

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

In the Matter of)
Comparative Consideration of 32 Groups of)
Mutually Exclusive Applications)
for Permits to Construct New Noncommercial)
Educational FM Stations)
NCE FM 2021 Window, MX Group
Numbers 2, 4, 6, 8A, 8B, 11, 13, 27, 47, 52,
57, 61, 70, 74, 76, 82, 83, 88, 89, 96A, 102B,
104, 122, 152, 159, 162, 163, 165, 166, 168,
173, and 178

MEMORANDUM OPINION AND ORDER

Adopted: October 24, 2022

Released: October 25, 2022

By the Commission:

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I. BACKGROUND

1. The Commission has before it for comparative consideration 32 groups of mutually exclusive (MX) applications for new noncommercial educational (NCE) FM station construction permits.1 By this Memorandum Opinion and Order (Order), we perform threshold fair distribution of service analyses and use a point system to tentatively select an application for grant in each group. Petitions to deny the application of any of these tentative selectees must be filed within 30 days of the date of release of this Order.2

1 On November 29, 2021, the Media Bureau (Bureau) issued a public notice identifying 231 groups of mutually exclusive NCE FM applications. See Media Bureau Identifies Groups of Mutually Exclusive Applications Submitted in the November 2021, Filing Window for New Noncommercial Educational Stations, MB Docket No. 20-343, Public Notice, DA 21-1476 (MB rel. Nov. 29, 2021) (NCE MX Public Notice). Each of the groups analyzed herein was included in the NCE MX Public Notice.

2 See 47 CFR § 73.7004(b).

2. We address in this Order applications that were filed in November 2021, during the most recent filing window for new NCE FM applications.³ These applicants have had an opportunity to enter into settlement agreements among themselves to resolve mutual exclusivity,⁴ and, in the absence of any such settlement, are now subject to a simplified, comparative process codified in Part 73, Subpart K, of our rules.⁵

II. GENERAL NCE COMPARATIVE PROCEDURES

3. Given the finite nature of and high demand for spectrum, the Commission cannot grant a construction permit to every qualified NCE applicant. Due to the noncommercial nature of the NCE service, MX⁶ applications for new station construction permits are not subject to auction, but are resolved by applying comparative procedures.⁷ Specifically, the Commission's comparative analysis of MX NCE applications generally consists of three main components. First, when NCE FM applicants in an MX group propose service to different communities, the Commission performs a threshold fair distribution analysis under section 307(b) of the Communications Act of 1934, as amended (the Act).⁸ Second, application conflicts that are not resolved under this "fair distribution" analysis are compared by the Commission under an NCE point system,⁹ which is a simplified, "paper hearing" process.¹⁰ Third, if necessary, the Commission makes a tie-breaker determination, based on applicant-provided data and certifications. Each of these steps is described in greater detail below.¹¹

³ See *Media Bureau Announces NCE FM New Station Application Filing Window; Window Open from November 2, 2021, to November 9, 2021*, MB Docket No. 20-343, Public Notice, 36 FCC Rcd 7449 (MB rel. April 21, 2021). The window was available for FM reserved band (channels 201-220) proposals. See 47 CFR § 73.501.

⁴ See *NCE MX Public Notice* at 2-5. The NCE FM applicants had an opportunity to enter into and file settlement agreements and to submit technical amendments to resolve conflicts and expedite the grant of applications filed in the NCE FM window.

⁵ 47 CFR §§ 73.7000 – 7005. See also *Comparative Consideration of 27 Groups of Mutually Exclusive Applications for Permits to Construct New Noncommercial Educational FM Stations*, Memorandum Opinion and Order, FCC 22-61 (2022) (*27 Group Comparative Order*) (applying the comparative procedures to identify and tentatively select 27 NCE FM applications from the November 2021, window for grant).

⁶ Conflicting NCE applications, which cannot all be granted consistent with the Commission's technical rules, are considered mutually exclusive. An MX group consists of all applications which are MX to at least one other application in the group.

⁷ See *Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, Report and Order, 15 FCC Rcd 7386 (2000) (*2000 NCE Order*), clarified, Memorandum Opinion and Order, 16 FCC Rcd 5074 (2001) (*2001 NCE MO&O*), recon. denied, Memorandum Opinion and Second Order on Reconsideration, 17 FCC Rcd 13132 (2002). See also *Reexamination of the Comparative Standards and Procedures for Licensing Noncommercial Educational Broadcast Stations and Low Power FM Stations*, MB Docket No. 19-3, Report and Order, 34 FCC Rcd 12519 (2019) (*NCE LPFM Order*) (amending the comparative rules and procedures), *aff'd* Order on Reconsideration, FCC 20-121, 35 FCC Rcd 10180 (2020) (*NCE Order on Reconsideration*).

⁸ 47 U.S.C. § 307(b) (Section 307(b)). Although the Media Bureau has delegated authority to perform the Section 307(b) analyses, we are performing the Section 307(b) analyses, where applicable herein, for certain groups in conjunction with our point system analyses in order to expedite consideration of these groups. See *Comparative Consideration of 76 Groups of Mutually Exclusive Applications for Permits to Construct New or Modified Noncommercial Educational FM Stations*, Memorandum Opinion and Order, 22 FCC Rcd 6101, n.16 (2007) (*NCE Omnibus*); *27 Group Comparative Order*, *supra* note 5. See also 47 CFR §§ 0.61 and 0.283.

⁹ See 47 CFR § 73.7003 (point system selection procedures).

¹⁰ See note 7, *supra*.

¹¹ In advance of the November 2021 filing window, the Commission amended its rules and procedures for filing NCE FM applications and selecting and licensing competing NCE FM applications. See *NCE LPFM Order*, *supra*

(continued....)

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

4. Section 307(b) states that the Commission must “provide a fair, efficient, and equitable distribution” of broadcast service among the states and communities.¹² In accordance with this directive, the Commission considers the fair distribution of service as a first, or threshold, issue in its NCE FM comparative review process¹³ in order to ascertain whether grant of any of the applications would best further the Section 307(b) objective.¹⁴ The first step of the Section 307(b), or fair distribution, analysis, is to determine whether any of the applicants in the MX group is a federally recognized Native American Tribe or Alaska Native Village proposing to serve Tribal Lands¹⁵ and claims the Tribal Priority.¹⁶

5. If there is no Tribal Applicant in the MX group,¹⁷ the second step in the Section 307(b) analysis is to determine whether any applicant would provide a first or second reserved band channel NCE aural service to a substantial population (the First or Second NCE Service Preference) by comparing population coverage totals.¹⁸ Specifically, during this step, an NCE FM applicant is eligible to receive a fair distribution preference (or Section 307(b) preference)¹⁹ if it would provide a first or second reserved band channel NCE aural service to at least 10% of the population (in the aggregate), within the proposed station’s service area, provided that the population served is at least 2,000 people. If only one applicant in

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note 7. The changes were designed to improve the comparative selection procedures, reduce confusion among future applicants, expedite the initiation of new service to the public, and eliminate unnecessary applicant burdens. *See also Media Bureau Announces October 30, 2020, Effective Date of New NCE and LPFM Rules*, Public Notice, MB Docket No. 19-3, DA 20-1298 (Nov. 2, 2020).

¹² 47 U.S.C. § 307(b).

¹³ *See* 47 CFR § 73.7002; *2000 NCE Order*, 15 FCC Rcd at 7396 (2000) (concluding that “fair distribution of stations to communities should remain a threshold issue”); *2001 NCE MO&O*, 16 FCC Rcd at 5077 (“when competing FM applications propose to serve different communities, a proposal would be considered best, as a threshold matter, if it would provide service to a significant unserved or underserved population”).

¹⁴ *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 CFR § 73.7002(a). Applicants’ Form 2100, Schedule 340, Fair Distribution of Service certifications enable the Commission to consider whether service to one community over the other would best achieve the Commission’s directive to distribute radio service fairly among communities.

¹⁵ *See* 47 CFR §§ 73.7000, 73.7002(b).

¹⁶ An NCE FM applicant is eligible to receive a fair distribution preference, and ultimately be awarded the construction permit, if it identifies itself as a Tribal Applicant, proposes Tribal Coverage, and proposes the first reserved channel NCE service owned by any Tribal Applicant at a community of license located on Tribal Lands (the Tribal Priority). *See* 47 CFR § 73.7000 (defining a “Tribal Applicant” and “Tribal Coverage”); *see also* 47 CFR § 73.7002(b); *Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures*, First Report and Order, 25 FCC Rcd 1583 (2010) (establishing the Section 307(b) Tribal Priority). *Threshold Fair Distribution Analysis of Mutually Exclusive Applications of the Southern California Tribal Chairman’s Association and the Foundation for Economic Justice d/b/a/ Center for Economic Justice for Permits to Construct New Noncommercial Educational FM Stations Filed in November 2021 Window*, FCC 22-28, Memorandum Opinion and Order (rel. April 19, 2022).

¹⁷ None of the MX groups addressed in this Order contain a Tribal Applicant. Accordingly, the first step of the Section 307(b) analysis, the Tribal Priority analysis, is inapplicable herein.

¹⁸ *See* 47 CFR § 73.7002(b).

¹⁹ The terms “fair distribution preference” and “Section 307(b) preference” are used interchangeably to refer to the preference given to an MX application that is deemed to substantially further the fair distribution of service goals enunciated in Section 307(b).

an MX group qualifies for the First or Second NCE Service Preference, its “fair distribution” (Section 307(b)) preference is dispositive,²⁰ and that applicant will be awarded the construction permit.

6. If more than one applicant in the MX group claims a First or Second NCE Service Preference, the applicant proposing to provide the greatest number of people with the highest level of service will be awarded a construction permit, if it will provide such service to at least 10% of the people within the station's 60 dBu contour *and* to at least 5,000 more people than the next best applicant.²¹ First service will be preferred over second service.²² Accordingly, the Commission first examines the applicants' first service levels alone to determine whether one of the proposals is superior and should receive a decisive preference. If such applicants are equivalent with respect to first service, or no applicant qualifies for a first service preference, the Commission considers combined first and second NCE aural service population totals. At each stage of the Section 307(b) analysis, any applicant that is comparatively disfavored in terms of Section 307(b) eligibility or service totals is eliminated. The process ends when the Commission determines that one applicant is entitled to a Section 307(b) preference, or that either (1) none of the remaining applicants can be selected or eliminated based on a Section 307(b) preference, or (2) each remaining applicant proposes to serve the same community. Any remaining MX applicants proposing equivalent service overall, or proposing the same community, proceed to a point system analysis.²³

7. Each applicant claiming a First or Second NCE Service preference must support its fair distribution claim with an exhibit identifying the population residing within the proposed station's 60 dBu service contour and the number of people that would receive a new first or second NCE aural service.²⁴ Further, any applicant which receives a decisive Section 307(b) preference is required to construct and operate technical facilities substantially as proposed, and cannot downgrade service to the area on which the preference was based for a period of four years of on-air operations.²⁵

B. Point System Selection Process.

8. The Commission compares mutually exclusive groups of NCE FM applications, which cannot be decided pursuant to the Section 307(b) analysis, under the point system set forth in section

²⁰ As noted, in the case of an MX group with a Tribal Applicant, an applicant qualifying for a Tribal Priority, however, will prevail over any MX applicant claiming a First or Second NCE Service Preference.

²¹ 47 CFR § 73.7002(b).

²² *Id.*

²³ See 47 CFR § 73.7003 (point system selection procedures).

²⁴ See *id.* § 73.7002(b). Applicants were required to use the most recently available, *i.e.*, 2010 Census, population data. See *Media Bureau Announces NCE FM New Station Filing Procedures and Requirements for November 2-9, 2021, Window*, DA 21-885, at 5-7 and n.24 (MB rel. July 23, 2021) (*NCE Filing Procedures Public Notice*); FCC Form 2100, Schedule 340, Instructions for Fair Distribution of Service at 12-14. An applicant's fair distribution showing must be computed as of the time of filing (close of the filing window for applications filed prior to the window) and cannot be enhanced thereafter. See 47 CFR § 73.7003(e) and (f)(3); *NCE Filing Procedures Public Notice* at 11; *2001 NCE MO&O*, 16 FCC Rcd at 5082-83. However, an applicant that subsequently makes engineering changes that would diminish its fair distribution position must amend its application to reflect that diminished position. See 47 CFR §§ 1.65 and 73.7003(e).

²⁵ See 47 CFR § 73.7005(b); see also 47 CFR § 73.7002(c). During this period, such applicant may make minor modifications to its authorized facilities, provided that “(i) the modification does not downgrade service to the area on which the preference was based, or (ii) any potential loss of first and second NCE service is offset by at least equal first and, separately, combined first and second NCE service population gain(s), and the applicant would continue to qualify for a decisive Section 307(b) preference.”) *Id.*

73.7003 of the rules.²⁶ The NCE point system awards a maximum of seven merit points, based on four distinct criteria, described below.²⁷ When MX NCE FM applications proceed to a point system analysis, the Commission reviews the applicants' point submissions²⁸ to compare the MX applications and tentatively select the application with the highest point total from each MX group for grant.²⁹

9. First, we award three points to applicants certifying that they have been local and established for at least two years. To qualify for the three points as an "established local applicant"³⁰ an applicant must certify that it has been local and established in the community to be served continuously for at least two years immediately prior to the application filing.³¹ To be considered local, a non-governmental applicant must have a physical headquarters, campus, or 75% of its governing board members residing within 25 miles of the reference coordinates of the proposed community of license.³² A governmental unit is considered local within its jurisdictional boundaries.³³

10. If an applicant certifies that it is an "established local applicant" it must submit substantiating documentation with its application to illustrate how it qualifies as local and established.³⁴ Examples of acceptable documentation include corporate material from the secretary of state, lists of names, addresses, and length of residence of board members and copies of governing documents requiring a 75% local governing board, or course brochures indicating that classes have been offered at a local campus for the preceding two years.³⁵ Any applicant awarded localism points in this Order has provided support for its certification. Thus, the specific point system determinations for each MX group that follows only discuss an applicant's documentation if it is insufficient to justify awarding localism points.

²⁶ See 47 CFR § 73.7003. Unlike the 307(b) analysis, the point system selection process cannot be performed by the Bureau on delegated authority. See *2000 NCE Order*, 15 FCC Rcd at 7420.

²⁷ See 47 CFR § 73.7003(b).

²⁸ Each NCE FM applicant was required to complete the "Point System Factors/Tie Breakers" Section of FCC Form 2100, Schedule 340, Noncommercial Educational Station for Reserved Channel Construction Permit Application (Schedule 340) in the Bureau's Licensing and Management System (LMS) by the November 9, 2021 filing deadline.

²⁹ The Commission has reaffirmed its longstanding one-grant policy. See *NCE Order on Reconsideration*, *supra* note 7. The one-grant policy provides that only one application should be granted out of each mutually exclusive group, while providing the remaining competing applicants the opportunity to file again in the next filing window. *Id.* The Commission will not authorize "secondary grants" in MX NCE FM groups after the initial resolution of the MX applications. A secondary grant process would allow non-winning applicants that are not mutually exclusive with the tentative selectee to proceed to a second round of analysis by the Commission. *Id.* See also *NCE LPFM Order*, 34 FCC Rcd at 12528, n.68 (reaffirming the established one-grant policy and declining to pursue a secondary application grant practice).

³⁰ See 47 CFR § 73.7000.

³¹ See *id.* § 73.7003(b)(1).

³² A local headquarters or residence must be a primary place of business or residence and not, for example, a post office box, lawyer's office, branch office, or vacation home, which are more easily feigned and/or present less of an opportunity for meaningful contact with the community. See *2000 Order*, 15 FCC Rcd at 7410, para. 54.

³³ For example, a state government is considered local throughout the state; a City Board of Education is considered local through the city; a state university is considered local throughout the state.

³⁴ An applicant claiming points as an established local applicant must also pledge to maintain localism characteristics during the period from grant of the construction permit until the station has achieved at least four years of on-air operations. See 47 CFR § 73.7005(c); see also *NCE LPFM Order*, 34 FCC Rcd at 12523, para 8.

³⁵ See *NCE Filing Procedures Public Notice* at 8.

11. Second, we award two points for local diversity of ownership if no party to the application holds an attributable interest in any other station within the principal community contours of the applicant's proposed station.³⁶ To qualify for the diversity of ownership points, an applicant must submit either a contour map showing no overlap with the proposed NCE FM station, a statement that the applicant holds no attributable interests in any nearby radio stations, or a certification that it holds no attributable interests in any broadcast stations.³⁷ Any applicant awarded diversity of ownership points in this Order has either satisfied this requirement or submitted a divestiture pledge, as detailed below. Thus, the specific point system determinations for each MX group that follows only discuss an applicant's documentation if it is insufficient to justify awarding diversity points.

12. We note that an NCE FM applicant with an overlapping attributable interest, however, can still qualify for diversity of ownership points if it commits to divest the broadcast interest or resign from the attributable positional interest.³⁸ The applicant must submit the divestiture pledge with the application by the close of the filing window. We do not require the applicant to divest or resign by the close of the filing window. Rather, if we award that applicant a construction permit based on points, the applicant must complete the actual divestiture or resignation by the time the new NCE FM station commences program test operations.³⁹

13. Third, we award two points for certain state-wide networks providing programming to accredited schools. These points are available only to applicants that cannot claim a credit for local diversity of ownership.⁴⁰ The state-wide network credit is an alternative for applicants that use multiple stations to serve large numbers of schools and, therefore, do not qualify for the local diversity of ownership credit. Applicants claiming points as a state-wide network must submit supporting documentation as an application exhibit.⁴¹

14. 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 10% greater than those of the next best area and population proposals, or two points if both are 25% greater than those of the next best area and population proposals as measured by each proposed station's predicted 60 dBu signal strength contour.⁴² If the best technical proposal does not meet the 10% threshold, no applicant is

³⁶ See 47 CFR § 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 CFR § 73.7000. Interests of certain entities providing more than 33% of the applicant's equity and/or debt are also attributable. *Id.*

³⁷ See Attributable Interests, Other Authorizations, of Schedule 340. An applicant claiming points for diversity of ownership must also pledge to comply with the restrictions on station modifications and acquisitions during the period from grant of the construction permit until the station has achieved at least four years of on-air operations. See 47 CFR § 73.7005(c); see also *NCE LPFM Order*, 34 FCC Rcd at 12524, para. 12.

³⁸ See *NCE LPFM Order*, 34 FCC Rcd at 12525, para. 13 (expanding the Commission's divestiture policy by recognizing full-service station divestiture pledges for comparative purposes and crediting all contingent divestiture pledges that are made and submitted by the close of the filing window).

³⁹ *Id.*

⁴⁰ See 47 CFR § 73.7003(b)(3).

⁴¹ See Form 2100, Schedule 340 Instructions at page 16 (detailing preferred documentation to support this point claim).

⁴² *Id.* § 73.7003(b)(4). See *NCE Omnibus*, 22 FCC Rcd at 6121-22, paras. 50-51. If there is one top applicant in terms of area and population, that applicant will receive one point even if there is no single next best applicant for both factors. The Commission will compare the top applicant's proposed area to the proposed area of the applicant with the next best area proposal and the top applicant's population to the proposed population of the applicant with the next best population proposal.

awarded points under this criterion. In considering this criterion, we have accepted applicants' coverage and population claims.⁴³

15. 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.

16. In the event MX applicants are tied with the highest number of points, the tied applicants proceed to a tie-breaker round.⁴⁴ The first tie-breaker for NCE FM applicants is the number of radio station authorizations attributable to each applicant.⁴⁵ The applicant with the fewest attributable authorizations prevails and becomes the tentative selectee. If the tie is not broken by this first factor, we apply a second tie-breaker: the number of pending radio station applications attributable to each applicant.⁴⁶ The tentative selectee will be the applicant with the fewest pending new and major change applications in the same service.

17. If a tie remains after the second tie-breaker, applicants are considered under a third and final tie-breaker criterion – prior NCE applications.⁴⁷ The tentative selectee will be the applicant that can demonstrate that: (1) it applied in a previous filing window, and had its application accepted for filing and processed, but subsequently dismissed in favor of an applicant possessing superior points or a tie-breaker showing; (2) it was in continuous existence as a legal entity at all times from the date of the previous NCE window filing until the present; and (3) it does not hold any NCE construction permit or license.⁴⁸ If this third factor fails to break the tie, we use time-sharing as the tie-breaker of last resort. Specifically, we designate the remaining tied applicants in the MX group as the tentative selectees and direct the tentative selectees to submit, within 90 days of the release of the Order identifying the tentative selectees, a voluntary time-sharing agreement.⁴⁹

D. Timely Documentation of Comparative Qualifications.

18. The NCE FM application, Schedule 340, is certification-based, but requires applicants to

⁴³ Our procedures for this filing window required applicants to measure area in square kilometers and exclude significant areas of water, *e.g.*, oceans and lakes, and measure population using the 2010 Census Block Data available from the Census Bureau. *See* Form 2100, Schedule 340 Instructions at page 16.

⁴⁴ *See* 47 CFR § 73.7003(c).

⁴⁵ *Id.* § 73.7003(c)(1). Applicants are required to count all attributable full service commercial and NCE radio stations (licenses and construction permits) and any FM translator stations providing non-fill-in service. An applicant may exclude fill-in translators, any translator which the applicant seeks to replace with its applied for full-service NCE FM station, and any station, which it pledges to divest. *See* 2001 NCE MO&O, 16 FCC Rcd at 5102-03, para. 85; *see also* Form 2100, Schedule 340 Instructions at page 17.

⁴⁶ *See* 47 CFR § 73.7003(c)(2). When reporting pending applications, applicants were required to include new and major change radio applications, including the subject application and all other applications filed in the window by the November 9, 2021 deadline. Applicants should not have included any requests to participate in an auction filed on Schedule 175 and other applications such as voluntary assignment of license, license renewal, and minor change in existing facilities. *See NCE Filing Procedures Public Notice* at 10.

⁴⁷ *See NCE LPFM Order*, 34 FCC Rcd at 12527-28, para. 19; 47 CFR § 73.7003(c)(3).

⁴⁸ *Id.* Applicants were required to submit an attachment demonstrating their qualifications under this third tie-breaker criterion.

⁴⁹ *See* 47 CFR § 73.7003(c)(4). If the tentative selectees do not agree on a voluntary time sharing arrangement within 90 days, we will impose mandatory time sharing, granting all tentative selectees "equal, concurrent, non-renewable" licenses. 47 CFR § 73.7003(c)(5).

document certain of their claims by submitting supporting information.⁵⁰ Applicants must submit timely-filed exhibits supporting their point claims. We will not give credit to certifications which require the applicant to submit documentation, but which are not supported with any such timely submitted documentation. For example, we reject claims in this Order where the applicant certifies that it qualifies for points as an established local applicant but fails to supply supporting information referred to in the certification. While there is some flexibility in the type of documentation an applicant may provide, an applicant that does not submit timely support cannot have made a valid certification and will not receive the claimed points.⁵¹ Similarly, we will not consider documentation to support a claimed comparative point if it was submitted in an amendment after the November 2021, filing deadline. In such cases, we adjust the points of such applicants downward.

19. Finally, the NCE FM applicant's qualifications for points are initially determined “as of the closing of the filing window” *i.e.*, the November 9, 2021, filing deadline.⁵² For example, NCE organizations are considered “established” if they have operated as local entities since November 9, 2019, *i.e.*, for at least two years prior to the November 9, 2021, Application Deadline. These “snap shot” applicant characteristics establish an applicant's maximum points and its maximum position in the event of a tie-breaker. This common reference date ensures a level competitive field for applicants, with their qualifications all compared as of the same time.⁵³ In order to prevent gamesmanship, any changes made after the filing deadline may potentially diminish, but cannot enhance, an applicant's comparative position and point total. Therefore, we have taken into account any amendments that adversely affect an applicant's point total and comparative position. We have not considered any amendments, filed after the filing deadline, which improve an applicant's comparative position.⁵⁴

III. GROUP-BY-GROUP ANALYSES

20. This Section contains narrative descriptions of our analyses, organized sequentially by group number. Unless otherwise noted, each component of the analysis is based on information provided by each of the respective applicants.⁵⁵ We have provided readers with an Appendix that condenses the group-by-group narratives that follow into chart form for quick reference.

21. At the outset, we again note that each group of applicants has had an opportunity to resolve mutual exclusivities by settlement and technical amendment. In addition, we emphasize that applicants were required to report their qualifications as of the date of closing of the filing window.⁵⁶

⁵⁰ See 2000 NCE Report and Order, 15 FCC Rcd at 7423, para. 89.

⁵¹ See, e.g., *Comparative Consideration of 32 Groups of Mutually Exclusive Applications for Permits to Construct New or Modified Noncommercial Educational FM Stations Filed in the October 2007 Filing Window*, Memorandum Opinion and Order, 25 FCC Rcd 5013, 5017, para. 11 (2010) (“applicant submitting no timely documentation at all cannot be found to have made a valid certification”).

⁵² See 47 CFR § 73.7003(e).

⁵³ See, e.g., 2001 NCE MO&O, 16 FCC Rcd at 5082-83, paras. 23-26; see also *id.* at 5083, para. 26 (“Of overall concern to us in this area is that we are comparing applications that use the same data. Reliance on information as of the close of the window will ensure that applicants have essentially a common reference date. With a common reference date and a common method of calculating population, the staff will analyze applicants on a similar basis.”).

⁵⁴ See 47 CFR § 73.7003(e). For example, an applicant may lose claimed points, such as the diversity of ownership points, as a result of acquiring an overlapping station after the November 2021, filing deadline. In contrast, if an applicant certifies that it does not qualify for one of the point factors, it cannot later amend its application to claim such points. This is the case even if the applicant actually would have qualified for the point it is seeking at the time it filed the application.

⁵⁵ See FCC Form 2100, Schedule 340, Fair Distribution of Service certifications and Point System Factors/Tiebreakers certifications.

Any changes made thereafter may potentially have diminished, but could not enhance, an applicant's comparative position. Finally, we note that the majority of these 32 groups require no discussion of the initial 307(b) analysis because the applicants within the group either all proposed to serve the same community⁵⁷ or certified that they are not eligible for a fair distribution preference. In such cases, we proceed directly to the point system analysis.

22. **Group 2.** This group consists of the applications of Educational Media Foundation (EMF) and Christian Broadcasting, Inc. (CBI). Each applicant proposes to serve the community of Soldotna, Alaska. Because the applicants propose service to the same community, EMF and CBI proceed to a point system analysis.

23. Neither applicant claims points as an established local applicant, a state-wide network, or for diversity of ownership. With respect to technical parameters, EMF's proposed 60 dBu contour would encompass 615 square kilometers with a population of 24,561. CBI's proposed 60 dBu contour would encompass 893 square kilometers with a population of 26,348. Neither applicant qualifies for any points under the best technical proposal criterion because neither proposes to serve at least 10% more area and population than the other. Accordingly, neither EMF nor CBI is credited with any points, and the applicants proceed to a tie-breaker analysis.

24. 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. EMF certifies that it has attributable interests in 719 radio authorizations, and CBI certifies that it has attributable interests in 17 radio authorizations. CBI therefore prevails based on this first tie-breaker and is the tentative selectee in Group 2.

25. **Group 4.** This group consists of the applications of Christian Broadcasting, Inc. (CBI) and Alaska Multi Culture Corp. (AMC). Each applicant proposes to serve the community of Soldotna, Alaska. Because the applicants propose service to the same community, CBI and AMC proceed to a point system analysis.

26. AMC certifies that it qualifies for three points as an established local applicant. CBI does not claim points under this criterion. AMC claims two points for diversity of ownership. CBI does not. Neither applicant claims points as a state-wide network. With respect to technical parameters, CBI's proposed 60 dBu contour would encompass 893 square kilometers with a population of 26,348. AMC's proposed 60 dBu contour would encompass 969 square kilometers with a population of 25,811. Neither applicant qualifies for any points under the best technical proposal criterion because neither proposes to serve at least 10% more area and population than the other. Accordingly, AMC is credited with a total of five points, and CBI is not credited with any points. AMC is, therefore, the tentative selectee in Group 4.

27. **Group 6.** This group consists of the applications of the National Association for the Prevention of Starvation (NAPS) and Mt. Vernon Missionary Baptist Church (MMBC). Each applicant proposes to serve the community of Noxapater, Mississippi. Because the applicants propose service to the same community, NAPS and MMBC proceed to a point system analysis.

28. NAPS and MMBC each claim three points as an established local applicant. Each applicant also claims two points for diversity of ownership, with MMBC's claim based on a pledge to divest LPFM station WNNN-LP, Noxapater, Mississippi. Neither applicant claims points as a state-wide network. With respect to technical parameters, NAPS's proposed 60 dBu contour would encompass 1,184 square kilometers with a population of 19,027. MMBC's proposed 60 dBu contour would

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⁵⁶ NCE Filing Procedures Public Notice at 10-11.

⁵⁷ The fair distribution analysis is only considered when applicants in an MX group propose to serve different communities.

encompass 925 square kilometers with a population of 15,007. NAPS qualifies for two points under the best technical proposal criterion because its proposal would serve at least 25% more area and population than MMBC's proposal. Accordingly, NAPS is credited with a total of seven points, and MMBC is credited with five points. NAPS is, therefore, the tentative selectee in Group 6.

29. Group 8A.⁵⁸ This group consists of two applications to serve different communities in Alabama and Georgia. Faith Broadcasting, Inc. (FBI) proposes to serve Eufaula, Alabama. Eufaula Christian Radio (ECR) proposes to serve Cuthbert, Georgia. Neither ECR nor FBI claims eligibility for a fair distribution preference.⁵⁹ Accordingly, the applicants proceed to a point system analysis.

30. ECR and FBI each claim two points for diversity of ownership. Neither applicant claims points as an established local applicant or state-wide network. With respect to technical parameters, ECR's proposed 60 dBu contour would encompass 2,329 square kilometers with a population of 14,086. FBI's proposed 60 dBu contour would encompass 658 square kilometers with a population of 15,888. Neither applicant qualifies for any points under the best technical proposal criterion because neither proposes to serve at least 10% more area and population than the other. Accordingly, ECR and FBI are credited with a total of two points each and proceed to a tie-breaker analysis.

31. 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. ECR certifies that it does not have an attributable interest in any radio authorization, and FBI certifies that it has attributable interests in seven radio authorizations. ECR therefore prevails based on this first tie-breaker and is the tentative selectee in Group 8A.⁶⁰

32. **Group 8B**⁶¹ This group consists of two applications to serve different communities in Alabama. Uchee Pines Institute (UPI) proposes to serve Hurtsboro, and B. Jordan Communications (BJC) proposes to serve Tuskegee. Neither applicant claims a fair distribution preference and, thus, UPI and BJC proceed to a point system analysis.⁶²

33. UPI claims three points as an established local applicant; BJC does not claim points under this criterion. Each applicant claims two points for diversity of ownership, with UPI's claim based on a pledge to divest LPFM station WURY-LP, Phenix City, Alabama. Neither applicant claims points as a state-wide network. With respect to technical parameters, UPI's proposed 60 dBu contour would encompass 1,862 square kilometers with a population of 12,640. BJC's proposed 60 dBu contour would encompass 829 square kilometers with a population of 17,620. Neither applicant qualifies for any points

⁵⁸ Group 8, which originally contained four applications, was bifurcated as a result of a technical amendment, which eliminated some of the contour overlap among the applications. The remaining two applications in the MX group are evaluated as Group 8B in this Order.

⁵⁹ ECR initially claimed eligibility for a fair distribution preference based on first NCE service population totals and was named the tentative selectee of Group 8A. *See Threshold Fair Distribution Analysis of 16 Groups of Mutually Exclusive Applications for Permits to Construct New Noncommercial Educational FM Stations*, Memorandum Opinion and Order, DA 22-356 (MB Apr. 4, 2022) (*16 Group Fair Distribution Order*). On July 12, 2022, ECR filed an amendment to its application to disclaim its eligibility for a fair distribution preference.

⁶⁰ We note that FBI filed a petition to deny the application of ECR on April 28, 2022. *See* Pleading No. 189769. ECR filed an Opposition on May 12, 2022 (Pleading No. 190543), and FBI filed a Reply to ECR's Opposition on May 17, 2022 (Pleading No. 190843). We will hold the pleadings in abeyance and consider them after the adoption of this Order.

⁶¹ *See* note 58, *supra*.

⁶² On March 16, 2022, UPI amended its application to remove its claim of eligibility for a second NCE service fair distribution preference.

under the best technical proposal criterion because neither proposes to serve at least 10% more area and population than the other. Accordingly, UPI is credited with a total of five points, and BJC is credited with two points. Thus, UPI is the tentative selectee in Group 8B.

34. **Group 11.** This group consists of the applications of Hope-Prescott, Inc. (HPI) and April R. Love Foundation (ARL). Each applicant proposes to serve the community of Emmet, Arkansas. Because the applicants propose service to the same community, HPI and ARL proceed to a point system analysis.

35. ARL claims three points as an established local applicant; HPI does not claim points under this criterion. Each applicant claims two points for diversity of ownership. We note, however, that ARL neglected to disclose its interest in LPFM station KZZC-LP, Hope, Arkansas, or pledge to divest this interest upon commencement of operations of its proposed NCE FM station. Accordingly, we cannot award ARL points for diversity of ownership. Neither applicant claims points as a state-wide network. With respect to technical parameters, HPI's proposed 60 dBu contour would encompass 892 square kilometers with a population of 19,720. ARL's proposed 60 dBu contour would encompass 166 square kilometers with a population of 2,887. HPI receives two points under the best technical proposal criterion because it proposes to serve at least 25% more area and population than ARL. Thus, HPI is credited with a total of four points, and ARL is credited with three points. Accordingly, HPI is the tentative selectee in Group 11.

36. **Group 13.** This group consists of the applications of The Blue Mantle Educational Association (BMEA) and Priority Radio, Inc. (PRI). Each applicant proposes to serve the community of Cabot, Arkansas. Because the applicants propose service to the same community, BMEA and PRI proceed to a point system analysis.

37. Neither applicant claims points as an established local applicant or state-wide network. BMEA and PRI each claim two points for diversity of ownership. With respect to technical parameters, BMEA's proposed 60 dBu contour would encompass 773 square kilometers with a population of 88,162. PRI's proposed 60 dBu contour would encompass 1,445 square kilometers with a population of 127,309. PRI qualifies for two points under the best technical proposal criterion because its proposal would serve at least 25% more area and population than BMEA's proposal. Accordingly, BMEA is credited with a total of two points, and PRI is credited with four points. PRI is the tentative selectee in Group 13.

38. **Group 27.** This group consists of the applications of Mother Lode Community Radio (MLCR) and Nevada City Community Broadcast Group (NCBG). Each applicant proposes to serve the community of Twain Harte, California. Because the applicants propose service to the same community, MLCR and NCBG proceed to a point system analysis.

39. Neither applicant claims points as an established local applicant or state-wide network. MLCR and NCBG each claim two points for diversity of ownership, with MLCR's claim based on a pledge to divest LPFM station KAAD-LP, Sonora, California. With respect to technical parameters, MLCR's proposed 60 dBu contour would encompass 1,033 square kilometers with a population of 47,397. NCBG's proposed 60 dBu contour would encompass 1,083 square kilometers with a population of 45,087. Neither applicant qualifies for any points under the best technical proposal criterion because neither proposes to serve at least 10% more area and population than the other. Accordingly, MLCR and NCBG are credited with a total of two points each, and proceed to a tie-breaker analysis.

40. 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. MLCR certifies that it has no attributable interests in any radio authorization, and NCBG certifies that it has attributable interests in five radio authorizations. MLCR therefore prevails based on this first tie-breaker and is the tentative selectee in Group 27.

41. **Group 47.** This group consists of the applications of Yale Broadcasting Company, Inc. (YBC) and Connecticut Public Broadcasting, Inc. (CPB). Each applicant proposes to serve the

community of Moosup, Connecticut. Because the applicants propose service to the same community, YBC and CPB proceed to a point system analysis.

42. Neither applicant claims points as an established local applicant or state-wide network. YBC claims two points for diversity of ownership; CPB does not claim points under this criterion. With respect to technical parameters, YBC's proposed 60 dBu contour would encompass 351 square kilometers with a population of 40,886. CPB's proposed 60 dBu contour would encompass 335 square kilometers with a population of 26,211. Neither applicant qualifies for any points under the best technical proposal criterion because neither proposes to serve at least 10% more area and population than the other. Accordingly, YBC is credited with a total of two points, and CPB is not credited with any points. Thus, YBC is the tentative selectee in Group 47.

43. **Group 52.** This group consists of two applications to serve different communities in Florida. Vida Ministry Inc. (VMI) proposes to serve Duck Key, and Ethree Group, Inc. (EGI) proposes to serve Key Colony Beach. The Bureau previously identified EGI as the tentative selectee of Group 52 based on a fair distribution analysis, and EGI's claim that it was eligible for a fair distribution preference.⁶³ On October 4, 2022, however, the Bureau rescinded that selection.⁶⁴ Based upon a challenge to EGI's documentation in support of its fair distribution preference claim, the Bureau found that EGI's application lacked accurate population totals.⁶⁵ Accordingly, because we are unable to determine whether EGI's proposal satisfies the 10% threshold and 2,000-person minimum criteria, we cannot award EGI a fair distribution preference. VMI does not claim a fair distribution preference. Accordingly EGI and VMI proceed to a point system analysis.

44. Neither applicant claims that it qualifies for points as an established local applicant or state-wide network. VMI and EGI each claim two points for diversity of ownership. With respect to technical parameters, EGI's proposed 60 dBu contour would encompass 2,022 square kilometers with a population of 11,434. VMI's proposed 60 dBu contour would encompass 229 square kilometers with a population of 21,748. Neither applicant is eligible for any points under the best technical proposal criterion because neither proposes to serve at least 10% more area and population than the other. Accordingly, EGI and VMI are each credited with a total of two points and proceed to a tie-breaker analysis.

45. 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. EGI and VMI each certifies that it has no other attributable interest in any radio authorization. Therefore, we proceed to the second issue considered in a tie-breaker – the number of pending radio applications attributable to each applicant. The applicant with the fewest applications prevails. VMI states that it has ten pending applications, and EGI states that it has no pending applications. EGI's count, however, is inaccurate because it does not include the instant application and its seven other pending applications. After accounting for this error and adjustment, however, EGI still has fewer applications than VMI. Accordingly, EGI prevails on the basis of this second tie-breaker and remains the tentative

⁶³ *Threshold Fair Distribution Analysis of 15 Groups of Mutually Exclusive Applications for Permits to Construct New Noncommercial Educational FM Stations*, Memorandum Opinion and Order, DA 22-238 at para. 11 (MB Mar. 9, 2022). EGI's claimed it would provide aggregated first and second NCE service to 10,652 of the 11,434 people within its 60 dBu contour. Accordingly, because EGI would provide a combined first and second NCE service to at least 10% of the population within its 60 dBu contour, and to more than 2,000 people, the Bureau awarded EGI a fair distribution preference.

⁶⁴ *NCE MX Group 52*, Letter Order, DA 22-1055 (MB October 4, 2022).

⁶⁵ *Id.*; see also File No. 167098, Fair Distribution of Service Section, and associated exhibit. Each applicant claiming a First or Second NCE Service preference must support its fair distribution claim with an exhibit identifying the population residing within the proposed station's 60 dBu service contour and the number of people that would receive a new first or second NCE aural service. See 47 CFR § 73.7002(b).

selectee in Group 52.⁶⁶

46. **Group 57.** This group consists of five applications to serve different communities in Florida. Ethree Group, Inc. (EGI) proposes to serve Cypress Quarters. Northeast Gospel Broadcasting Inc. (NGB) proposes to serve Ft Pierce. World Federation of Pastors and Ministers of the Full Gospel, Inc. (WFP), Indian River State College (IRSC), and Montgomery Broadcasting, Inc. (MBI) all propose to serve Okeechobee. EGI, MBI, and IRSC each claims eligibility for a fair distribution preference;⁶⁷ NGB and WFP do not. Based on a fair distribution analysis, the Bureau previously identified EGI as the tentative selectee in Group 57.⁶⁸ However, on October 4, 2022, the Bureau rescinded that selection based upon challenges to EGI's exhibit in support of its claim for a fair distribution preference, and agreed with claims that the exhibit lacks accurate population totals.⁶⁹ Because we are unable to rely on EGI's exhibit, we are unable to determine if its proposal satisfies the 10% threshold and 2000-person minimum criteria, or how it compares to the other applicants' proposals. Therefore, EGI is not awarded a fair distribution preference. Accordingly, EGI, along with NGB and WFP, who do not claim a fair distribution preference, are each eliminated. The fair distribution analysis ends here because the two remaining applicants, MBI and IRSC, propose to serve the same community. Accordingly, MBI and IRSC proceed to a point system analysis.

47. IRSC claims that it qualifies for three points as an established local applicant; MBI does not claim points under this criterion. MBI claims two points for diversity of ownership; IRSC does not claim diversity points. Neither applicant claims points as a state-wide network. With respect to technical parameters, MBI's proposed 60 dBu contour would encompass 1,389 square kilometers with a population of 40,191. IRSC's proposed 60 dBu contour would encompass 2,608 square kilometers with a population of 41,861. Neither applicant is eligible for any points under the best technical proposal criterion because neither applicant proposes to serve at least 10% more area and population than the other. Accordingly, IRSC is credited with three points, and MBI is credited with two points. Thus, IRSC is the new tentative selectee for MX Group 57.

48. **Group 61.** This group consists of the applications of Restored Together Radio, Inc. (RTR) and Church Planters of America (CPA). Each applicant proposes to serve the community of Lincolnton, Georgia. Because the applicants propose service to the same community, RTR and CPA

⁶⁶ Although EGI was previously declared the tentative selectee of Group 52, that determination was based on a fair distribution analysis. Accordingly, we will provide a new 30-day petition to deny period to afford parties seeking to challenge our tentative selection of EGI based on a points system analysis. See 47 CFR § 73.7004(b).

⁶⁷ See File Nos. 166667, 165531, and 165949 Fair Distribution of Service Section, and associated exhibits. EGI claims that it would provide first NCE service to 44,152 of the 45,671 people within its 60 dBu contour. MBI claims that it would provide first NCE service to 4,758 of the 40,191 people within its 60 dBu contour. IRSC claims that it would provide first NCE service to 5,920 of the 41,861 people within its 60 dBu contour. Thus, each applicant would provide a first NCE service to at least 10% of the population within its 60 dBu contour and to more than 2,000 people.

⁶⁸ *16 Group Fair Distribution Order*, *supra* note 59, at para. 16.

⁶⁹ *NCE MX Group 57*, Letter Order, DA 22-1056 (MB October 4, 2022). See also File No. 166667, Fair Distribution of Service Section, and associated exhibit. An applicant's fair distribution showing must be computed as of the time of filing (close of the filing window for applications filed prior to the window) and cannot be enhanced thereafter. See 47 CFR § 73.7003(e) and (f)(3); *NCE Filing Procedures Public Notice* at 11. Although EGI concedes errors in its fair distribution analysis, it never amended its application to provide an accurate and updated fair distribution of service claim. Under section 1.65 of the Commission's rules, and, as stated in the *NCE Filing Procedures Public Notice*, following the application filing deadline, "each applicant must continue to maintain the accuracy and completeness of the information in its application. Each applicant must notify the Commission, by electronically filing an amendment, of any substantial change that may be of decisional significance to the application." 47 CFR § 1.65; *NCE Filing Procedures Public Notice* at 11 and n. 68.

proceed to a point system analysis.

49. Neither applicant claims points as an established local applicant or state-wide network. RTR and CPA each claim two points for diversity of ownership. With respect to technical parameters, RTR's proposed 60 dBu contour would encompass 3,028 square kilometers with a population of 30,748. CPA's proposed 60 dBu contour would encompass 1,897 square kilometers with a population of 61,156. Neither applicant qualifies for any points under the best technical proposal criterion because neither proposes to serve at least 10% more area and population than the other. Accordingly, RTR and CPA are credited with a total of two points each and proceed to a tie-breaker analysis.

50. 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. RTR certifies that it has no attributable interests in any radio authorization, and CPA certifies that it has attributable interests in three radio authorizations. RTR therefore prevails based on this first tie-breaker and is the tentative selectee in Group 61.

51. **Group 70.** This group consists of two applications proposing service to different communities in Guam. Guam Educational Radio Foundation (GERF) proposes to serve Agana, and Chief Hurao, Inc. (CHI) proposes to serve Barrigada. Neither applicant claims a fair distribution preference. Accordingly, GERF and CHI proceed to a point system analysis.

52. Each applicant claims three points as an established local applicant. CHI also claims two points for diversity of ownership; GERF does not claim points under this criterion. Neither applicant claims points as a state-wide network. With respect to technical parameters, GERF's proposed 60 dBu contour would encompass 760 square kilometers with a population of 169,664. CHI's proposed 60 dBu contour would encompass 540 square kilometers with a population of 159,358. Neither applicant qualifies for any points under the best technical proposal criterion because neither proposes to serve at least 10% more area and population than the other. Accordingly, GERF is credited with three points, and CHI is credited with a total of five points. CHI is, therefore, the tentative selectee in Group 70.⁷⁰

53. **Group 74.** This group consists of two applications proposing service to different communities in Iowa. Vanguard Association of Sunbelt Colleges Corporation (VASC) proposes to serve Dubuque, and Augustana College (AC) proposes to serve Epworth. Neither applicant claims a fair distribution preference. Accordingly, VASC and AC proceed to a point system analysis.

54. Neither applicant claims points as an established local applicant or state-wide network. VASC claims two points for diversity of ownership; AC does not claim points under this criterion. With respect to technical parameters, VASC's proposed 60 dBu contour would encompass 2,192 square kilometers with a population of 100,859. AC's proposed 60 dBu contour would encompass 1,886 square kilometers with a population of 96,809. Neither applicant qualifies for any points under the best technical proposal criterion because neither proposes to serve at least 10% more area and population than the other. Accordingly, VASC is credited with a total of two points, and AC is not credited with any points. Thus, VASC is the tentative selectee in Group 74.

55. **Group 76.** This group consists of the applications of Heritage Baptist Church (HBC) and Sound in Spirit Broadcasting, Inc. (SSBI). Each applicant proposes to serve the community of Burlington, Iowa. Because the applicants propose to serve the same community, HBC and SSBI proceed to a point system analysis.

⁷⁰ On January 26, 2022, Darryl Taggerty filed an Informal Objection to the CHI application. See Pleading No. 166788. We generally do not consider objections at this stage, but rather, review the merits of any objection if/when the subject application becomes accepted for filing. We will review the merits of Mr. Taggerty's objection after the CHI application is accepted for filing.

56. HBC certifies that it is entitled to three points as an established local applicant; SSBI does not claim points under this criterion. HBC and SSBI each claim two points for diversity of ownership. Neither applicant claims points as a state-wide network. With respect to technical parameters, HBC's proposed 60 dBu contour would encompass 1,509 square kilometers with a population of 52,795 people. SSBI's proposed 60 dBu contour would encompass 2,652 square kilometers with a population of 59,151 people. SSBI is eligible for one point under the best technical proposal criterion because it proposes to serve at least 10% more area and population than HBC. Accordingly, SSBI is credited with a total of three points, and HBC is credited with a total of five points. HBC is, therefore, the tentative selectee in Group 76.

57. **Group 82.** This group consists of the applications of Idaho State Board of Education (ISBE) and Our Lady of the Snows Foundation, Inc. (OLSF). Each applicant proposes to serve the community of Ketchum, Idaho. Because the applicants propose to serve the same community, ISBE and OLSF proceed to a point system analysis.

58. Each applicant certifies that it is entitled to three points as an established local applicant. OLSF also claims two points for diversity of ownership; ISBE does not claim any points under this criterion. Neither applicant claims points as a state-wide network. With respect to technical parameters, ISBE's proposed 60 dBu contour would encompass 558 square kilometers with a population of 15,594 people. OLSF's proposed 60 dBu contour would encompass 899 square kilometers with a population of 14,732 people. Neither applicant is eligible for any points under the best technical proposal criterion because neither proposes to serve at least 10% more area and population than the other. Accordingly, ISBE is credited with a total of three points, and OLSF is credited with a total of five points. Thus, OLSF is the tentative selectee in Group 82.

59. **Group 83.** This group consists of the applications of First Baptist Church of Riverview (FBCR) and Salt & Light Radio, Inc. (SLRI). Each applicant proposes to serve the community of Mountain Home, Idaho. Because the applicants propose service to the same community, FBCR and SLRI proceed to a point system analysis.

60. Neither applicant claims points as an established local applicant or state-wide network. Each applicant certifies that it is entitled to two points for diversity of ownership. With respect to technical parameters, FBCR's proposed 60 dBu contour would encompass 1,815 square kilometers with a population of 25,104. SLRI's proposed 60 dBu contour would encompass 1,809 square kilometers with a population of 23,846. Neither applicant qualifies for points under the best technical proposal criterion because neither proposes to serve at least 10% more area and population than the other. Accordingly, FBCR and SLRI are each credited with two points and proceed to a tie-breaker analysis.

61. 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. FBCR certifies that it has four radio attributable interests while SLRI certifies that it has five radio attributable interests. Accordingly, FBCR is the tentative selectees in Group 83.

62. **Group 88.** This group consists of the applications of Covenant Network (Covenant) and 2820 Communications Inc. (2820 Communications). Each applicant proposes to serve the community of Macomb, Illinois. Because the applicants proposes to serve the same community, Covenant and 2820 Communications proceed to a point system analysis.

63. Neither applicant claims points as an established local applicant or state-wide network. Covenant and 2820 Communications each certifies that it is entitled to two points for diversity of ownership. Neither applicant, however, submits documentation to support its diversity claim.

Accordingly, we cannot award diversity points to either Covenant or 2820 Communications.⁷¹ With respect to technical parameters, Covenant's proposed 60 dBu contour would encompass 621 square kilometers with a population of 20,840 people. 2820 Communications' proposed 60 dBu contour would encompass 2,780 square kilometers with a population of 50,141 people. 2820 Communications qualifies for two points as the best technical proposal because it proposes to serve at least 25% more area and population than Covenant. Accordingly, Covenant is not credited with any points, and 2820 Communications is credited with two points. Thus, 2820 Communications is the tentative selectee in Group 88.

64. **Group 89.** This group consists of two applications proposing service to different communities in Illinois and Wisconsin. Northern Illinois University (NIL) proposes to serve Galena, Illinois, and VCY America, Inc. (VCY) proposes to serve Mineral, Wisconsin. Neither applicant claims a fair distribution preference. Accordingly, NIL and VCY proceed to a point system analysis.

65. NIL claims three points as an established local applicant; VCY does not claim points under this criterion. . NIL and VCY claim two points each for diversity of ownership. VCY, however, certifies that it has several existing authorizations in Wisconsin and Illinois, and does not provide support for its diversity claim.⁷² We, therefore, cannot award diversity points to VCY. Neither applicant claims points as a state-wide network. With respect to technical parameters, NIL's proposed 60 dBu contour would encompass 553 square kilometers with a population of 10,723. VCY's proposed 60 dBu contour would encompass 1,313 square kilometers with a population of 16,038. VCY qualifies for two points as the best technical proposal because it proposes to serve at least 25% more area and population than NIL. Accordingly, VCY is credited with a total of two points, and NIL is credited with a total of five points. NIL is, therefore, the tentative selectee in Group 89.⁷³

66. **Group 96A.**⁷⁴ This group consists of the applications of Vanguard Association of Sunbelt Colleges Corporation (VASCC) and The Association for Community Education, Inc. (ACE). Each applicant proposes to serve the community of Battle Ground, Indiana. Because the applicants propose service to the same community, VASCC and ACE proceed to a point system analysis.

67. Neither applicant claims points as an established local applicant or state-wide network. Each applicant certifies that it is entitled to two points for diversity of ownership. With respect to technical parameters, VASCC's proposed 60 dBu contour would encompass 1,766 square kilometers with a population of 41,159. ACE's proposed 60 dBu contour would encompass 756 square kilometers with a population of 116,262. Neither applicant qualifies for points under the best technical proposal criterion

⁷¹ Covenant and 2820 Communications each neglected to submit a contour map to illustrate whether there is overlap between its current authorizations and the proposed new NCE FM station. We note, however, that even if we were to award each applicant the two points for diversity of ownership, it would not change the outcome of this group.

⁷² VCY neglected to submit a contour map to illustrate whether there is overlap between its current authorizations and the proposed new NCE FM station. We note, however, that even if we were to award VCY the two points for diversity of ownership, it would not change the outcome of this group.

⁷³ We note that Albert Adam David filed an Informal Objection to the NIL application on January 27, 2022. See Pleading No. 182183. We generally do not consider objections at this stage, but rather, review the merits of any objection if/when the subject application becomes accepted for filing. We will review the merits of Mr. David's objection after the NIL application is accepted for filing.

⁷⁴ Group 96, which originally contained 10 applications, was bifurcated as a result of dismissals and amendments of other applications that eliminated some of the contour overlaps among the applications. The other applications in the MX group were evaluated as Group 96B in a previous order. See *Threshold Fair Distribution Analysis of 13 Groups of Mutually Exclusive Applications for Permits to Construct New Noncommercial Educational FM Stations*, Memorandum Opinion and Order, DA 22-477 at para. 30 (MB May 2, 2022) (*13 Group Fair Distribution Order*).

because neither proposes to serve at least 10% more area and population than the other. Accordingly, VASCC and ACE are each credited with two points and proceed to a tie-breaker analysis.

68. 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. VASCC certifies that it has no radio attributable interests while ACE certifies that it has 15 radio attributable interests. Accordingly, VASCC is the tentative selectees in Group 96A.

69. **Group 102B.**⁷⁵ This group consists of the applications of Klmx Educational Foundation (KEF) and Great Plains Christian Radio, Inc. (GPCR). Each applicant proposes to serve the community of Dalhart, Texas. Because the applicants propose service to the same community, KEF and GPCR proceed to a point system analysis.

70. Neither applicant claims points as an established local applicant or state-wide network. KEF claims two points for diversity of ownership; GPCR does not claim points under this criterion. With respect to technical parameters, KEF's proposed 60 dBu contour would encompass 611 square kilometers with a population of 9,962. GPCR's proposed 60 dBu contour would encompass 884 square kilometers with a population of 8,535. Neither applicant qualifies for points under the best technical proposal criterion because neither proposes to serve at least 10% more area and population than the other. Accordingly, KEF is credited with two points, and GPCR is not credited with any points. Thus, KEF is the tentative selectee in Group 102B.

71. **Group 104.** This group consists of the applications of Johnson County Board of Education (JCBE) and Paintsville Church of Christ (PCC). Each applicant proposes to serve the community of Paintsville, Kentucky. Because the applicants propose to serve the same community, JCBE and PCC proceed to a point system analysis.

72. Each applicant certifies that it is entitled to three points as an established local applicant. JCBE and PCC each claim two points for diversity of ownership, with PCC's claim based on a commitment to divest LPFM station WGWD-LP, Paintsville, Kentucky. Neither applicant claims points as a state-wide network. With respect to technical parameters, JCBE's proposed 60 dBu contour would encompass 902 square kilometers with a population of 32,672 people. PCC's proposed 60 dBu contour would encompass 882 square kilometers with a population of 35,861 people. Neither applicant is eligible for any points under the best technical proposal criterion because neither proposes to serve at least 10% more area and population than other. Accordingly, JCBE and PCC are each credited with a total of five points and proceed to the tie-breaker analysis.

73. 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. JCBE and PCC each certifies that it has no attributable interest in any radio authorization. Therefore, we proceed to the second issue considered in a tie-breaker – the number of pending radio applications attributable to each applicant. The applicant with the fewest applications prevails. JCBE and PCC each certifies that it has one pending application. JCBE and PCC remain tied and proceed to the third and final tie-breaker - prior NCE applications. The tentative selectee will be the applicant that can demonstrate that: (1) it applied in a previous filing window, and had its application accepted for filing and processed, but subsequently dismissed in favor of an applicant possessing superior points or a tie-breaker showing; (2) it was in continuous existence as a legal entity at all times from the date of the previous NCE window filing until the present; and (3) it does not hold any NCE construction permit or license. Neither

⁷⁵ Group 102, which originally contained 16 applications, was bifurcated as a result of dismissals and amendments of other applications that eliminated some of the contour overlaps among the applications. The other applications in the MX group were evaluated as Group 102A in a previous order. See *13 Group Fair Distribution Order, supra* note 74, at para. 15.

JCBE nor PCC certifies that it satisfies this final tie-breaker criterion. Accordingly, JCBE and PCC are both the tentative selectees for Group 104, and we direct the applicants to submit, within 90 days of the release of the Order, a voluntary time-sharing agreement.

74. **Group 122.** This group consists of the applications of Bible Broadcasting Network, Inc. (BBNI) and Grand Forks Bible Study Group (GFBS). Each applicant proposes to serve the community of Grand Forks, North Dakota. Because the applicants propose to serve the same community, BBNI and GFBS proceed to a point system analysis.

75. GFBS certifies that it is entitled to three points as an established local applicant; BBNI does not claim points under this criterion. Each applicant claims two points for diversity of ownership. Neither applicant claims points as a state-wide network. With respect to technical parameters, BBNI's proposed 60 dBu contour would encompass 640 square kilometers with a population of 65,840. GFBS's proposed 60 dBu contour would encompass 233 square kilometers with a population of 60,779. Neither applicant qualifies for points under the best technical proposal criterion because neither proposes to serve at least 10% more area and population than the other. Accordingly, BBNI is credited with two points, and GFBS is credited with five points. Thus, GFBS is the tentative selectee in Group 122.

76. **Group 152.** This group consists of three applications to serve different communities in New Mexico and Arizona. Good News Broadcasting Network, Inc. (Good News) and New Hope Baptist Church – Gallup (New Hope) each proposes to serve Gallup, New Mexico. Gallup Public Radio (GPR) proposes to serve Saint Michaels, Arizona. The Bureau previously identified GPR as the tentative selectee of Group 52 based on a fair distribution analysis, and GPR's claim that it was eligible for a fair distribution preference.⁷⁶ On May 31, 2022, however, GPR amended its application to withdraw its fair distribution of service claim. Accordingly, because no applicant claims eligibility for a fair distribution preference, Good News, New Hope, and GPR proceed to a point system analysis.

77. GPR claims that it qualifies for three points as an established local applicant; Good News and New Hope do not claim points under this criterion. Good News and New Hope each claim two points for diversity of ownership. GPR does not. No applicant claims points as a state-wide network. With respect to technical parameters, Good News's proposed 60 dBu contour would encompass 1,306 square kilometers with a population of 35,351. New Hope's proposed 60 dBu contour would encompass 499 square kilometers with a population of 28,903. GPR's proposed 60 dBu contour would encompass 3,257 square kilometers with a population of 28,467. No applicant qualifies for points under the best technical proposal criterion because no applicant proposes to serve at least 10% more area and population than the others. Accordingly, GPR is credited with three points, and New Hope and Good News are each credited with two points. GPR, therefore, remains the tentative selectee in Group 152.⁷⁷

78. **Group 159.** This group consists of the applications of Lucky Boy Educational Media, Inc. (LBE) and Aok Broadcasting (AB). Each applicant proposes to serve Pahrump, Nevada. Because LBE and AB propose to serve the same community, they proceed to a point system analysis.

79. Neither applicant claims that it qualifies for points as an established local applicant or state-wide network. LBE and AB each claim two points for diversity of ownership. With respect to

⁷⁶ 13 *Group Fair Distribution Order*, *supra* note 74, at para. 18. GPR initially claimed that it would provide first NCE service to 4,099 people, and aggregated first and second NCE service to 15,157 of the 28,467 people within its 60 dBu contour. The other applicants in the group did not claim a fair distribution preference.

⁷⁷ Although GPR was previously declared the tentative selectee of Group 152, that determination was based on a fair distribution analysis. Accordingly, we will provide a new 30-day petition to deny period to afford parties seeking to challenge our tentative selection of GPR based on a points system analysis. *See* 47 CFR § 73.7004(b). We also note that Good News previously filed a petition to deny the GPR application. *See* Pleading No. 192794. GPR filed an Opposition (Pleading No. 193259), and Good News filed a Reply (Pleading No. 193692). These pleadings will be considered and addressed after the new 30-day pleading cycle.

technical parameters, LBE's proposed 60 dBu contour would encompass 415 square kilometers with a population of 23,040. AB's proposed 60 dBu contour would encompass 504 square kilometers with a population of 19,166. Neither applicant is eligible for any points under the best technical proposal criterion because neither proposes to serve at least 10% more area and population than the other. Accordingly, LBE and AB are each credited with a total of two points and proceed to a tie-breaker analysis.

80. 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. LBE certifies that it has attributable interests in 12 radio authorizations. AB certifies that it has no attributable interest in any radio authorization. AB therefore prevails based on this first tie-breaker and is the tentative selectee in Group 159.

81. **Group 162.** This group consists of the applications of JCM Radio, Inc. (JRI) and World Federation of Pastors and Ministers of the Full Gospel, Inc. (WFP). Each applicant proposes to serve Oak Beach-Captree, New York. Because the applicants propose to serve the same community, JRI and WFP proceed to a point system analysis.

82. JRI claims that it qualifies for three points as an established local applicant. However, because JRI did not timely submit documentation to support this claim, we cannot award JRI points under this criterion.⁷⁸ WFP does not claim points as an established local applicant. Each applicant claims two points for diversity of ownership. JRI also claims points as a state-wide network. Such points, however, are only available to applicants that do not qualify for two points for diversity of ownership. JRI cannot receive points under both criteria.⁷⁹ With respect to technical parameters, JRI's proposed 60 dBu contour would encompass 75 square kilometers with a population of 4,093. WFP's proposed 60 dBu contour would encompass 28 square kilometers with a population of 9,898. Neither applicant is eligible for any points under the best technical proposal criterion because neither proposes to serve at least 10% more area and population than the other. Accordingly, JRI and WFP are each credited with a total of two points and proceed to a tie-breaker analysis.

83. 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. Each applicant certifies that it has no attributable interests in any radio authorization. Therefore, we proceed to the second issue considered in a tie-breaker – the number of pending radio applications attributable to each applicant. The applicant with the fewest applications prevails. JRI certifies it has no pending applications, and WFP certifies it has 10 pending applications. Applicants, however, were required to count the application at issue when reporting their pending applications. Therefore, “one” pending application is the lowest possible number of pending applications that can be specified correctly on the Schedule 340.⁸⁰ With this adjustment JRI still prevails on the basis of this second tie-breaker and is the tentative selectee in Group 162.

84. **Group 163.** This group consists of two applications to serve different communities in New York. World Federation of Pastors and Ministers of the Full Gospel, Inc. (WFP) proposes to serve

⁷⁸ JRI amended its application on January 5, 2022, almost two months after the filing deadline, to include supporting documentation for its established local applicant claim. We note that even if we were to award JRI points under this criterion, it would not change the outcome of this group.

⁷⁹ See 47 CFR § 73.7002(b)(3). Moreover, JRI does not submit any information to support its claim that it qualifies as a state-wide network.

⁸⁰ See *NCE Filing Procedures Public Notice*, *supra* note 24 (“When reporting pending applications, applicants must include new and major change radio applications, including the subject application and all other applications filed in this window by the Application Deadline.”).

East Moriches, and Iglesia Misioneras de Evagelizacion de Jovenes Cristianos de NY, Inc. (IME) proposes to serve Flanders. Each applicant states that it is not eligible for a fair distribution preference, and accordingly, WFP and IME proceed to a point system analysis.

85. IME claims that it qualifies for three points as an established local applicant. However, because IME's submitted documentation does not support its claim,⁸¹ we cannot award IME the three localism points. WFP does not claim points as an established local applicant. Each applicant claims two points for diversity of ownership. However, because IME did not timely submit documentation to support this claim,⁸² we cannot award IME diversity points. IME also claims points as a state-wide network, but submits no documentation to support its claim. Accordingly, we do not award state-wide network points.⁸³ With respect to technical parameters, WFP's proposed 60 dBu contour would encompass 108 square kilometers with a population of 19,012. IME's proposed 60 dBu contour would encompass 206 square kilometers with a population of 31,496. IME is eligible for two points under the best technical proposal criterion because it proposes to serve at least 25% more area and population than WFP. Accordingly, IME and WFP are each credited with a total of two points and proceed to a tie-breaker analysis.

86. 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. WFP certifies that it has no attributable interest in any radio authorization. IME certifies that it has attributable interests in six radio authorizations. Accordingly, WFP prevails on the basis of this first tie-breaker and is the tentative selectee in Group 163.

87. **Group 165.** This group consists of the applications of Soaring Eagle Promotions, Inc. (SEP) and Side By Side, Inc. (SBS). Each applicant proposes to serve Nevada, Ohio. Because SEP and SBS propose to serve the same community, they proceed to a point system analysis.

88. Neither applicant claims that it qualifies for points as an established local applicant or state-wide network. Each applicant claims two points for diversity of ownership. With respect to technical parameters, SEP's proposed 60 dBu contour would encompass 511 square kilometers with a population of 14,114. SBS's proposed 60 dBu contour would encompass 1,051 square kilometers with a population of 20,141. SBS is eligible for two points under the best technical proposal criterion because it proposes to serve at least 25% more area and population than SEP. Accordingly, SEP is credited with two points, and SBS is credited with a total of four points. SBS is the tentative selectee in Group 165.

89. **Group 166.** This group consists of two applications to serve different communities in Ohio. Spirit Communications, Inc. (SCI) proposes to serve Delphos, and Holy Family Communications (HFC) proposes to serve Van Wert. Each applicant states that it is not eligible for a fair distribution preference, and accordingly, SCI and HFC proceed to a point system analysis.

90. Neither applicant claims that it qualifies for points as an established local applicant or state-wide network. SCI and HFC each claim two points for diversity of ownership. With respect to technical parameters, SCI's proposed 60 dBu contour would encompass 542 square kilometers with a population of 18,528. HFC's proposed 60 dBu contour would encompass 468 square kilometers with a population of 17,407. Neither applicant is eligible for any points under the best technical proposal criterion because neither proposes to serve at least 10% more area and population than the other.

⁸¹ IME submits a certificate of incorporation that reflects a headquarters located in Brooklyn, New York, over 25 miles from the proposed 60 dBu contour.

⁸² IME amended its application on February 11, 2022, over three months after the filing deadline, to include supporting documentation for its diversity of ownership claim.

⁸³ Further, these points are available only to applicants that cannot claim a credit for local diversity of ownership.

Accordingly, SCI and HFC are each credited with a total of two points and proceed to a tie-breaker analysis.

91. 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. SCI certifies that it has an attributable interests in 17 radio authorizations. HFC certifies that it has an attributable interest in three radio authorizations. Accordingly, HFC prevails on the basis of this first tie-breaker and is the tentative selectee in Group 166.

92. **Group 168.** This group consists of the applications of Hope Radio of Hillsboro (HRH) and Saint Mary Catholic Broadcasting (SMCB). Each applicant proposes to serve Hillsboro, Ohio. Because HRH and SMCB propose to serve the same community, they proceed to a point system analysis.

93. Each applicant claims that it qualifies for three points as an established local applicant. HRH and SMCB also each claim two points for diversity of ownership. HRH's diversity claim is based on its pledge to divest its LPFM station, WWBJ-LP, Hillsboro, Ohio. SMCB provides no support for its diversity claim, and accordingly, we cannot award it points under this criterion. SMCB also claims points as a state-wide network. Such points, however, are only available to applicants that do not qualify for two points for diversity of ownership. SMCB cannot claim points under both criteria.⁸⁴ With respect to technical parameters, HRH's proposed 60 dBu contour would encompass 136 square kilometers with a population of 9,739. SMCB's proposed 60 dBu contour would encompass 20 square kilometers with a population of 18,000. Neither applicant is eligible for points under the best technical proposal criterion because neither proposes to serve at least 10% more area and population than the other. Accordingly, HRH is credited with five points, and SMCB is credited with a total of three points. HRH is the tentative selectee in Group 168.

94. **Group 173.** This group consists of two applications to serve different communities in Oklahoma. KRH Educational Foundation (KEF) proposes to serve Chickasha, and Ministerio Espiritu Santo (MES) proposes to serve Lindsay. Each applicant states that it is not eligible for a fair distribution preference, and accordingly, KEF and MES proceed to a point system analysis.

95. Neither applicant claims that it qualifies for points as an established local applicant. KEF and MES each claim two points for diversity of ownership. KEF also claims points as a state-wide network. Such points, however, are only available to applicants that do not qualify for two points for diversity of ownership. KEF cannot receive points under both criteria.⁸⁵ With respect to technical parameters, KEF's proposed 60 dBu contour would encompass 131 square kilometers with a population of 17,228. MES's proposed 60 dBu contour would encompass 733 square kilometers with a population of 6,890. Neither applicant is eligible for any points under the best technical proposal criterion because neither proposes to serve at least 10% more area and population than the other. Accordingly, KEF and MES are each credited with a total of two points and proceed to a tie-breaker analysis.

96. 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. Each applicant certifies that it has no attributable interests in any radio authorization. Therefore, we proceed to the second issue considered in a tie-breaker – the number of pending radio applications attributable to each applicant. The applicant with the fewest applications prevails. KEF has one pending application, and MES has five pending applications. Accordingly, KEF prevails on the basis of this second tie-breaker and is the tentative selectee in Group 173.

⁸⁴ See 47 CFR § 73.7003(b)(3). Moreover, SMCB does not submit any information to support its claim that it qualifies as a state-wide network.

⁸⁵ See 47 CFR § 73.7003(b)(3). Moreover, KEF does not submit any information to support its claim that it qualifies as a state-wide network.

97. **Group 178.** This group consists of the applications of Growing Christian Foundation (GCF) and Cascade Educational Broadcast Service (CEBS). Each applicant proposes to serve Seaside, Oregon. Because GCF and CEBS propose to serve the same community, they proceed to a point system analysis.

98. Neither applicant claims that it qualifies for points as an established local applicant or state-wide network. Each applicant claims two points for diversity of ownership. With respect to technical parameters, GCF's proposed 60 dBu contour would encompass 148 square kilometers with a population of 11,372. CEBS's proposed 60 dBu contour would encompass 324 square kilometers with a population of 12,540. CEBS is eligible for one point under the best technical proposal criterion because it proposes to serve at least 10% more area and population than GCF. Accordingly, GCF is credited with two points, and CEBS is credited with three points. CEBS is the tentative selectee in Group 178.

IV. NEXT STEPS

99. **Acceptability Studies and Filing of Petitions.** Once the Bureau or Commission identifies a tentative selectee pursuant to the fair distribution analysis or point system, the next step is to consider whether the selectee's application has defects.⁸⁶ The Commission has studied the application of each tentative selectee identified herein for application defects. Each tentative selectee identified in this Order and its Appendix appears to be fully qualified to become the licensee of the new NCE FM station it has proposed. We tentatively conclude that the grant of these applications would serve the public interest, convenience and necessity. Accordingly, upon the release of this Order, the tentative selectees are accepted for filing. This triggers a 30-day period for the filing of petitions to deny.⁸⁷

100. 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. Likewise a disappointed applicant that believes the tentative selectee should have received fewer points would make such an 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.⁸⁸

101. **Forthcoming Staff Action.** We direct the Bureau staff, once the petition to deny 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 the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there are no substantial and material questions of fact, and that a grant of the application would be consistent with the public interest, convenience, and necessity, it shall make the grant on the basis of the fair distribution analyses and point system determinations made herein, dismiss all competing applications, deny any petition to

⁸⁶ If a tentative selectee's application is found unacceptable for filing, it is dismissed. The applicant then has one opportunity to submit a curative amendment and a petition for reconsideration requesting reinstatement *nunc pro tunc* within 30 days, provided that the amendment is minor and does not alter the fair distribution analysis. See 47 CFR § 73.3522(b)(1). A tentative selectee that is unable to cure the defect is disqualified. 47 CFR § 73.7004(d).

⁸⁷ 47 CFR § 73.7004.

⁸⁸ See *NCE Order on Reconsideration*, 35 FCC Rcd 10180, para. 13 ("A tentative selection is not final until the entire administrative process of resolving petitions to deny, and any subsequent pleadings, is complete"); 47 CFR § 1.106 (a)(1). See also *Patrick J. Vaughn, Esq.*, Letter, 22 FCC Rcd 11165 (MB 2007).

deny, and issue a concise statement of the reasons for denying such petition and disposing of all substantial issues raised by the petition.⁸⁹

102. With the exception of issues that are novel or require Commission consideration as specified below, 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.⁹⁰ The staff need not refer such matters to the full Commission 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 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.⁹¹ In such cases, the staff would refer the mutually exclusive group to the Commission for resolution of the novel issue and/or the determination of a successor tentative selectee.

103. **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 for purposes of administrative or judicial review under section 1.103(b) of our rules with respect to any other group.⁹²

V. ORDERING CLAUSES

104. 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, subsequent petitions for reconsideration and reconsideration by the Commission or Bureau on its own motion, applications for review and review on the Commission's own motion, and appeals.⁹³ 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.

105. **Group 2.** Accordingly, IT IS ORDERED, that the Application filed by Christian Broadcasting, Inc. (File No. 166425) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Soldotna, Alaska, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters

⁸⁹ 47 U.S.C. § 309(d).

⁹⁰ 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).

⁹¹ See generally *NCE Omnibus*, 22 FCC Rcd at 6162, n.230 (2007) ("If the Bureau finds that there are no new or novel questions, or material questions that would cause the tentative selectee to have fewer than or the same number of points as another applicant in the group, the staff would act on the petition(s) to deny, and by public notice grant the application of the tentative selectee and dismiss the competing mutually exclusive application. This function is consistent with the Bureau's delegated authority. See 47 C.F.R. §§ 0.61(h), 0.283.")

⁹² See 47 CFR § 1.103(b).

⁹³ See 5 U.S.C. §§ 702, 704, 706; 47 U.S.C. §§ 309(d), 402(b), 405; 47 CFR §§ 1.106-08, 1.113, 1.115, 1.117 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 the court. See, e.g., FED. R. APP. P. 3(b).

which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of Educational Media Foundation (File No. 166986), and TO GRANT the application of Christian Broadcasting, Inc. (File No. 166425).

106. **Group 4.** Accordingly, IT IS ORDERED, that the Application filed by Alaska Multi Culture Corp. (File No. 167067) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Soldotna, Alaska, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of Christian Broadcasting, Inc. (File No. 167305), and TO GRANT the application of Alaska Multi Culture Corp. (File No. 167067) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions.

107. **Group 6.** Accordingly, IT IS ORDERED, that the Application filed by National Association for the Prevention of Starvation (File No. 167681) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Noxapater, Mississippi, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of Mt. Vernon Missionary Baptist Church (File No. 167480), and TO GRANT the application of National Association for the Prevention of Starvation (File No. 167681) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions.

108. **Group 8A.** Accordingly, IT IS ORDERED, that the Application filed by Eufaula Christian Radio (File No. 167321) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Cuthbert, Georgia, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice, that there is no substantial and material question concerning the grantability of the tentative selectee's application and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of Faith Broadcasting, Inc. (File No. 167008), and TO GRANT the application of Eufaula Christian Radio (File No. 167321) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions.

109. **Group 8B.** Accordingly, IT IS ORDERED, that the Application filed by Uchee Pines Institute (File No. 167725) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Hurtsboro, Alabama, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of B. Jordan Communications (File No. 166113), and TO GRANT the application of Uchee Pines Institute (File No. 167725) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions, and PROVIDED THAT, Uchee Pines Institute must surrender or otherwise divest itself of its license for WURY-LP, Phenix City, Alabama, prior to commencement of program tests of the full service NCE FM station.

110. **Group 11.** Accordingly, IT IS ORDERED, that the Application filed by Hope-Prescott, Inc. (File No. 167744) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Emmett, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of April R. Love Foundation (File No. 166760), and TO GRANT the application of Hope-Prescott, Inc. (File No. 167744) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions.

111. **Group 13.** Accordingly, IT IS ORDERED, that the Application filed by Priority Radio, Inc. (File No. 165587) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Cabot, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of The Blue Mantle Educational Association (File No. 167350), and TO GRANT the application of Priority Radio, Inc. (File No. 165587) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions.

112. **Group 27.** Accordingly, IT IS ORDERED, that the Application filed by Mother Lode Community Radio (File No. 166789) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Twain Harte, California, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of Nevada City Community Broadcast Group (File No. 166571), and TO GRANT the application of Mother Lode Community Radio (File No. 166789) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets

forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions, and PROVIDED THAT, Mother Lode Community Radio must surrender or otherwise divest itself of its license for KAAD-LP, Sonora, California, prior to commencement of program tests of the full service NCE FM station.

113. **Group 47.** Accordingly, IT IS ORDERED, that the Application filed by Yale Broadcasting Company, Inc. (File No. 167427) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Moosup, Connecticut, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of Connecticut Public Broadcasting, Inc. (File No. 166856), and TO GRANT the application of Yale Broadcasting Company, Inc. (File No. 167427) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions.

114. **Group 52.** Accordingly, IT IS ORDERED, that the Application filed by Ethree Group, Inc. (File No. 167098) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Key Colony Beach, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice, that there is no substantial and material question concerning the grantability of the tentative selectee's application and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of Vida Ministry Inc. (File No. 167107), and TO GRANT the application of Ethree Group, Inc. (File No. 167098) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions.

115. **Group 57.** Accordingly, IT IS ORDERED, that the Application filed by Indian River State College (File No. 165949) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Okeechobee, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice, that there is no substantial and material question concerning the grantability of the tentative selectee's application and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive applications of Ethree Group, Inc. (File No. 166667), Montgomery Broadcasting, Inc. (165531), Northeast Gospel Broadcasting, Inc. (File No. 167435), and World Federation of Pastors and Ministers of the Full Gospel, Inc. (File No. 167415), and TO GRANT the application of Indian River State College (File No. 165949) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, 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.

116. **Group 61.** Accordingly, IT IS ORDERED, that the Application filed by Restored Together Radio, Inc. (File No. 167585) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Lincolnton, Georgia, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of Church Planters Of America (File No. 167095), and TO GRANT the application of Restored Together Radio, Inc. (File No. 167585) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions.

117. **Group 70.** Accordingly, IT IS ORDERED, that the Application filed by Chief Hurao, Inc. (File No. 166788) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Barragada, Guam, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of Guam Educational Radio Foundation (File No. 167097), and TO GRANT the application of Chief Hurao, Inc. (File No. 166788) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions.

118. **Group 74.** Accordingly, IT IS ORDERED, that the Application filed by Vanguard Association of Sunbelt Colleges Corporation (File No. 167716) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Dubuque, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of Augustana College (File No. 166936), and TO GRANT the application of Vanguard Association of Sunbelt Colleges Corporation (File No. 167716) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions.

119. **Group 76.** Accordingly, IT IS ORDERED, that the Application filed by Heritage Baptist Church (File No. 167422) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Burlington, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of Sound in Spirit Broadcasting, Inc. (File No. 166214), and TO GRANT the application of Heritage Baptist

Church (File No. 167422) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions.

120. **Group 82.** Accordingly, IT IS ORDERED, that the Application filed by Our Lady of the Snows Foundation, Inc. (File No. 167668) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Ketchum, Idaho, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of Idaho State Board of Education (File No. 166951), and TO GRANT the application of Our Lady of the Snows Foundation, Inc. (File No. 167668) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions.

121. **Group 83.** Accordingly, IT IS ORDERED, that the Application filed by First Baptist Church of Riverview (File No. 167589) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Mountain Home, Idaho, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of Salt & Light Radio, Inc. (File No. 167208), and TO GRANT the application of First Baptist Church Of Riverview (File No. 167589) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions.

122. **Group 88.** Accordingly, IT IS ORDERED, that the Application filed by 2820 Communications Inc. (File No. 166177) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Macomb, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of Covenant Network (File No. 167851), and TO GRANT the application of 2820 Communications Inc. (File No. 166177) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points.

123. **Group 89.** Accordingly, IT IS ORDERED, that the Application filed by Northern Illinois University (File No. 166990) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Galena, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters

which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of VCY America, Inc. (File No. 167869), and TO GRANT the application of Northern Illinois University (File No. 166990) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions.

124. **Group 96A.** Accordingly, IT IS ORDERED, that the Application filed by Vanguard Association of Sunbelt Colleges Corporation (File No. 167699) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Battle Ground, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of The Association for Community Education, Inc. (File No. 167315), and TO GRANT the application of Vanguard Association of Sunbelt Colleges Corporation (File No. 167699) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions.

125. **Group 102B.** Accordingly, IT IS ORDERED, that the Application filed by Klmx Educational Foundation (File No. 165990) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Dalhart, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of Great Plains Christian Radio, Inc. (File No. 165749), and TO GRANT the application of Klmx Educational Foundation (File No. 165990) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions.

126. **Group 104.** Accordingly, IT IS ORDERED, that the Applications filed by Johnson County Board of Education (File No. 166282) and Paintsville Church of Christ (File No. 165543) are TENTATIVELY SELECTED to be awarded construction permits on a TIME-SHARING BASIS for new NCE FM stations in Paintsville, Kentucky, and the applications ARE ACCEPTED FOR FILING, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. IT IS FUTHER ORDERED, that the tentative selectee applicants electronically submit, within 90 days of the release of this Order, a time-sharing agreement, in accordance with section 73.7003(c)(4) of the Commission's rules, 47 CFR § 73.7003(c)(4). If, after the petition to deny period has run, the Bureau finds on the basis of the applications, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectees' applications, and it is determined that grant of the applications serves the public interest, and the applicants have submitted an acceptable time-sharing agreement, we direct the Media Bureau, by public notice, TO GRANT the applications of Johnson County Board of Education (File No. 166282) and Paintsville Church of Christ (File No. 165543) CONDITIONED UPON each selectee's compliance with section 73.7005 of the

Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions, and PROVIDED THAT, Paintsville Church of Christ must surrender or otherwise divest itself of its license for WGWD-LP, Paintsville, Kentucky, prior to commencement of program tests of the full service NCE FM station. If the tentative selectees are unable to reach a voluntary time-sharing agreement within the 90-day period, the tentative selectees will proceed to mandatory time-sharing, in accordance with section 73.7003(c)(5) of the Commission's rules, 47 CFR § 73.7003(c)(5).

127. **Group 122.** Accordingly, IT IS ORDERED, that the Application filed by Grand Forks Bible Study Group (File No. 167114) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Grand Forks, North 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of Bible Broadcasting Network, Inc. (File No. 167299), and TO GRANT the application of Grand Forks Bible Study Group (File No. 167114) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions.

128. **Group 152.** Accordingly, IT IS ORDERED, that the Application filed by Gallup Public Radio (File No. 166062) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Saint Michaels, Arizona, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive applications of Good News Broadcasting Network, Inc. (File No. 167858) and New Hope Baptist Church- Gallup (File No. 167524) and TO GRANT the application of Gallup Public Radio (File No. 166062) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points.

129. **Group 159.** Accordingly, IT IS ORDERED, that the Application filed by Aok Broadcasting (File No. 166222) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Pahrump, Nevada, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of Lucky Boy Educational Media, Inc. (File No. 166385), and TO GRANT the application of Aok Broadcasting (File No. 166222) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions.

130. **Group 162.** Accordingly, IT IS ORDERED, that the Application filed by JCM Radio, Inc. (File No. 166627) is TENTATIVELY SELECTED to be awarded a construction permit for a new

NCE FM station in Oak Beach-Captree, New York, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of World Federation of Pastors and Ministers of the Full Gospel, Inc. (File No. 167434), and TO GRANT the application of JCM Radio, Inc. (File No. 166627) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions.

131. **Group 163.** Accordingly, IT IS ORDERED, that the Application filed by World Federation of Pastors and Ministers of the Full Gospel, Inc. (File No. 167419) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in East Moriches, New York, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of Iglesia Misioneras de Evangelizacion de Jovenes Cristianos de NY, Inc. (File No. 165804), and TO GRANT the application of World Federation of Pastors and Ministers of the Full Gospel, Inc. (File No. 167419) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions.

132. **Group 165.** Accordingly, IT IS ORDERED, that the Application filed by Side By Side, Inc. (File No. 166899) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Nevada, Ohio, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of Soaring Eagle Promotions, Inc. (File No. 166950), and TO GRANT the application of Side By Side, Inc. (File No. 166899) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions.

133. **Group 166.** Accordingly, IT IS ORDERED, that the Application filed by Holy Family Communications (File No. 167687) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Van Wert, Ohio, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of Spirit Communications, Inc. (File No. 166351), and TO GRANT the application of Holy Family Communications (File No. 167687) CONDITIONED UPON that selectee's compliance with section

73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions.

134. **Group 168.** Accordingly, IT IS ORDERED, that the Application filed by Hope Radio of Hillsboro (File No. 167230) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Hillsboro, Ohio, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of Saint Mary Catholic Broadcasting (File No. 166925), and TO GRANT the application of Hope Radio of Hillsboro (File No. 167230) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions, and PROVIDED THAT, Hope Radio of Hillsboro must surrender or otherwise divest itself of its license for WWBJ-LP, Hillsboro, Ohio, prior to commencement of program tests of the full service NCE FM station.

135. **Group 173.** Accordingly, IT IS ORDERED, that the Application filed by KRH Educational Foundation (File No. 166838) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Chickasha, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of Ministerio Espiritu Santo (File No. 167700), and TO GRANT the application of KRH Educational Foundation (File No. 166838) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions.

136. **Group 178.** Accordingly, IT IS ORDERED, that the Application filed by Cascade Educational Broadcast Service (File No. 167066) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Seaside, 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, the Bureau finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there is no substantial and material question concerning the grantability of the tentative selectee's application, and it is determined that grant of the application serves the public interest, we direct the Media Bureau, by public notice, TO DISMISS the mutually exclusive application of Growing Christian Foundation (File No. 167210), and TO GRANT the application of Cascade Educational Broadcast Service (File No. 167066) CONDITIONED UPON that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary