

TRIPPLICATE

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FILED/ACCEPTED
JUL 31 2008
Federal Communications Commission
Office of the Secretary

In re Application of)
UCB USA, Inc.) File No. BNPED-20071018AON
For a Construction Permit for a) Facility ID No. 172931
New Noncommercial Educational)
FM Station at Brookings, Oregon)

TO: The Secretary
ATTN: Chief, Audio Division
Media Bureau

PETITION FOR RECONSIDERATION

Totally Jesus Network, Inc. ("TJN"), by counsel and pursuant to §73.106 of the Commission's rules, hereby petitions the Commission to reconsider the June 26, 2008 Letter Decision from the Assistant Chief of the Audio Division of the Media Bureau wherein the above-identified application of UCB USA, Inc. ("UCB") was granted and TJN's December 14, 2007 Petition to Deny that application was denied.¹

The basis for TJN's Petition to Deny was that TJN has submitted an application that is mutually exclusive with UCB's application and no comparative evaluation of the two applications has been conducted by the Commission. TJN acknowledges that its application was not filed within the NCE FM filing window that closed on October 22, 2007. The application was submitted on October 31, 2007 with a Petition for Waiver and Acceptance of Application.

¹ Public notice of the grant of UCB's application was published in *Broadcast Actions*, Report No. 46769, released July 1, 2008.

That Petition has not been acted upon by the Commission and remains pending. The Letter Decision acknowledged the pendency of TJN's Petition, but then ignored it and failed to address it on the merits.

In its Petition to Deny UCB's application, TJN asked the Commission to withhold action on UCB's application until it has acted on TJN's Petition for Waiver. Considering and acting upon TJN's Petition first would be the most practical and efficient approach to the situation at hand, both for the Commission and for the parties. Granting UCB's application and awarding it a construction permit that may be subject to recall if TJN's application were eventually accepted and granted is an unnecessary source of uncertainty and confusion. Building a station that is subject to the outcome of another mutually exclusive application is not a desirable scenario for any applicant and should not be required by the Commission. The FCC should rule on TJN's Petition for Waiver immediately. If that Petition is granted, the two applications can be evaluated under the Commission's NCE comparative selection procedures. If TJN's Petition and/or application is ultimately denied, then the prevailing applicant will have a construction permit free of contingencies. The public interest and equity for the parties demand this approach.

Respectfully submitted,

TOTALLY JESUS NETWORK, INC.

By: 
Donald E. Martin

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Its Attorney

July 31, 2008

CERTIFICATE OF SERVICE

I, Donald E. Martin, hereby certify this 31st day of July, 2008, that I have caused a copy of the foregoing document to be served by United States first class mail upon the following:

Ellen Mandell Edmundson, Esquire
Cohn & Marks
Suite 300
1920 N Street, N.W.
Washington, D.C. 20036
Counsel for UCB USA, Inc.

A handwritten signature in black ink, appearing to read "Donald E. Martin", written over a horizontal line.

Donald E. Martin