



Federal Communications Commission
Washington, D.C. 20554

July 12, 2005

DA 05-1970
In Reply Refer to:
1800B3-CNZ

Minn-Iowa Christian Broadcasting, Inc.
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In Re: NEW (NCE FM), Lanesboro, MN
Facility ID No. 90779
BPED-19980520MB
Application for NCE FM Construction Permit

NEW (NCE FM), Lake Mills, IA
Facility ID No. 92705
BPED-19990202MB
Application for NCE FM Construction Permit

NCE Station KBDC(FM), Mason City, IA
Facility ID No. 87941
BMPED-19981230ME
Application to Make Major Change

Group No. 981208

Dear Applicants:

We have before us Group 981208 – three mutually exclusive applications for noncommercial educational (“NCE”) FM stations serving different communities.¹ In such situations, the rules require the Commission to make a threshold determination as to whether grant of any of the applications would further the fair, efficient, and equitable distribution of radio service among communities.² For the reasons below, we determine that American Family Association, Inc. (“AFA”) is entitled to a decisive Section 307(b) preference.

¹ In this instance, one of the applications is for a permit to construct a new NCE FM station at Lake Mills, Iowa, one of the applications is for a permit to construct a new NCE FM station at Lanesboro, Minnesota, and the other is an application to make major changes to NCE Station KBDC(FM), Mason City, Iowa.

² See 47 U.S.C. § 307(b); 47 C.F.R. § 73.7002(a).

An NCE FM applicant is eligible to receive a Section 307(b) preference if it would provide a first or second reserved channel NCE aural service (in the aggregate) to at least ten percent of the population, provided that this constitutes at least 2,000 people, within the proposed station's 60 dBu contour.³ If more than one applicant in a mutually exclusive group qualifies for a preference, we compare first service population coverage totals.⁴ An applicant will receive a dispositive fair distribution preference by proposing to serve at least 5,000 more potential listeners than the next highest applicant's first service total.⁵ If no applicant is entitled to a first service preference, we will consider combined first and second service population totals and apply the same 5,000 listener threshold.

In the present group, NCE Station KBDC(FM) licensed to AFA would serve Mason City, Iowa, Minn-Iowa Christian Broadcasting, Inc. ("Minn-Iowa") would serve Lake Mills, Iowa, and Bluff Country Community Radio, Inc. would serve Lanesboro, Minnesota. AFA proposes to make major modifications to existing station KBDC(FM). Accordingly, we consider only KBDC(FM)'s area of newly added service in our 307(b) analysis.⁶ Only AFA and Minn-Iowa claim that they would provide a new first or second NCE service to 10 percent of the population, and to at least 2,000 people, within their respective service areas, and therefore, that they are eligible for a fair distribution preference.⁷ Both AFA and Minn-Iowa assert that they are entitled to a first service preference.⁸ Based on the applicants' submissions and calculations, it appears that AFA qualifies for a comparative preference, because it would provide a new first service to at least 5,000 more persons than Minn-Iowa. Accordingly, pursuant to Section 73.7004 of the Commission's rules, we identify AFA as the tentative selectee. Group 981208 thus will not proceed to a point hearing.⁹

³ See 47 C.F.R. § 73.7002(b). With respect to population information, applicants were to use the 2000 Census data, if available by June 4, 2001. See "Supplements and Settlements to Pending Closed Groups of Noncommercial Educational Broadcast Applications Due by June 4, 2001," *Public Notice*, 16 FCC Rcd 6893 (MB Mar. 22, 2001). Applicants were also to base their "fair distribution" analysis on the "snap shot" date of June 4, 2001, which is applicable unless the applicant subsequently makes engineering changes that would diminish its comparative position. *Id.* In this case, none of the applicants has made such engineering changes. In addition, each applicant timely supplemented its application with a Section 307(b) showing; each purports to be based on 2000 Census data and a "snap shot" date of June 4, 2001.

⁴ See 47 C.F.R. § 73.7002(b). See also "Deadline for NCE Settlements and Supplements Extended to July 19, 2001; Date for Calculating Comparative Qualifications Remains June 4, 2001," *Public Notice*, 16 FCC Rcd 10892, 10893 (MB May 24, 2001).

⁵ *Id.*

⁶ See *Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, 16 FCC Rcd 5074, 5094 (2001).

⁷ The newly added area within AFA's 60 dBu contour encompasses 158,154 people. AFA's claimed aggregated first and second service within the area of newly added service is 89,636 people. Minn-Iowa's 60 dBu contour encompasses 63,736 people. Minn-Iowa's claimed aggregated first and second service is 55,479 people.

⁸ AFA claims to provide 58,140 people with new first service within the area of newly added service. Minn-Iowa claims to provide 45,466 people with new first service.

⁹ See 47 C.F.R. § 73.7002(b). The Media Bureau has delegated authority to make 307(b) determinations in NCE cases. See *Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, 15 FCC Rcd 7386 (2000), partially reversed on other grounds, *NPR v. FCC*, 254 F.3d 226 (DC Cir. 2001) ("NCE Order"). See also 47 C.F.R. § 0.283. In the *NCE Order*, the Commission concluded that "[i]n examining the fair distribution issues, we will use the general process set forth in the Section of our Competitive Bidding proceeding that addressed Section 307(b) considerations for AM stations." See *NCE Order*, 15 FCC Rcd at 7397 (citing *Comparative Bidding for Commercial Broadcasting and Instructional Television Fixed Services*, 13 FCC Rcd 15920 (1998) (delegating authority to the staff to conduct Section 307(b) analyses with respect to AM applications prior to conducting

Accordingly, it is ordered that American Family Association, Inc. is TENTATIVELY SELECTED to be awarded a construction permit (File No. BMPED-19981230ME) to make major modifications to NCE FM Station KBDC(FM), Mason City, Iowa. Petitions to deny the tentative selectee are due within thirty (30) days following the issuance of a subsequently issued public notice announcing the tentative selection of this application.¹⁰

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

auctions of competing applications)). In contrast, the *NCE Order* noted that the point system analysis conducted when Section 307(b) is not determinative is considered a simplified “hearing” for purposes of 47 U.S.C. § 155(c)(1). See *NCE Order*, 15 FCC Rcd at 7420.

¹⁰ See 47 C.F.R. § 73.7004. If any applicant previously raised issues against the tentative selectee, it must refile its objections within this thirty (30) day period.