

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

In the Matter of	)	
	)	
Comparative Consideration of Three Groups of	)	LPFM MX Group Numbers 39, 60, and 86
Mutually Exclusive Applications for Permits to	)	
Construct New Low Power FM Stations	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted: September 2, 2025**

**Released: September 2, 2025**

By the Commission:

**I. INTRODUCTION**

1. The Commission has before it for comparative consideration and review three groups of mutually exclusive (MX) applications for new Low Power FM (LPFM) station construction permits.<sup>1</sup> By this Memorandum Opinion and Order (Order), we grant one application in LPFM MX Group 39 and use a point system to tentatively select new applications for grant in LPFM MX Groups 60 and 86. Petitions to deny the applications of the new tentative selectees in LPFM MX Groups 60 and 86 must be filed within 30 days of release date of this Order.<sup>2</sup>

2. The Commission previously resolved the conflicting LPFM proposals in LPFM MX Groups 39, 60, and 86 by applying the comparative procedures codified in section 73.872 of the Commission's rules (Rules)<sup>3</sup> and tentatively selected applications for grant. These actions now require additional analysis as a result of subsequent challenges.

**II. BACKGROUND**

3. The LPFM MX Groups 39, 60, and 86 applications were filed in December 2023, during the most recent filing window for new LPFM applications.<sup>4</sup> The applicants had an opportunity to enter into settlement agreements to resolve mutual exclusivity and/or to submit technical amendments to

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<sup>1</sup> On March 15, 2024, the Media Bureau (Bureau) issued a public notice identifying 109 groups of mutually exclusive LPFM applications. *See Media Bureau Identifies Groups of Mutually Exclusive Applications Submitted in the December 2023, LPFM Filing Window; Opens Window To Accept Settlements and Technical Amendments*, Public Notice, 39 FCC Rcd 2355 (MB 2024) (*Settlement Public Notice*). The Commission subsequently used a point system to tentatively select applications from 93 MX groups for grant. *See Commission Identifies Tentative Selectees in 93 Groups of Mutually Exclusive Applications Submitted in the December 2023, LPFM Filing Window; Announces a 30-Day Petition to Deny Period, 90-Day Period to File Voluntary Time-Share Proposals, and a 60-Day Period to File Major Change Amendments*, Public Notice, FCC 24-113, 2024 WL 4526638 (Oct. 16, 2024) (*Tentative Selectee Public Notice*). Each group analyzed herein was included in the *Tentative Selectee Public Notice*.

<sup>2</sup> *See* 47 CFR § 73.870(d).

<sup>3</sup> *See id.* § 73.872.

<sup>4</sup> *See Media Bureau Announces Filing Procedures and Requirements for November 1 – November 8, 2023, Low Power FM Filing Window*, Public Notice, 38 FCC Rcd 6660 (MB 2023) (*Procedures Public Notice*). Based on a request from LPFM advocates, the Bureau subsequently delayed the window until December 6, 2023. *Media Bureau Announces Revised Dates for LPFM New Station Application Filing Window*, Public Notice, 38 FCC Rcd 9589 (MB 2023). The Bureau subsequently extended the close of the window until December 15, 2023. *Media Bureau Announces Extension of LPFM New Station Application Filing Window*, Public Notice, 38 FCC Rcd 11882 (MB 2023).

resolve conflicts and expedite the grant of applications filed in the LPFM Window.<sup>5</sup> The Commission subsequently resolved LPFM MX Groups 39, 60, and 86 by comparing the applications under the LPFM point system,<sup>6</sup> which is a simplified, “paper hearing” process for selecting among mutually exclusive LPFM applications.<sup>7</sup> The Commission’s comparative review of MX applications is based on applicant provided information.<sup>8</sup> To expedite the licensing of new LPFM stations, the Commission relies on applicant certifications and documentation and generally does not independently confirm their accuracy during the review process. Rather, the Bureau and the Commission rely on the petition to deny process to verify the accuracy of the points claimed and certifications.<sup>9</sup>

4. After applying these procedures, the Commission tentatively selected applications for grant from LPFM MX Groups 39, 60, and 86 and initiated a 30-day period for filing petitions to deny, a 90-day period to file voluntary time-share proposals, and a 60-day period to file major change amendments.<sup>10</sup> In this Order, we address informal objections challenging our point system analysis in LPFM MX Groups 39 and 60, and a petition to deny our point system analysis in LPFM MX Group 86.

### III. DISCUSSION

#### A. LPFM MX Group 39

5. *Background.* This group consists of two applications proposing service to Des Moines, Iowa: CPC of the WMM USA-Des Moines, IA-One Inc. (CPC), and Climate March (Climate).<sup>11</sup> The Bureau identified the CPC and Climate applications as LPFM MX Group 39.<sup>12</sup> The Commission subsequently awarded both applications five comparative points and identified CPC and Climate as the tentative selectees of the group on a time-sharing basis.<sup>13</sup>

6. CPC claimed a point in its initial application for pledging to maintain a publicly accessible main studio that has local origination capability, is reachable by telephone, is staffed at least 20 hours per week between 7 a.m. and 10 p.m., and is located within 16.1 km (10 miles) of the station’s proposed transmitting antenna site for applicants in the top 50 urban markets and within 32.1 km (20

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<sup>5</sup> See *Settlement Public Notice*; see also *Media Bureau Provides Further Guidance on Settlement Window for Mutually Exclusive Applications Submitted in the December 2023, LPFM Filing Window*, Public Notice, DA 24-288, 2024 WL 1298572 (MB Mar. 22, 2024) (clarifying that MX applicants may also submit time-share agreements to resolve conflicts).

<sup>6</sup> 47 CFR § 73.872. The LPFM point system awards a maximum of six merit points, based on six criteria, with one point awarded under each criterion: (1) established community presence of at least two years; (2) commitment to originate local programming; (3) commitment to maintain a main studio; (4) commitment both to originate local programming and to maintain a main studio; (5) diversity of ownership; and (6) Tribal applicants serving Tribal lands.

<sup>7</sup> See *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, 12520, para. 2 (2019), *aff’d*, Order on Reconsideration, 35 FCC Rcd 10180 (2020) (*NCE Order on Reconsideration*).

<sup>8</sup> See *Tentative Selectee Public Notice* at \*3.

<sup>9</sup> See *id.* at \*3 n.27; *Reexamination of the Comparative Standards and Procedures for Licensing Noncommercial Educational Broadcast Stations and Low Power FM Stations*, Notice of Proposed Rulemaking, MB Docket No. 19-3, 34 FCC Rcd 851, 854, para. 6 (2019).

<sup>10</sup> *Tentative Selectee Public Notice* at \*1.

<sup>11</sup> See Application File Nos. 0000232764 (filed Dec. 13, 2023 (CPC Application), amended May 13, 2024 (Amended CPC Application)); 0000233088 (filed Dec. 15, 2023) (Climate Application).

<sup>12</sup> *Settlement Public Notice* at Attach. A.

<sup>13</sup> *Tentative Selectee Public Notice* at Attach. A.

miles) for applicants outside the top 50 urban markets.<sup>14</sup> CPC also certified in its initial application that it qualified for a point under both the local program origination and the main studio criteria.<sup>15</sup>

7. REC Networks (REC) filed an Informal Objection to the CPC Application.<sup>16</sup> REC argues that the CPC Application is not entitled to a “main studio” point or a “local [program] origination and main studio” point because, as originally filed, the CPC Application listed a main studio address that is over 600 miles away from CPC’s proposed transmitting antenna site.<sup>17</sup> On May 13, 2024, five months after the close of the LPFM filing window, CPC filed an amendment to correct its main studio address.<sup>18</sup> However, REC argues that under established LPFM filing procedures, the Commission “will not consider documentation to support a claimed comparative point if it is submitted in an amendment after the application deadline.”<sup>19</sup> CPC has not filed an Opposition to REC’s Informal Objection.

8. *Discussion.* Section 73.872(b)(3) of the Rules provides that an LPFM applicant may claim a comparative point if it “pledge[s] to maintain a publicly accessible main studio that has local program origination capability, is reachable by telephone, is staffed at least 20 hours per week between 7 a.m. and 10 p.m., and is located within 16.1 km (10 miles) of the proposed site for the transmitting antenna for applicants in the top 50 urban markets and 32.1 km (20 miles) for applicants outside the top 50 urban markets.”<sup>20</sup> To claim a point under this criterion, an applicant must specify the proposed address of the proposed main studio in FCC Form 2100, Schedule 318 at the time of filing its application.<sup>21</sup> Section 73.872(b)(4) of the Rules allows an LPFM applicant that makes the local program origination and main studio pledges set forth in sections 73.872(b) and (c) to claim an additional “bonus” comparative point.<sup>22</sup>

9. CPC claimed both the main studio point and the bonus point in its application.<sup>23</sup> The address CPC provided for its proposed main studio in its initial application was over 600 miles away from the proposed transmitting antenna site.<sup>24</sup> Five months after the 2023 LPFM Filing Window deadline had passed, CPC attempted to correct the proposed main studio address in an amendment.<sup>25</sup> However, as explained in the *Procedures Public Notice*, “any change made [to an application] after the Application

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<sup>14</sup> See CPC Application at Point System Factors Section, Main Studio question; 47 CFR § 73.872(b)(3).

<sup>15</sup> See CPC Application at Point System Factors Section, Local Program Origination and Main Studio question; 47 CFR § 73.872(b)(4).

<sup>16</sup> Pleading File No. 0000256139 (filed Oct. 23, 2024) (REC CPC Objection).

<sup>17</sup> See REC CPC Objection at 3 (citing CPC Application at Point System Factors Section, Main Studio question (listing a main studio address of 1605 E. Belt Line Rd., Carrollton, TX). REC also argues that, according to CPC’s application as originally filed, more than one-fifth of CPC’s capital stock is owned of record or voted by foreign nationals, and therefore CPC is ineligible for a broadcast license. See REC CPC Objection at 2 (citing 47 U.S.C. § 310(b) (providing that “no broadcast . . . radio station license shall be granted to or held by . . . any corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives”)). Because we dispose of CPC’s application on other grounds, we do not address this argument here.

<sup>18</sup> See Amended CPC Application (listing a new main studio address of 2301 Capitol Ave., Des Moines, IA).

<sup>19</sup> REC Objection at 3 (citing *Procedures Public Notice*, 38 FCC Rcd at 6668).

<sup>20</sup> 47 CFR § 73.872(b)(3).

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* § 73.872(b)(4).

<sup>23</sup> See CPC Application at Point System Factors Section, Main Studio question and Local Program Origination and Main Studio question.

<sup>24</sup> See CPC Application at Point System Factors Section, Main Studio question (listing a main studio address of 1605 E. Belt Line Rd., Carrollton, TX).

<sup>25</sup> See Amended CPC Application (listing a main studio address of 2301 Capitol Ave., Des Moines, IA).

Deadline may potentially diminish, but cannot enhance, an applicant's comparative position and point total. Therefore, the Commission . . . will *not* consider any amendments, filed after the Application Deadline, which improve an applicant's comparative position."<sup>26</sup>

10. Because CPC's amendment was filed after the December 13, 2023, filing window deadline,<sup>27</sup> and would improve CPC's comparative position, the Commission will not consider CPC's amendment, and therefore CPC is not entitled to either the main studio point or the bonus point (which depends on a valid claim of the main studio point). Accordingly, we find that CPC was improperly granted five comparative points and co-tentative selectee status. We grant the REC CPC Objection, adjust CPC's score to three points rather than five points, and rescind our tentative selection of the CPC Application. Climate, with five comparative points, is the sole remaining tentative selectee of MX Group 39.<sup>28</sup> We have reviewed the Climate Application and find no substantial and material question of fact, and that grant of the Climate Application would be consistent with the public interest, convenience, and necessity. Accordingly, we grant the Climate Application and dismiss the CPC Application as a non-tentative selectee.

## **B. LPFM MX Group 60**

11. *Background.* This group consists of three applications filed by (1) Yoelkie Media Foundation A NJ Nonprofit Corporation (YMF), (2) Chinese Church of Atlantic City (CCAC), and (3) Transmission Communications Network A Nonprofit Corp (TCN), to serve the community of Atlantic City, New Jersey.<sup>29</sup> The Bureau identified these applications as LPFM MX Group 60.<sup>30</sup> The Commission subsequently awarded four points each to YMF and CCAC, and five points to TCN based on a point system analysis, and identified TCN as the tentative selectee.<sup>31</sup>

12. TCN claimed and was awarded a point for established community presence. TCN certified that, for a period of at least two years prior to the date of its application, it has existed as a nonprofit educational institution or organization and has been physically headquartered, has had a campus, or has had 75% of its board members residing within 16.1 kilometers (10 miles), for the top 50 urban markets, or 32.1 kilometers (20 miles), outside the top 50 urban markets, of the coordinates of the proposed transmitting antenna.<sup>32</sup> To support this claim, TCN lists a local headquarters address of "40 East Washington Ave, Pleasantville, New Jersey" and provides documentation showing that it was incorporated in New Jersey in 2017.<sup>33</sup>

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<sup>26</sup> *Procedures Public Notice*, 38 FCC Rcd at 6671-72 (emphasis in original).

<sup>27</sup> *See* Amended CPC Application.

<sup>28</sup> As a tentative selectee, the Climate Application was previously accepted for filing, which triggered a 30-day period for the filing of petitions to deny. *See Tentative Selectee Public Notice* at \*11-12. No party filed a petition to deny or informal objection to the grant of the Climate Application.

<sup>29</sup> *See* Application File Nos. 0000232896 (YMF Application), 0000232973 (CCAC Application), and 0000232380 (TCN Application). YMF stated that its community of license is "AARP INS", New Jersey, which appears to be a typographical error per its application attachments.

<sup>30</sup> *Settlement Public Notice* at Attach. A.

<sup>31</sup> *Tentative Selectee Public Notice*; *see also* 47 CFR § 73.872.

<sup>32</sup> *See* TCN Application at Point System Factors Section, Established Community Presence question. *See also* 47 CFR §§ 73.872(b)(1); 73.853(b). The 20 mile standard applies here because TCN's proposed station is in the Atlantic City-Cape May, New Jersey radio market, which is outside of the top 50 urban markets. *See* The Nielsen Company (US) LLC, Radio Market Survey Population & Information, Spring 2024, [https://www.nielsen.com/wp-content/uploads/sites/2/2024/04/Populations\\_Rankings.pdf](https://www.nielsen.com/wp-content/uploads/sites/2/2024/04/Populations_Rankings.pdf).

<sup>33</sup> TCN Application at Application Information Section, Name, Type, and Contact Information question and Attachment, "501c3doc.pdf".

13. REC filed an Informal Objection to the TCN Application, in which it argues that TCN is not entitled to one point under the established community presence criterion.<sup>34</sup> Specifically, REC argues that TCN is ineligible to claim a point for established community presence because the documentation TCN submitted—three separate filings made with the State of New Jersey—fails to show that it had been local for at least two years prior to filing its application. Rather, REC asserts, and provides documentation, to show that (1) TCN was headquartered in Newark, New Jersey, from 2017 until November 2023, and (2) on November 10, 2023, only a month before it filed the TCN Application, TCN filed a change of address reflecting the local Pleasantville, New Jersey address.<sup>35</sup> Accordingly, REC asserts that “the evidence is clear that while TCN is eligible to be an LPFM licensee, they did not have either 75% of their board members or a headquarters, branch, or campus within 20 miles of the transmitting antenna, two years prior to the December 15, 2023 snapshot date.”<sup>36</sup> Tom De Ville also filed two Petitions to Deny and a Supplement (De Ville Petitions and Supplement) against the TCN Application,<sup>37</sup> but subsequently requested withdrawal of those pleadings.<sup>38</sup> Because the Withdrawal Request comports with the requirements of section 73.3588 of the Rules,<sup>39</sup> we grant the Withdrawal Request and dismiss the De Ville Petitions and Supplement.<sup>40</sup>

14. TCN filed an Opposition in which it does not directly address REC’s allegations but instead states that it “[a]grees with [the Commission’s] determination of 5 points.”<sup>41</sup> REC filed a Reply in which it reiterates that TCN did not have a local presence in Atlantic City, New Jersey, until it filed an address change on November 10, 2023, and prior to that was located entirely in Newark, New Jersey, “which is more than 20 miles from the transmitting antenna.”<sup>42</sup> REC also references a copy of TCN’s original Articles of Incorporation, which was not included in the TCN Application, and shows that TCN was established in 2017 with a main business address in Newark, New Jersey.<sup>43</sup>

15. *Discussion.* Section 73.872(b)(1) of the Rules provides that to be awarded one point for “established community presence,” “[a]n applicant must, for a period of at least two years prior to application and at all times thereafter, have qualified as local pursuant to § 73.853(b).”<sup>44</sup> Section

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<sup>34</sup> Pleading File No. 0000256594 (filed Nov. 4, 2024) (REC TCN Objection).

<sup>35</sup> REC TCN Objection at 2-3 and Appendix (Change of Registered Agent Certificate from the State of New Jersey, Department of Treasury, affirming a “change was submitted on 11/10/2023” and that TCN changed its registered office from “41 Seymour Ave, Newark, NJ” to “40 East Washington Ave, Pleasantville, NJ”).

<sup>36</sup> REC TCN Objection at 3.

<sup>37</sup> See Pleading File Nos. 0000243375, 0000256290, and 0000256364 (filed April 10, 2024, October 25, 2024, and October 28, 2024). De Ville argued that TCN (1) fails to meet the localism requirements, and (2) is ineligible for a point for established community presence.

<sup>38</sup> See Pleading File No. 0000256586 (filed November 3, 2024) (Withdrawal Request). In his Withdrawal Request, Mr. De Ville states: “I acknowledge that while the applicant has established a valid local presence, they have been in operation for less than two years within 10 miles of the proposed facility. Therefore, they are not eligible for the coveted ECP point. However, to be fair, I recognize that as a valid nonprofit with local status on the filing date, they are eligible to be a licensee.” *Id.* REC references Mr. De Ville’s earlier pleadings and reasserts Mr. De Ville’s initial claim that TCN is ineligible for the established community presence point.

<sup>39</sup> See 47 CFR § 73.3588(a); Withdrawal Request (stating that Mr. De Ville “did not receive any consideration in connection with this withdrawal”).

<sup>40</sup> See 47 CFR §§ 73.3588(a) (withdrawal of informal objection and petitions to deny); 73.801 (making section 73.3588 applicable to LPFM service).

<sup>41</sup> Pleading File No. 0000256681 (filed Nov. 5, 2024).

<sup>42</sup> Pleading File No. 0000257370 at 2-3 (filed Nov. 7, 2024).

<sup>43</sup> *Id.* at 2.

<sup>44</sup> 47 CFR § 73.872(b)(1).

73.853(b) of the Rules provides that an applicant will be deemed local if it can certify that, at the time of the application, it has existed as a nonprofit educational institution or organization and has been physically headquartered, has had a campus, or has had 75% of its board members residing within 16.1 kilometers (10 miles), for the top 50 urban markets, or 32.1 kilometers (20 miles), outside the top 50 urban markets, of the coordinates of the proposed transmitting antenna.<sup>45</sup> Accordingly, to receive the established community presence point, TCN must have been established and operating as a local entity since, at a minimum, December 15, 2021, i.e., for at least two years prior to the close of the December 15, 2023, LPFM filing window.<sup>46</sup>

16. We find that TCN was improperly awarded one point under the established community presence criterion. Although the evidence confirms that TCN was established for over two years before filing its application, TCN provided no evidence to verify that it had been local for at least the requisite two years. Rather, the evidence provided by REC illustrates that TCN had been local for less than two months before filing its application.<sup>47</sup> TCN does not refute this. Accordingly, we find that TCN was improperly designated as the tentative selectee based on the established community presence point. We, therefore, grant the REC TCN Objection, adjust TCN's score to four points rather than five points, and rescind our sole tentative selection of the TCN Application. Accordingly, because YMF, CCAC, and TCN are each now tied and credited with a total of four points, we identify YMF, CCAC, and TCN as the new tentative selectees of LPFM MX Group 60 and direct the applicants to submit, within 90 days of the release of this Order, a voluntary time-sharing proposal in accordance with section 73.872(c) of the Rules.<sup>48</sup>

### C. LPFM MX GROUP 86

17. *Background.* This group consists of two applications filed by (1) Citizens Against Unfair Financial Practices (Citizens) and (2) Universidad Internacional Cristiano de Ministerios (UICM), to serve the communities of Memphis, Tennessee, and Bartlett, Tennessee.<sup>49</sup> The Bureau identified the applications as LPFM MX Group 86.<sup>50</sup> The Commission subsequently conducted a point system analysis and awarded four points to UICM and five points to Citizens, including one point for established community presence, and identified Citizens as the tentative selectee.<sup>51</sup>

18. UICM filed a Petition to Deny the Citizens Application, arguing that Citizens is not entitled to one point under the established community presence criterion because "Citizens provided no

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<sup>45</sup> 47 CFR § 73.853(b)(1), (2). To claim a point for this criterion, applicants must submit documentation specified in FCC Form 2100, Schedule 318 at the time of filing applications. *See id.* § 73.872(b)(1).

<sup>46</sup> *See id.*

<sup>47</sup> TCN certifies that it qualifies as local solely because its physical headquarters (listed as 40 East Washington Ave, Pleasantville, New Jersey), is within 20 miles of its proposed transmitting antenna site. *See* TCN Application at Legal Certifications Section, Community-based criteria questions. As noted, REC submits evidence showing that TCN was headquartered in Newark, New Jersey, not Pleasantville, until November 2023. TCN's former headquarters in Newark is not within 20 miles of the proposed transmitting site, and therefore, does not satisfy the localism criterion.

<sup>48</sup> *See* 47 CFR § 73.872(c).

<sup>49</sup> *See* Application File Nos. 0000232370 (filed Dec. 11, 2023 (Citizens Application), amended Dec. 2, 2024 (Amended Citizens Application)); 0000232577 (filed Dec. 12, 2023) (UICM Application).

<sup>50</sup> *Settlement Public Notice* at Attach. A.

<sup>51</sup> *Tentative Selectee Public Notice*; *see also* 47 CFR § 73.872. Citizens received a point under the following five criteria: (1) established community presence; (2) commitment to originate local programming; (3) commitment to maintain a main studio; (4) commitment to originate local programming and to maintain a main studio; and (5) diversity of ownership. UICM did not receive the point for established community presence.

Exhibit providing evidence of its qualification for this Point.”<sup>52</sup> Specifically, UICM asserts that (1) Citizens neglected to provide information “concerning the duration of any of the governing board members ‘local’ residences” and listed Post Office Boxes for the majority of its board members;<sup>53</sup> and (2) the only address listed for Citizens, “1325 Autumn Avenue, # 41856, Memphis, Tennessee,” is “14.534 miles from the coordinates of Citizens proposed transmitter site” and “merely the address of a Post Office Box.”<sup>54</sup> Finally, UICM argues that the Citizens Application “must be dismissed in its entirety” because Citizens has not provided sufficient information to establish that it is a “qualified LPFM ‘local applicant’” with either a headquarters or at least 75% of its board members residing within 10 miles of its proposed transmitter site.<sup>55</sup>

19. In its Opposition, Citizens states that its corporate headquarters is located at the main studio address specified on its application, “5119 Summer Ave,” which is within 10 miles of the proposed antenna.<sup>56</sup> According to Citizens, existing FCC records show that Citizens has been headquartered “at the qualified location for far more than 2 years prior to the LPFM filing window.”<sup>57</sup> Citizens explains that it “mistakenly entered the temporary pandemic post-office box mailing address in several places on the CP [Citizens Application] instead of the long-used 5119 Summer Ave corporate address” and submitted an amendment, and supporting information, to rectify the mistake.<sup>58</sup>

20. Finally, in its Reply, UICM argues that “Citizens’ timely substantiation of its qualifications of a Point for Local Community Presence was lacking at the close of the Filing Window” and its “attempts to, for the first time, provide documentation via an amendment concerning its local community involvement” is “too little, too late.”<sup>59</sup> UICM, therefore, reasserts that Citizens should not have been awarded the established community presence point and “at best, is eligible for time sharing with UICM.”<sup>60</sup>

21. *Discussion.* We find that Citizens did not timely submit sufficient documentation to support its established community presence claim and was improperly awarded one point under this criterion. Specifically, to qualify for the “established community presence” point, a nonprofit educational organization applicant, such as Citizens, must certify that “during the two years prior to the application, (a) it has existed as a nonprofit educational organization, and (b) it has been physically headquartered, has had a campus, or has had 75% of its governing board members residing within 10 miles, for applicants in the top 50 urban markets, or 20 miles, for applicants outside the top 50 urban markets, of the coordinates

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<sup>52</sup> Pleading File No. 0000258115 (filed Nov. 15, 2024) (Petition) at 2. Citizens filed an Opposition to the Petition on December 2, 2024. See Pleading File No. 0000258685 (Opposition). UICM filed a Reply on March 14, 2025. See Pleading File No. 0000267971 (Reply).

<sup>53</sup> Petition at 3.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.* at 4-5.

<sup>56</sup> Opposition at 1.

<sup>57</sup> *Id.* (citing BLL-20150512AAL, BMPL-20150323ABP, and BPL-20161114ABJ).

<sup>58</sup> *Id.* at 2. See also Amended Citizens Application.

<sup>59</sup> Reply at 2-3.

<sup>60</sup> *Id.* UICM also argues that the Citizens Opposition should be rejected because it was not timely filed or properly served. *Id.* at 3 (citing 47 CFR §§ 1.45(b) (providing that oppositions be filed within 10 days after the original pleading is filed); 1.47(d) (requiring documents to be served in paper form)). Citizens filed its Opposition on December 2, 2024, several days after the 10-day deadline, and served UICM by email. Although we remind Citizens of the importance of both timely responses and proper service, we will consider the Opposition in the interest of a complete record.

of the proposed transmitting antenna.”<sup>61</sup> An applicant awarded a point for this criterion must also submit documentation with its application to demonstrate (1) the date of commencement of applicant’s existence, and (2) the location of the applicant’s headquarters, campus, or governing board members’ residences during the two years prior to the application filing.<sup>62</sup> The Bureau cautioned applicants that “no point will be awarded to an applicant that does not timely submit the required documentation.”<sup>63</sup>

22. Although Citizens timely submitted documentation to demonstrate its period of existence as a nonprofit entity,<sup>64</sup> Citizens neglected to provide any evidence with its initial application to verify that it had been local for at least the requisite two years.<sup>65</sup> Citizens’ December 2, 2024, amendment to demonstrate the location of its local headquarters<sup>66</sup> does not cure the initial lack of documentation.<sup>67</sup> The Commission has consistently held that documentation to support comparative point claims, which is submitted after the close of the filing window (here, December 15, 2023), will not be considered.<sup>68</sup> Accordingly, we find that Citizens was improperly designated as the tentative selectee based on the established community presence point. We, therefore, grant the UICM Petition, reduce Citizens’ score to four points, and rescind our sole tentative selection of the Citizens Application. Accordingly, because Citizens and UICM are each now tied and credited with a total of four points, we identify Citizens and UICM as the new tentative selectees of LPFM MX Group 86 and direct the applicants to submit, within 90 days of the release of this Order, a voluntary time-sharing proposal in accordance with section 73.872(c) of the Rules.<sup>69</sup>

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<sup>61</sup> *Procedures Public Notice*, 38 FCC Rcd at 6667-8; *see also* 47 CFR §§ 73.853(b)(1), (2); 73.872(b)(1). The 10 mile standard applies here because Memphis, Tennessee is in the top 50 radio markets. *See* The Nielsen Company (US) LLC, Radio Market Survey Population & Information, Spring 2024, at 2-3 (2024) [https://www.nielsen.com/wp-content/uploads/sites/2/2024/04/Populations\\_Rankings.pdf](https://www.nielsen.com/wp-content/uploads/sites/2/2024/04/Populations_Rankings.pdf).

<sup>62</sup> *See* 47 CFR § 73.872(b) (providing that mutually exclusive applications submit “required documentation” for each point to be awarded); *Procedures Public Notice*, 38 FCC Rcd at 6668.

<sup>63</sup> *Procedures Public Notice*, 38 FCC Rcd at 6668.

<sup>64</sup> *See* Citizens Application at “CAUFP\_ARTICLES\_OF\_INCORPORATION.pdf” (showing that Citizens was incorporated in the State of Tennessee on October 22, 2008).

<sup>65</sup> The December 2023, LPFM filing window closed on December 15, 2023. *See supra* note 4.

<sup>66</sup> Amended Citizens Application at “Address Correction Narrative.pdf”.

<sup>67</sup> We do, however, consider the December 2, 2024, amendment to establish that Citizens has a headquarters address at “5119 Summer Ave,” within 10 miles of the proposed site of its transmitting antenna, and therefore, qualifies as a “local” entity eligible for a LPFM station. Although our rules prohibit the consideration of documentation to support a claimed comparative point if it is submitted in a post-window amendment (*see* 47 CFR § 73.871(b)), our rules do not prohibit the consideration of post-window amendments to support an applicant’s general claim that it qualifies as a local nonprofit entity eligible for a LPFM station. *See* 47 CFR §§ 73.853(b); 73.871(c)(5) (permitting minor LPFM amendments for “changes in general and/or legal information”); *Creation of Low Power Radio Service*, Second Report and Order, 16 FCC Rcd 8026, 8029, para. 7 (2001) (explaining that the Commission “will not restrict the scope of [non-technical LPFM amendments] with two exceptions”: amendments that improve an applicant’s comparative position and amendments that reflect a more than 50% change in the organization’s ownership); *see also, e.g., Big Rapids Wireless Inc.*, Letter Order, DA 24-794 (MB Aug. 12, 2024) (considering post-window amendment to support applicant’s eligibility claim).

<sup>68</sup> *See, e.g., Procedures Public Notice*, 38 FCC Rcd at 6670 (“Commission will not consider documentation to support a claimed comparative point if it is submitted in an amendment after the Application Deadline.”); 47 CFR § 73.871(b) (“Amendments that would improve the comparative position of new and major change applications will not be accepted after the close of the pertinent filing window.”); *WTL Communications*, Memorandum Opinion and Order, 23 FCC Rcd 2475 (2008) (denying established community presence point to applicant that submitted documentation verifying its local headquarters in an amendment after the filing deadline).

<sup>69</sup> *See* 47 CFR § 73.872(c).



#### IV. NEXT STEPS

23. *Acceptability Studies and Filing of Petitions – LPFM MX Groups 60 and 86.* Once the Commission identifies a tentative selectee pursuant to the point system, the next step is to consider whether the selectee's application has defects.<sup>70</sup> The Commission has studied the application of each new tentative selectee identified in LPFM MX Groups 60 and 86 for application defects. Each tentative selectee appears to be fully qualified to become the licensee of the new LPFM 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 new tentative selectees are accepted for filing. This triggers a 30-day period for the filing of petitions to deny.<sup>71</sup>

24. Any argument that a tentatively selected application in LPFM MX Group 60 or 86 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 and tentative selectee determinations do not constitute "final" actions, and petitions for reconsideration do not lie against such interlocutory decisions.<sup>72</sup>

25. *Forthcoming Staff Action—LPFM MX Groups 60 and 86.* We direct the Bureau staff, once the petition to deny period has run, to conduct a final study of the tentatively selected applications in LPFM MX Groups 60 and 86 in accordance with its routine processing procedures. In the case of tied applications, the final study will not be conducted until the tie has been eliminated through amendment, settlement, and/or time-share 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 each 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 each application would be consistent with the public interest, convenience, and necessity, it shall make the grant on the basis of the point system determination made herein, dismiss all competing applications, deny any petition to deny, and issue a concise statement of the reasons for denying such petition and disposing of all substantial issues raised by the petition.<sup>73</sup>

26. 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 each

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<sup>70</sup> 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 point system analysis. A tentative selectee that is unable to cure the defect is disqualified. See 47 CFR § 73.870(d); *Procedures Public Notice*, 38 FCC Rcd at 6671 (citing *Commission States Future Policy on Incomplete and Patently Defective AM and FM Construction Permit Applications*, Public Notice, 56 RR 2d 776 (1984)).

<sup>71</sup> See 47 CFR § 73.870(d); *Procedures Public Notice*, 38 FCC Rcd at 6671.

<sup>72</sup> An interlocutory action is non-final, one that neither denies nor dismisses an application nor terminates an applicant's right to participate in the proceeding. See 47 CFR § 1.106 (a)(1) (stating that petitions for reconsideration of interlocutory actions will not be entertained). See *NCE Order on Reconsideration*, 35 FCC Rcd at 10183-84, para. 13 ("A tentative selection is not final until the entire administrative process of resolving petitions to deny, and any subsequent pleadings, is complete"). See also *American Family Assoc., Inc.*, Letter Order, 22 FCC Rcd 11165 (MB 2007); *Harry F. Cole, Esq.*, Letter Order, 27 FCC Rcd 9295 (MB 2012).

<sup>73</sup> 47 U.S.C. § 309(d).

applicant is eligible, as certified, for the points awarded herein, and whether the application complies with all relevant Commission rules and policies.<sup>74</sup> 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.<sup>75</sup> 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 MX group, or where a new or novel question or substantial and material question of fact otherwise exists.<sup>76</sup> 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.

27. *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.<sup>77</sup>

## V. ORDERING CLAUSES

28. 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.<sup>78</sup> 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.

29. **LPFM MX Group 39.** Accordingly, **IT IS ORDERED**, that the Informal Objection, filed on October 23, 2024, by REC Networks (Pleading File No. 0000256139) **IS GRANTED**. **IT IS FURTHER ORDERED** that the tentative selection of the application of CPC of the WMM USA-Des Moines, IA-One Inc. (Application File No. 0000232764) for a construction permit for a new LPFM station in Des Moines, Iowa, **IS RESCINDED** and the application **IS DISMISSED**.

30. **IT IS FURTHER ORDERED**, that the application filed by Climate March (Application File No. 0000233088) for a construction permit for a new LPFM station in Des Moines, Iowa, **IS GRANTED**.

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<sup>74</sup> See 47 CFR § 0.61 (setting forth functions that the Bureau may perform under delegated authority); *Central Florida Educational Foundation, Inc.*, Letter Order, 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).

<sup>75</sup> See 47 CFR § 0.283(c).

<sup>76</sup> See generally *Comparative Consideration of 76 Groups of Mutually Exclusive Applications for Permits to Construct New or Modified Noncommercial Education FM Stations*, Memorandum Opinion and Order, 22 FCC Rcd 6101, 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."), *rescinded in part on other grounds by Indiana Community Radio Corp.*, 23 FCC Rcd 10963 (MB 2008).

<sup>77</sup> See 47 CFR § 1.103(b).

<sup>78</sup> 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 73.870. 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).

31. **LPFM MX Group 60.** Accordingly, **IT IS ORDERED**, that the request to withdraw the Petitions to Deny and Supplement, filed on November 3, 2024, by Tom De Ville, (Pleading File No. 0000256586) **IS GRANTED**, and the Petitions to Deny and Supplement, filed on April 10, 2024, October 25, 2024, and October 28, 2024, by Tom De Ville, (Pleading File Nos. 0000243375, 0000256290, and 0000256364), **ARE DISMISSED**.

32. **IT IS FURTHER ORDERED**, that the Informal Objection, filed on November 4, 2024, by REC Networks, (Pleading File No. 0000256594), **IS GRANTED**.

33. **IT IS FURTHER ORDERED**, that the sole tentative selection of the application of Transmission Communications Network A Nonprofit Corp (Application File No. 0000232380), for a construction permit for a new LPFM station in Atlantic City, New Jersey, **IS RESCINDED**.

34. **IT IS FURTHER ORDERED**, that the Applications filed by Transmission Communications Network A Nonprofit Corp (Application File No. 0000232380), Yoelkie Media Foundation A NJ Nonprofit Corporation (Application File No. 0000232896), and Chinese Church of Atlantic City (Application File No. 0000232973), are **TENTATIVELY SELECTED** to be awarded construction permits on a **TIME-SHARING BASIS** for new LPFM stations in Atlantic City, New Jersey, and the applications **ARE ACCEPTED FOR FILING**, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. **IT IS FURTHER 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 73.872(c) of the Commission's rules, 47 CFR § 73.872(c). 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 whether the tentative selectees' applications can be granted, and it is determined that such grant 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 Transmission Communications Network A Nonprofit Corp (Application File No. 0000232380), Yoelkie Media Foundation A NJ Nonprofit Corporation (Application File No. 0000232896), and Chinese Church of Atlantic City (Application File No. 0000232973). If the tentative selectees are unable to reach a voluntary time-sharing agreement within the 90-day period, we direct the Media Bureau to assign involuntary time-sharing arrangements and, **TO GRANT** the applications of Transmission Communications Network A Nonprofit Corp (Application File No. 0000232380), Yoelkie Media Foundation A NJ Nonprofit Corporation (Application File No. 0000232896), and Chinese Church of Atlantic City (Application File No. 0000232973) in accordance with section 73.872(d) of the Commission's rules, 47 CFR § 73.872(d).

35. **LPFM MX GROUP 86.** Accordingly, **IT IS ORDERED**, that the Petition to Deny, filed on November 15, 2024, by Universidad Internacional Cristiana de Ministerios, (Pleading File No. 0000258115), **IS GRANTED**.

36. **IT IS FURTHER ORDERED**, that the sole tentative selection of the application of Citizens Against Unfair Financial Practices (Application File No. 0000232370), for a construction permit for a new LPFM station in Memphis, Tennessee, **IS RESCINDED**.

37. **IT IS FURTHER ORDERED**, that the Applications filed by Universidad Internacional Cristiana de Ministerios (Application File No. 0000232577) and Citizens Against Unfair Financial Practices (Application File No. 0000232370), are **TENTATIVELY SELECTED** to be awarded construction permits on a **TIME-SHARING BASIS** for new LPFM stations in Bartlett, Tennessee, and Memphis, Tennessee, and the applications **ARE ACCEPTED FOR FILING**, establishing a deadline thirty (30) days hereafter for the filing of petitions to deny. **IT IS FURTHER 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 73.872(c) of the Commission's rules, 47 CFR § 73.872(c). 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 whether the tentative selectees' applications can be granted, and it is determined that such grant 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 Universidad Internacional Cristiana de Ministerios (Application File No. 0000232577) and Citizens Against Unfair Financial Practices (Application File No. 0000232370). If the tentative selectees are unable to reach a voluntary time-sharing agreement within the 90-day period, we direct the Media Bureau to assign involuntary time-sharing arrangements and, **TO GRANT** the applications of Universidad Internacional Cristiana de Ministerios (Application File No. 0000232577) and Citizens Against Unfair Financial Practices (Application File No. 0000232370) in accordance with section 73.872(d) of the Commission's rules, 47 CFR § 73.872(d).

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary