 546B and 546C herein. Group 546A was considered in a previous order. *See December 2009 NCE Order, supra* note 38.

⁷⁷ Hi-Line certified that it was not eligible for a fair distribution preference in its initial application. On January 6, 2008, Hi-Line amended its application to claim a first service preference. Hi-Line's post-filing window amendment is a prohibited attempt to enhance its comparative position and will not be considered. *See supra* note 37.

DEP, however, submits no numbers or documentation to support its claim, and accordingly, does not qualify for a fair distribution preference. The group therefore proceeds to a point hearing.

74. DEP claims three points as an established local applicant; Family and Hi-Line do not. DEP fails to submit any documentation to support its localism claim and therefore will not receive points under this criterion. Each applicant claims two points for diversity of ownership with Family's claim based on a pledge to divest FM translator stations K203EP, Shepherd, Montana, and K259AN, Billings, Montana. DEP and Hi-Line fail to submit documentation to support their respective diversity claims, and accordingly, neither will receive points under this criterion. DEP is the only applicant to claim points as a statewide network. It, however, fails to support its claim and will not be awarded points under this criterion. With respect to technical parameters, DEP claims that its proposed 60 dBu contour would encompass 100 square kilometers with a population of 100,000; Hi-Line, 356 square kilometers and 4,781 people; and Family, 4,976 square kilometers and 117,026 people. Family qualifies for one point under the best technical proposal criterion because its proposal will serve at least 10 percent more area and population than Hi-Line's next best area proposal and DEP's next best population proposal. Accordingly, Family is credited with a total of three points; DEP and Hi-Line are not credited with any points. Family is therefore the tentative selectee in Group 546B.

75. **Group 546C.**⁷⁸ The two applications in this final group propose service to different communities in Wyoming. The University of Wyoming ("UW") would serve Kaycee, and Bethesda Christian Broadcasting ("BCB") proposes service to Story. Neither applicant claims that it is eligible for a fair distribution preference. Each, therefore, proceeds to a point hearing.

76. UW certifies that it is entitled to three points as an established local applicant; BCB does not. BCB claims two points for diversity of ownership; UW does not. BCB, however, does not, as required, support its diversity claim with a copy of a governing document requiring diversity to be maintained. Accordingly, we will not award points to BCB under this criterion. Neither applicant claims points as a statewide network. With respect to technical parameters, UW claims that its proposed 60 dBu contour would encompass 1,478 square kilometers with a population of 542. BCB's proposed 60 dBu contour would encompass 3,926 square kilometers with a population of 7,721. BCB qualifies for two points under the best technical proposal criterion because it will serve at least 25 percent more area and population than UW's proposal. Accordingly, UW is credited with a total of three points, and BCB is credited with two points. UW is therefore the tentative selectee in Group 546C.

IV. NEXT STEPS

77. **Acceptability Studies and Filing of Petitions.** The staff has examined the applications of each tentative selectee for application defects.⁷⁹ Each tentative selectee identified in this Order and its Appendix appears to be fully qualified to become the licensee of the new or modified NCE FM station it has proposed. We tentatively conclude that the grant of these applications would serve the public interest, convenience and necessity. Accordingly, the tentative selectees are accepted for filing. This triggers a 30-day period for the filing of petitions to deny.

⁷⁸ See *supra* note 76.

⁷⁹ If a tentative selectee's application is found unacceptable for filing, it is returned. The applicant is then given one opportunity to submit a curative amendment. See 47 C.F.R. § 73.3522(b)(2). A tentative selectee that is unable to cure the defect with a minor amendment is disqualified, and the applicant with the next highest point tally becomes the new tentative selectee. See 47 C.F.R. § 73.7004(d).

78. Any argument that the tentatively selected application should not be granted should be raised in such a petition, even if the objection relates only indirectly to the tentative selectee's qualifications. For example, an applicant that concedes that the tentative selectee is qualified for the points received but believes its own proposal should have received a greater number of points than the tentative selectee's would make its argument in a petition to deny. Parties should not raise such matters as petitions for reconsideration of the instant Order because the point hearings herein take no final action on any application, and petitions for reconsideration do not lie against such interlocutory decisions.⁸⁰

79. **Forthcoming Staff Action.** We direct the staff, once the public notice period has run, to conduct a final study of each tentatively selected application in accordance with its routine processing procedures. The staff studies should consider any petitions, comments, and objections to determine whether there is any substantial and material question of fact concerning whether grant of the tentatively selected application would serve the public interest. If no such question exists, we direct the staff to grant the applications on the basis of the point system determinations made herein and dismiss all competing applications.

80. With the exception of issues that are novel or require Commission or Administrative Law Judge consideration by law, the staff shall act on the tentatively selected applications pursuant to delegated authority. We delegate to the staff authority to act on any routine matter that may be raised, including whether the applicant is eligible, as certified, for the points awarded herein, and whether the application complies with all relevant Commission rules and policies.⁸¹ The staff need not refer such matters to the Commission or Administrative Law Judge unless the staff determines that the issues are new or novel, or raise a substantial and material question regarding the award of points. Generally, the staff should refer only those issues to the Commission where the exclusion or inclusion of challenged or claimed points could alter the outcome in the particular NCE group, or where a new or novel question or substantial and material question of fact otherwise exists.⁸² In such cases, the staff would either designate the application for hearing on the substantial and material question or refer the mutually exclusive group to the Commission for resolution of the novel issue and/or the determination of a successor tentative selectee.

81. **Severance for Purposes of Petitions, Appeals and Finality.** We are including a provision in the ordering clauses herein that each decision involving a mutually exclusive group is to be considered distinct and separate for purposes of petitions to deny, petitions for reconsideration, review on the Commission's own motion, and appeals. The timing of any action disposing of a petition or appeal affecting a particular group will not delay the finality of our decision with respect to any other group.

V. ORDERING CLAUSES

82. Accordingly, IT IS ORDERED, That each decision involving a mutually exclusive group in this *Memorandum Opinion and Order* shall be deemed a distinct and separate decision for purposes of petitions to deny, petitions for reconsideration, review on the Commission's own motion, and appeals.⁸³

⁸⁰ See *id.* § 1.106 (a) (1). See also *Patrick J. Vaughn, Esq.*, Letter, 22 FCC Rcd 11165 (MB 2007).

⁸¹ See, e.g., *Central Florida Educational Foundation, Inc.*, Letter, 23 FCC Rcd 1695 (MB 2008) (staff dismissal of defective application tentatively selected in a point hearing, and staff award of permit on a non-comparative basis to only remaining acceptable applicant).

⁸² See generally *NCE Omnibus*, 22 FCC Rcd at 6162 n.230 (2007) (standards for staff evaluation of petitions).

⁸³ See 5 U.S.C. §§ 702, 704, 706; 47 U.S.C. §§ 309(d), 402(b), 405; 47 C.F.R. §§ 1.106-08, 73.7004. In cases that involve separate mutually exclusive groups but present common issues, the petitions or appeals may be filed jointly or may be consolidated at the discretion of the Commission or a reviewing court. See, e.g., FED. R. APP. P. 3(b).

If any decision in this *Memorandum Opinion and Order* is declared invalid for any reason, the remaining portions shall be severable from the invalid part and SHALL REMAIN in full force and effect to the fullest extent permitted by law.

83. **Group 366.** Accordingly, IT IS ORDERED, That Delmarva Educational Association is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in California, Maryland, and its application 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 tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Pensacola Christian College, Inc. (File No. BNPED-20071018DFB) and Body of Christ Farm Community, Inc. (File No. BNPED-20071022BIQ), and TO GRANT the application of Delmarva Educational Association (File No. BNPED-20071022BCX) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and also provides that an applicant receiving a Section 307(b) preference that is decisive over another applicant must operate technical facilities substantially as proposed for a period of four years of on-air operations.

84. **Group 502.** Accordingly, IT IS ORDERED, That Community Broadcasting, Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Walnut Ridge, Arkansas, and its application 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 tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Way-FM Media Group, Inc. (File No. BNPED-20071015AHM), American Heritage Media, Inc. (File No. BNPED-20071017AKF), Calvary Chapel of Jacksonville (File No. BNPED-20071018AQI), Pensacola Christian College, Inc. (File No. BNPED-20071018DEX), Marantha Broadcasting Ministry, Inc. (File No. BNPED-20071019ACL), Calico Rock Mennonite Fellowship, Inc. (File No. BNPED-20071019AQS), Houston Christian Broadcasters, Inc. (File No. BNPED-20071019ATE), Educational Media Foundation (File No. BNPED-20071019BDG), From His Heart Ministries (File No. BNPED-20071022AYW), The Newgate Group (File No. BNPED-20071022AZN), KMZD Radio, Inc. (File No. BNPED-20071022BSK), Sisco Ministries Outreach Incorporated (File No. BNPED-20071012AEQ), Community Broadcasting, Inc. (File No. BNPED-20071018ACO), and Millenium Broadcasting Corporation (File No. BNPED-20071022AFZ), and TO GRANT the application of Community Broadcasting, Inc. (File No. BNPED-20071018ACN) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and also provides that an applicant receiving a Section 307(b) preference that is decisive over another applicant must operate technical facilities substantially as proposed for a period of four years of on-air operations.

85. **Group 505.** Accordingly, IT IS ORDERED, That West Side Theatre Foundation and Blue Mountain Coalition for Youth and Families are TENTATIVELY SELECTED to be awarded construction permits ON A TIMESHARING BASIS for new NCE FM stations in Newman and San Andreas, California. The two applications ARE 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 tentatively selected applications, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Calvary Chapel of Twin Falls, Inc. (File No. BNPED-20071012ACA), Family Life Broadcasting, Inc. (File No. BNPED-20071016AIS), Regents of the University of California (File No. BNPED-20071016AIT), California State University, Sacramento (File No. BNPED-20071018ACL), Centro Palebra de Fe Church (File Nos. BNPED-20071018AUV and 20071018AUZ), Centro Cristiano Sion (File No. BNPED-20071018AVU), De la Cruz International Ministries, Inc. (File No. BNPED-20071018BCP), Centro Cristiano de Fe, Inc. (File No. BNPED-20071022AAX), and Calvary Chapel of Modesto, Inc. (File No. BNPED-

20071022BOW). We further direct the staff to provide the tentatively selected applicants a ninety (90)-day period in which to reach a timesharing agreement among themselves and, pursuant to an acceptable agreement, TO GRANT the applications of West Side Theatre Foundation (File No. BNPED-20071017AGF) and Blue Mountain Coalition for Youth and Families (File No. BNPED-20071018ASW) CONDITIONED UPON each selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and also provides that an applicant receiving a Section 307(b) preference that is decisive over another applicant must operate technical facilities substantially as proposed for a period of four years of on-air operations. If the applicants are unable to reach a voluntary timesharing agreement, the staff shall designate the applications for hearing on the sole issue of an appropriate timesharing arrangement.

86. **Group 508.** Accordingly, IT IS ORDERED, That Make a Difference Foundation, Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Brush, Colorado, and its application 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 tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Calvary Chapel of Twin Falls, Inc. (File No. BNPED-20071012ABQ), The Praise Network, Inc. (File No. BNPED-20071018ASZ), Make a Difference Foundation, Inc. (File No. BNPED-20071018AYQ), The Helpline (File No. BNPED-20071019BCM), De Mujer a Mujer International (File Nos. BNPED-20071022AGO and 20071022AGT), Calvary Chapel Aurora (File No. BNPED-20071022ARD), and Wren Communications, Inc. (File No. BNPED-20071022ATG), and TO GRANT the application of Make a Difference Foundation, Inc. (File No. BNPED-20071018AYM) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and also provides that an applicant receiving a Section 307(b) preference that is decisive over another applicant must operate technical facilities substantially as proposed for a period of four years of on-air operations.

87. **Group 509B.** Accordingly, IT IS ORDERED, That Grace Covenant Baptist Church is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Lake City, Florida, and its application 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 tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Community Radio Foundation of Florida, Inc. (File No. BNPED-20071015AIO), Lake City Christian Radio, Inc. (File No. BNPED-20071016ABV), Call Communications Group, Inc. (File No. BNPED-20071019ADI), Holguy Sainthilaire (File No. BNPED-20071019AZI), De Mujer a Mujer International (File No. BNPED-20071022AGW), Cumberland Island Environmental Educational Foundation, Inc. (File No. BNPED-20071012AJY), Community Public Radio, Inc. (File No. BNPED-20071015ABM), Grace Public Radio (File No. BNPED-20071015AFH), Clean Air Broadcasting Corporation (File No. BNPED-20071019BEC), and Calvary Fellowship, Inc. (File No. BNPED-20071022ATE), and TO GRANT the application of Grace Covenant Baptist Church (File No. BNPED-20071015AAV) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

88. **Group 511A.** Accordingly, IT IS ORDERED, That Western Iowa Tech Community College is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Denison, Iowa, and its application 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 tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Harvest Time

Apostolic Ministries (File No. BNPED-20071022AIE) and Breath of the Spirit Ministries (File No. BNPED-20071022BQE), and TO GRANT the application of Western Iowa Tech Community College (File No. BNPED-20071016ABA) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and also provides that an applicant receiving a Section 307(b) preference that is decisive over another applicant must operate technical facilities substantially as proposed for a period of four years of on-air operations.

89. **Group 512.** Accordingly, IT IS ORDERED, That Father Pettit Home Association is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Peru, Indiana, and its application 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 tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Good News Radio, Inc. (File Nos. BNPED-20071012AEC and 20071012AET), Connersville Apostolic Lighthouse Incorporated (File No. BNPED-20071012APP), Jill Walker Ministries (File No. BNPED-20071019AVS), Tightrope Broadcasting, Inc. (File No. BNPED-20071022BAC), Harvest Christian Fellowship, Inc. (File No. BNPED-20071022BHN), Temple Baptist Church (File No. BNPED-20071012ADU), Hoosier Broadcasting Corporation (File No. BNPED-20071012ADW), Linda Jerome Foundation (File Nos. BNPED-20071012ADZ and 20071015AIQ), Electronic Applications Radio Service, Inc. (File No. BNPED-20071012APW), Good Samaritan Educational Radio, Inc. (File No. BNPED-20071015ADW), Horizon Christian Fellowship of Indianapolis, Inc. (File No. BNPED-20071017ABY), The Dwelling Place, Inc. (File No. BNPED-20071018ALB), Pensacola Christian College, Inc. (File No. BNPED-20071018DES), Triangle Foundation, Inc. (File No. BNPED-20071019AKE), Bethel Christian Life Center, Inc. (File No. BNPED-20071019ARN), Indiana Educational Broadcast Corporation (File No. BNPED-20071019AUG), Friends of Radio Maria, Inc. (File Nos. BNPED-20071019AUR and 20071022ARO), Community Radio for Hoosiers, Inc. (File Nos. BNPED-20071019AWM and 20071022ADM), Family Stations, Inc. (File No. BNPED-20071022ALI), The Trustees of Indiana University (File No. BNPED-20071022BAQ), and Basalt of the Earth, Inc. (File No. BNPED-20071022BIC), and TO GRANT the application of Father Pettit Home Association (File No. BNPED-20071022AXI) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and also provides that an applicant receiving a Section 307(b) preference that is decisive over another applicant must operate technical facilities substantially as proposed for a period of four years of on-air operations.

90. **Group 513.** Accordingly, IT IS ORDERED, That Joshua Springs Calvary Chapel is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Sun City, Kansas, and its application 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 tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of Harvest Time Apostolic Ministries (BNPED-20071022AIC) and TO GRANT the application of Joshua Springs Calvary Chapel (File No. BNPED-20071022BIW) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

91. **Group 515.** Accordingly, IT IS ORDERED, That Providence Community Radio, Inc. and St. Joseph's Radio Station, Inc. are TENTATIVELY SELECTED to be awarded construction permits ON A TIMESHARING BASIS for new NCE FM stations in Harrisville and Pascoag, Rhode Island. The two applications ARE 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 tentatively selected applications, we direct the staff,

by public notice, TO DISMISS the mutually exclusive applications of Home Improvement Ministries (File No. BNPED-20071012ABZ), Quaboag Hills Public Radio, Inc. (File Nos. BNPED-20071017AFF and 20071022AQM), The Marconi Broadcasting Foundation (File Nos. BNPED-20071018AOF and 20071018AOE), AMFMTech Educational Broadcasting, Inc. (File No. BNPED-20071018AOJ), Horizon Christian Fellowship (File No. BNPED-20071019AJP), The Executive Committee of the Trustees of Boston University (File No. BNPED-20071019AQB), Galaxy Radio, Inc. (File No. BNPED-20071022AUG), Bryant University (File No. BNPED-20071019AKY), and Rhode Island Public Radio (File No. BNPED-20071022AKM). We further direct the staff to provide the tentatively selected applicants a ninety (90)-day period in which to reach a timesharing agreement among themselves and, pursuant to an acceptable agreement, TO GRANT the applications of Providence Community Radio, Inc. (File No. BNPED-20071017AIV) and St. Joseph's Radio Station, Inc. (File No. BNPED-20071022BSI) CONDITIONED UPON each selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and also provides that an applicant receiving a Section 307(b) preference that is decisive over another applicant must operate technical facilities substantially as proposed for a period of four years of on-air operations. If the applicants are unable to reach a voluntary timesharing agreement, the staff shall designate the applications for hearing on the sole issue of an appropriate timesharing arrangement.

92. **Group 517B.** Accordingly, IT IS ORDERED, That Liberty and Freedom Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Baraboo, Wisconsin, and its application 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 tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Wisconsin Academy Seventh-Day Adventist Church (File No. BNPED-20071019AOP), Optima Enrichment, Inc. (File No. BNPED-20071022ATB), and Harvest Christian Fellowship, Inc. (File No. BNPED-20071022BHQ), and TO GRANT the application of Liberty and Freedom Inc. (File No. BNPED-20071012AJK) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and also provides that an applicant receiving a Section 307(b) preference that is decisive over another applicant must operate technical facilities substantially as proposed for a period of four years of on-air operations.

93. **Group 518.** Accordingly, IT IS ORDERED, That Calvary Chapel of Helena, Inc. and Last Chance Public Radio Association are TENTATIVELY SELECTED to be awarded construction permits ON A TIMESHARING BASIS for new NCE FM stations in Montana City and Helena, Montana. The two applications ARE 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 tentatively selected applications, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Board of Regents – Mountain University System (File No. BNPED-20071017AAJ), Harrison School District #23 (File No. BNPED-20071018AQP), Willow Creek School District # 15, J15-17 (File No. BNPED-20071018AQU), Western Family Television, Inc. (File No. BNPED-20071019AMV), Montana State University - Billings (File No. BNPED-20071019ANF), Broadwater County Disaster and Emergency Services (File No. BNPED-20071019AVR), Mountain Air Radio, Inc. (File No. BNPED-20071019AWZ), Hi-Line Radio Fellowship, Inc. (File No. BNPED-20071019BDT), Family Stations, Inc. (File No. BNPED-20071022ALF), Guild of St. Peter Educational Association (File No. BNPED-20071022ASF), Queen of Victory Educational Radio Association (File No. BNPED-20071022ASH), and Mission Valley Christian Fellowship of San Diego (File No. BNPED-20071022BKC). We further direct the staff to provide the tentatively selected applicants a ninety (90)-day period in which to reach a timesharing agreement among themselves and, pursuant to an acceptable agreement, TO GRANT the applications of Calvary Chapel of Helena, Inc. (File No. BNPED-20071018ADT) and Last Chance Public Radio Association (File No.

BNPED-20071022APB) CONDITIONED UPON each selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and also provides that an applicant receiving a Section 307(b) preference that is decisive over another applicant must operate technical facilities substantially as proposed for a period of four years of on-air operations, and PROVIDED THAT, Last Chance Public Radio Association must surrender its license for FM translator station K244EH, Helena, Montana, prior to commencement of program tests of the full service NCE FM station. If the applicants are unable to reach a voluntary timesharing agreement, the staff shall designate the applications for hearing on the sole issue of an appropriate timesharing arrangement.

94. **Group 524.** Accordingly, IT IS ORDERED, That GILA/Mimbres Community Radio is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Silver City, New Mexico, and its application 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 tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Community Radio Foundation of Florida, Inc. (File No. BNPED-20071017AEF), Arizona Board of Regents for the Benefit of the University of Arizona (File No. BNPED-20071018ARC), Duncan Unified School District (File No. BNPED-20071018ARY), De la Cruz International Ministries (File Nos. BNPED-20071018BCS and BNPED-20071018BCZ), Christian Ministries of the Valley, Inc. (File No. BNPED-20071019ABX), Diamond Mountain (File No. BNPED-20071019AWW), St. Paul Cultural Broadcasting, Inc. (File No. BNPED-20071019BAY), Centro Cristiano de Fe, Inc. (File No. BNPED-20071022AAY), Iglesia Jesucristo es mi Refugio de Austin, Inc. (File No. BNPED-20071022ACV), Cochise Community Radio Corporation (File Nos. BNPED-20071022APC, 20071022APD, 20071022APH, 20071022APK, and 20071022APL), Educational Broadcast Service (File No. BNPED-20071022BGM), Iglesia Alto Refugio (File No. BNPED-20071022ADR), Christian Business Owners of Lincoln County (File No. BNPED-20071015ABC), Oscar Aguero Ministry (File No. BNPED-20071015AGC), Community Access Television of Silver City (File Nos. BNPED-20071016AEJ and 20071016AEK), Radio Bilingue, Inc. (File Nos. BNPED-20071016AFH and 20071016AFK), Life on the Way Communications, Inc. (File No. BNPED-20071016AID), Earthrise Institute (File No. BNPED-20071017ACL), Sky High Broadcasting, Inc. (File Nos. BNPED-20071017AJX and 20071017AKB), Roswell Humane Society (File No. BNPED-20071018APD), Iglesia Shekira (File Nos. BNPED-20071018AYL, 20071018AZA, and 20071018AZB), Available Media, Inc. (File No. BNPED-20071018BBO), Tixs for Kids (File No. BNPED-20071019ANN), Regents of New Mexico State University (File Nos. BNPED-20071019ATM, 20071019ATU, 20071019AUC, 20071019AVB, and 20071019AVD), El Paso Counts (File No. BNPED-20071019BDX), Colina Alta Ministries, Inc. (File No. BNPED-20071022AOH), and K.C. Home Association (File No. BNPED-20071022BSD), and TO GRANT the application of GILA/Mimbres Community Radio (File No. BNPED-20071016AJP) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and also provides that an applicant receiving a Section 307(b) preference that is decisive over another applicant must operate technical facilities substantially as proposed for a period of four years of on-air operations.

95. **Group 526.** Accordingly, IT IS ORDERED, That Cherokee Nation is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Murphy, Oklahoma, and its application 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 tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of VCY America Inc. (File No. BNPED-20071012AAB), Calvary Chapel of Joplin (File No. BNPED-20071019AOL), Catholic Hour, Inc. (File No. BNPED-20071019AZN), Nassuna Broadcasting, Inc. (File No. BNPED-20071022BAL), Family Life Connection Radio – K Life, Inc. (File No. BNPED-20071015ABE), Creative Educational Media Corporation (File No. BNPED-20071017AEX), and Community

Broadcasting, Inc. (File No. BNPED-20071018ADC), and TO GRANT the application of Cherokee Nation (File No. BNPED-20071018ASR) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and also provides that an applicant receiving a Section 307(b) preference that is decisive over another applicant must operate technical facilities substantially as proposed for a period of four years of on-air operations.

96. **Group 527.** Accordingly, IT IS ORDERED, That West Lane Translator, Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Florence, Oregon, and its application 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 tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of UCB USA, Inc. (BNPED-20071018AOD), Lane County School District No. 4J (BNPED-20071018AVR), and WS Educational Broadcasting (File No. BNPED-20071019ASL), and TO GRANT the application of West Lane Translator, Inc. (File No. BNPED-20071016AAA) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

97. **Group 532.** Accordingly, IT IS ORDERED, That Catholic Chancery Office is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Hartford, South Dakota, and its application 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 tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Silver Fish Broadcasting, Inc. (File No. BNPED-20071022BTA), VCY America Inc. (BNPED-20071012ABC), Family Worship Center Church, Inc. (File Nos. BNPED-20071017AAR and 20071017AAT), Mission Valley Christian Fellowship of San Diego (File No. BNPED-20071017ACX), Educational Media Foundation (File No. BNPED-20071017ADL), Community Broadcasting, Inc. (File No. BNPED-20071018ADF), The Praise Network, Inc. (File No. BNPED-20071018ATI), Bethesda Christian Broadcasting (File No. BNPED-20071019AUB), Eastside Baptist Church of Sioux Falls (File No. BNPED-20071019AWI), Calvary Chapel Sioux Falls (File No. BNPED-20071022AEH), and Grace Community Church of Amarillo (File No. BNPED-20071022BRD), and TO GRANT the application of Catholic Chancery Office (File No. BNPED-20071022ADT) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and also provides that an applicant receiving a Section 307(b) preference that is decisive over another applicant must operate technical facilities substantially as proposed for a period of four years of on-air operations.

98. **Group 534.** Accordingly, IT IS ORDERED, That Colonias Unidas is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Rio Grande, Texas, and its application 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 tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of World Radio Network, Inc. (File No. BNPED-20071017AAM), Christian Ministries of the Valley, Inc. (File No. BNPED-20071019ABD), Comunidad Cristiana (File No. BNPED-20071022BCN), and The Worship Center of Kingsville (File No. BNPED-20071022BQS), and TO GRANT the application of Colonias Unidas (File No. BNPED-20071019AWT) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and also provides that an applicant receiving a Section 307(b) preference that is decisive over another applicant must operate technical facilities substantially as proposed for a period of four years of on-air operations.

99. **Group 536A.** Accordingly, IT IS ORDERED, That La Promesa Foundation is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Wellington, Texas, and its application 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 tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of American Family Association (File Nos. BNPED-20071012DYJ and 20071015DMQ), Living River Ministries, Inc. (File No. BNPED-20071015AEM), Top O Texas Educational Broadcasting Foundation (File No. BNPED-20071017AJE), Great Plains Christian Radio, Inc. (File No. BNPED-20071018ALA), and Cross of Our Lord Jesus Christ Ministries (File No. BNPED-20071022AFC), and TO GRANT the application of La Promesa Foundation (File No. BNPED-20071019AET) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and also provides that an applicant receiving a Section 307(b) preference that is decisive over another applicant must operate technical facilities substantially as proposed for a period of four years of on-air operations, and PROVIDED THAT, La Promesa Foundation must surrender its license for FM translator station K219DJ, Wellington, Texas, prior to commencement of program tests of the full service NCE FM station.

100. **Group 536B.** Accordingly, IT IS ORDERED, That Educational Music Foundation is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Borger, Texas, and its application 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 tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of Primera Iglesia Evangelica de Apostoles y Profetas (File No. BNPED-20071018BAJ) and TO GRANT the application of Educational Music Foundation (File No. BNPED-20071022BFX) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

101. **Group 541.** Accordingly, IT IS ORDERED, That Chesapeake Catholic Radio, Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Leonardtown, Maryland, and its application 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 tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Iglesia Cristiana Ebenezer (File No. BNPED-20071018AZN), University of Delaware (File No. BNPED-20071022BEL), Priority Radio, Inc. (File No. BNPED-20071012AJI), Allegheny East Conference Corporation of Seventh-Day Adventists (File No. BNPED-20071015AKD), St. Mary's College of Maryland (File No. BNPED-20071019AHY), KJ Educational Foundation (File Nos. BNPED-20071022AHP and 20071022AHM), Hispanic Family Christian Network, Inc. (File No. BNPED-20071022AMA), Salisbury University Foundation Inc. (File No. BNPED-20071022AWK), Hope Christian Church of Marlton, Inc. (File No. BNPED-20071022BFZ), Calvary Broadcasting, Inc. (File No. BNPED-20071022BGT), American Educational Broadcasting, Inc. (File No. BNPED-20071022BSE), Calvary Chapel of Twin Falls, Inc. (File No. BNPED-20071012ABN), Calvary Chapel of Staunton (File No. BNPED-20071012AUC), Virginia Organizing Project (File No. BNPED-20071015ALJ), Synergy Project, Inc. (File No. BNPED-20071016AIY), RV Ministries, Inc. (File No. BNPED-20071017AHV), Liberty University, Inc. (File Nos. BNPED-20071018ACF and 20071019AED), Stucomm, Inc. (File No. BNPED-20071018AUH), Commonwealth Public Broadcasting Corporation (File No. BNPED-20071018AVH), Hampton Roads Educational Telecommunications Association, Inc. (File Nos. BNPED-20071018AVY and 20071018AWC), Calvary Chapel of Spotsylvania (File No. BNPED-20071019ADP), Empowered People, Inc. (File No. BNPED-20071019AHE), Virginia Tech Foundation, Inc. (File No. BNPED-20071019AJY), James Madison University Board of Visitors (File No. BNPED-20071019BBC),

The Helpline (File No. BNPED-20071019BCK), Action, Inc. (File No. BNPED-20071022ARA), St. Paul Cultural Broadcasting, Inc. (File No. BNPED-20071022BEE), and Educational Media Foundation (File No. BMJPED-20071022BFI), and TO GRANT the application of Chesapeake Catholic Radio, Inc. (File No. BNPED-20071022BEB) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and also provides that an applicant receiving a Section 307(b) preference that is decisive over another applicant must operate technical facilities substantially as proposed for a period of four years of on-air operations.

102. **Group 543.** Accordingly, IT IS ORDERED, That Grays Harbor LP FM is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Aberdeen, Washington, and its application 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 tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Mason County Christian Radio (File No. BNPED-20071012AAQ), Alliance for Democracy, South Puget Sound Chapter (File No. BNPED-20071015ALC), Samsno Educational Media (File Nos. BNPED-20071017AAA and 20071018AAG), Educational Media Foundation (File No. BNPED-20071017ADC), Grays Harbor LP FM (File No. BNPED-20071017AEZ), Northwest Indy Radio (File No. BNPED-20071018AAP), Horizon Christian Fellowship (File No. BNPED-20071018AMD), Pacific Lutheran University, Inc. (File Nos. BNPED-20071018ASM and 20071018DEN), Sacred Heart Radio, Inc. (File No. BNPED-20071018AZK), Lewis County Educational Broadcasting (File No. BNPED-20071019AMK), The KBOO Foundation (File No. BNPED-20071019ARU), Washington State University (File No. BNPED-20071022AVH), Grays Harbor Seventh-Day Adventist Church (File. No BNPED-20071022AYB), and Chehalis Valley Educational Foundation (File No. BNPED-20071022BPI), and TO GRANT the application of Grays Harbor LP FM (File No. BNPED-20071017AFA) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and also provides that an applicant receiving a Section 307(b) preference that is decisive over another applicant must operate technical facilities substantially as proposed for a period of four years of on-air operations, and PROVIDED THAT, Grays Harbor LP FM must divest or surrender its license for LPFM station KGHO-LP, Hoquiam, Washington, prior to commencement of program tests of the full service NCE FM station.

103. **Group 544.** Accordingly, IT IS ORDERED, That Waupaca Area Public Radio, Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Waupaca, Wisconsin, and its application 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 tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of The I-C-N Company (File No. BNPED-20071012AHI), Community Public Radio, Inc. (File No. BNPED-20071015ABH), Crossfire Incorporated (File No. BNPED-20071018AMU), Templo Apostoles y Profetas Bethel (File No. BNPED-20071018BAV), Board of Regents of the University of Wisconsin System (File No. BNPED-20071019AIM), Jubilation Ministries, Inc. (File No. BNPED-20071019AXG), Optima Enrichment, Inc. (File Nos. BNPED-20071022AFG and 20071022ANL), Family Life Broadcasting, Inc. (File No. BNPED-20071022AGB), JKJ Educational Foundation (File No. BNPED-20071022AJH), Immanuel Baptist Church (File No. BNPED-20071022AVW), Peace Education Project of Peace Action Wisconsin (File No. BNPED-20071022AWG), and Evangel Ministries, Inc. (File No. BNPED-20071022BVP), and TO GRANT the application of Waupaca Area Public Radio, Inc. (File No. BNPED-20071016AGK) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and also provides that an applicant receiving a Section

307(b) preference that is decisive over another applicant must operate technical facilities substantially as proposed for a period of four years of on-air operations.

104. **Group 545.** Accordingly, IT IS ORDERED, That BVM Helping Hands is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Antioch, Illinois, and its application 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 tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Appalachian Educational Communication Corporation (File No. BNPED-20071012ABR), Faith Evangelical Lutheran Church (File No. BNPED-20071012AJW), Educational Media Foundation (File No. BNPED-20071017ACR), Calvary Chapel of Elk Grove Village (File No. BNPED-20071017AGE), Clean Air Broadcasting Corporation (File No. BNPED-20071017AGW), Primera Iglesia Evangelica de Apostoles y Profetas (File No. BNPED-20071018BAG), Family Life Broadcasting, Inc. (File Nos. BNPED-20071022AGC and 20071019BDS), VCY America Inc. (File No. BNPED-20071012AAX), Cornerstone Community Radio, Inc. (File Nos. BNPED-20071017AFI and 20071017AGB), Board of Regents of the University of Wisconsin System (File No. BNPED-20071019AHV), WRVM, Inc. (File No. BNPED-20071019ATC), The WBEZ Alliance, Inc. (File No. BNPED-20071019AWX), The Institute for One Wisconsin, Inc. (File Nos. BNPED-20071019BAC and 20071019BAP), Bethesda Christian Broadcasting (File Nos. BNPED-20071019BBE and 20071019BBL), Christian Vision, Inc. (File No. BNPED-20071022AFE), JKJ Educational Foundation (File No. BNPED-20071022AHL), Harvest Time Apostolic Ministries (File No. BNPED-20071022AIH), Optima Enrichment, Inc. (File No. BNPED-20071022AUT), Milwaukee Symphony Orchestra, Inc. (File No. BNPED-20071022BGB), and Basalt of the Earth, Inc. (File No. BNPED-20071022BIJ), and TO GRANT the application of BVM Helping Hands (File No. BNPED-20071022BJE) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system and also provides that an applicant receiving a Section 307(b) preference that is decisive over another applicant must operate technical facilities substantially as proposed for a period of four years of on-air operations.

105. **Group 546B.** Accordingly, IT IS ORDERED, That Family Stations, Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Billings, Montana, and its application 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 tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive applications of Double Edge Productions (File No. BNPED-20071019AXP) and Hi-Line Radio Fellowship, Inc. (File No. BNPED-20071019BEP), and TO GRANT the application of Family Stations, Inc. (File No. BNPED-20071022ALN) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system, and PROVIDED THAT, Family Stations, Inc. must surrender its license for FM translator stations K203EP, Shepherd, Montana, and K259AN, Billings, Montana, prior to commencement of program tests of the full service NCE FM station.

106. **Group 546C.** Accordingly, IT IS ORDERED, That University of Wyoming is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Kaycee, Wyoming, and that its application 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 tentative selectee's application, we direct the staff, by public notice, TO DISMISS the mutually exclusive application of Bethesda Christian Broadcasting (File No. BNPED-20071022AJS), and TO GRANT the application of University of Wyoming (File No. BNPED-20071017AET) CONDITIONED UPON that selectee's compliance with

Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which sets forth a four-year holding period for applicants that are awarded permits by use of a point system.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX

Noncommercial Educational Groups

1. The Appendix consists of a chart and this explanatory text. The chart lists each proceeding by group number. Boldface type is used to designate the applicant(s) in each group that the Commission has tentatively selected to receive a construction permit.

2. An entry of “n/a” in the Appendix’s Section 307(b) column indicates that Section 307(b) principles are not applicable to that mutually exclusive application. We also use this “n/a” designation for defective submissions, which were eliminated from the group prior to our consideration of Section 307(b) factors. When applicants propose service to different communities, the Appendix identifies each applicant’s eligibility for Section 307(b) consideration with a “yes” or “no” entry.⁸⁴ Where applicable, the Appendix lists the population which each applicant claims would receive a new first service or aggregated first and second service. The Appendix includes population numbers only to the extent that such information is material to the analysis. For example, if no applicant in a group claimed a preference based on first service alone, the Appendix does not report specific first service data. If an applicant provided numbers but did not claim and/or qualify for a preference, the chart notes either “<10 %” or “<2,000,” to indicate that the number of people served was less than 10 percent of the population or fewer than 2,000 people. Such data would be included in the aggregated first and second service numbers, if the applicants claimed a preference on that basis. If an applicant is eliminated on the basis of a Section 307(b) analysis, that outcome is noted as “Elim on 307b” in the Appendix.

3. With respect to points, the Appendix to this Order places three points in the “Established Local Applicant” column, two points in the “Diversity of Ownership” column, and two points in the “Statewide Network” column of each applicant claiming eligibility for such points. In cases where an applicant claimed points, but failed to satisfy the respective requirements for receipt of such points, the Appendix lists the points claimed followed in parenthesis by the points credited. For example, an applicant that claimed two points for diversity of ownership, but which did not submit any documentation in support of its claim would have the notation 2(0) in the diversity of ownership column, *i.e.*, it claimed two points but received none. A note “no d exh” or “defect d exh” in the notes column would indicate that the applicant did not support its diversity claim, either because it submitted no exhibit or because an exhibit was deemed defective for lack of the most basic information necessary. Similar notes, of “no l exh” and “no s exh” indicate a lack of support for a local applicant and statewide network claim, respectively. An applicant may receive zero, one, or two points in the Best Technical Parameters column depending upon the size of the area and population to be covered by its proposed station.

4. In the case of a tie, the Appendix lists any tiebreaker factors considered including the number of attributable authorizations and/or applications reported by each tied applicant. The lowest number value for pending applications is “one” because the subject application is included in the calculation. Some applicants erroneously claimed zero pending applications. These applicants have the notation 0(1) in the tie-breaker column, thus specifying that they claimed zero applications but are considered to have one application for purposes of the tie-breaker. Any applications that did not proceed to a tiebreaker because they were entitled to fewer points than the tied applicants are designated with the note “Elim Points.”

⁸⁴ The “no” designation is used when applicants propose to serve different communities, but each certifies that it would not qualify for a Section 307(b) preference because it would not provide a new first or second service to at least ten percent of the population within its respective service area.

5. Notes are also used to describe certain application characteristics. For example, the note “Trans Divest” is used to identify applicants which excluded existing translators from their diversity showings by pledging to request cancellation of the translator upon commencement of full service operations. The note “LPFM Divest” is used to denote applicants that excluded existing LPFM stations that would be divested upon grant of a full service authorization.

6. Finally, the Appendix contains a “See Text” column which refers the reader to a section or footnote within the text, typically in connection with a listed note. References to textual discussion are generally reserved for applications with omissions, errors, novel arguments, or which required consideration of rule waivers. The “See Text” column is blank for most applications because the applicants did not raise issues that required an analysis of these types of issues. This column is also used for miscellaneous notes.