

Exhibit Regarding Point System Factors and Tie Breakers

This Exhibit together with its attachments serves as a comprehensive exhibit discussing the merits of the Point System Factors and Tie Breakers implicated by the proposal of WUNC Public Radio, LLC (the “Applicant”) to operate a full-power non-commercial educational FM radio station with a community of license of Laurinburg, North Carolina.

I. Background

The Applicant’s application proposes construction and operation of a full-power non-commercial educational FM radio station with a community of license of Laurinburg, North Carolina.

The Applicant operates a public educational radio network consisting of: a main production facility at WUNC(FM), Chapel Hill, North Carolina; six additional full-power radio stations; and three FM translator stations. WUNC,⁵ WUND-FM, WRQM, WFSS,⁶ and WUNW-FM comprise the North Carolina Public Radio Network (“NC PRN”), whose educational public affairs, news, music, and arts programming originates from the WUNC studios in Chapel Hill and Durham. WURI⁷ and WBUX are also part of the Applicant’s network, and they currently provide a classical music programming service in the eastern region of North Carolina.

The Applicant, through the operation of its stations, brings thousands of hours of local, state, and national public radio broadcast programming—including educational and curriculum-related programming—to the State every year, and, through the instant application, seeks to further its educational mission by expanding its ability to provide such programming to the citizens of North Carolina.

II. The Applicant Qualifies as An Established Local Applicant

For purposes of this application and the comparative points system, the Applicant—through its sole member—falls under the criteria for a governmental entity with jurisdiction throughout the State of North Carolina and, therefore, meets the definition of an “established local applicant” as set forth in Rule Sections 73.7000 and 73.7003(b)(1). Consequently, the Applicant qualifies for three points for the proposed facility in Laurinburg, North Carolina. The Commission has recognized that “[g]overnments [are] local throughout the area within which their authority extends. For example, the New York State government would be considered local throughout New York State, including New York City” *Reexamination of the Comparative*

⁵ WUNC is also rebroadcast by Applicant’s FM Translator W260CU.

⁶ WFSS is also rebroadcast by Applicant’s FM Translator W231AB.

⁷ WURI is also rebroadcast by Applicant’s FM Translator W216BE.

Standards for Noncommercial Educational Applicants, Report and Order, 15 FCC Rcd 7386, 7409, ¶ 54 (2000).

The Board of Trustees of the University of North Carolina at Chapel Hill (the “UNC-CH Board”) is the Applicant’s sole member and appoints seven of the nine LLC board members (the remaining two board members serve in an *ex officio* capacity), and therefore exerts actual and ultimate control over the WUNC family of stations.⁸ Indeed, until 2015 the UNC-CH Board itself was the licensee of the WUNC family of stations, at which time the Applicant was formed for administrative purposes “including holding the FCC licenses” of the WUNC family of stations, as authorized pursuant to pro forma FCC assignment application CDBS File No. BALED-20150611AAY (Exhibit 2 noting that “UNC-CH, though its Board of Trustees . . . will maintain ultimate control over the stations”); First Amended and Restated Operating Agreement of WUNC Public Radio, LLC, at 2 (Third Recital) (Attachment 2 to Exhibit Regarding Eligibility Certifications).⁹ Indeed, the Applicant’s governing documents contemplate this precise circumstance, by requiring the Applicant to “maintain[] pursuant to Section 73.7003(b)(1)” the qualifications “for points as an ‘established local applicant’ with respect to any particular community” First Amended and Restated Operating Agreement of WUNC Public Radio, LLC § 10.8(a) (Attachment 2 to Exhibit Regarding Eligibility Certifications); *see also id.* at § 1.7(a) (Applicant’s purpose is “furthering the University’s efforts to extend knowledge-based and educational services to the citizens of North Carolina and to enhance the quality of life for the people of the State”).

The UNC-CH Board administers and oversees The University of North Carolina at Chapel Hill, which is a public university established by the North Carolina Constitution and the North Carolina General Statutes. *See* N.C. Const. art. 9, §§ 8-9; N.C. Gen. Stat. §§ 116-1, *et seq.* By law, the UNC-CH Board is required to “promote the sound development of the institution within the functions prescribed for it, helping it to serve the State in a way that will complement the activities of the other institutions [in the University of North Carolina system OR of the State government] and aiding it to perform at a high level of excellence in every area of endeavor.” N.C. Gen. Stat. § 116-33. By statute, the UNC-CH Board,

is dedicated to the service of North Carolina and its people. . . . Th[e] mission is to discover, create, transmit, and apply knowledge to address the needs of individuals and society. This mission is accomplished through . . . creative activities, which advance knowledge and enhance the educational process; and

⁸ As to the seven appointed LLC board members, the UNC-CH Board has the right to remove such members at any time, with or without cause. *See* First Amended and Restated Operating Agreement of WUNC Public Radio, LLC § 3.2(b)(iv) (Attachment 2 to Exhibit Regarding Eligibility Certifications).

⁹ The Applicant has certified May 8, 2015—the date of the Applicant’s organization—as the date on which the applicant qualified as local. Of course, the Board as sole member first qualified as local centuries ago, when the University of North Carolina was first chartered in 1789. *See* University of North Carolina Board of Trustees, *Board of Trustees of the University of North Carolina Records, 1789-1932* (last visited Nov. 5, 2021), <https://finding-aids.lib.unc.edu/40001/#:~:text=The%20Board%20of%20Trustees%2C%20elected,North%20Carolina%20system%20was%20created.>

through public service, which contributes to the solution of societal problems and enriches the quality of life in the State.

N.C. Gen. Stat. § 116-1.

The University of North Carolina’s Mission Statement, in relevant part, commits to deploying the University’s knowledge-based services and resources throughout the entire state—“to the citizens of North Carolina and their institutions to enhance the quality of life for all people in the State.” See Mission Statement, available at www.unc.edu/about/mission/. Fundamentally, these responsibilities provide statewide jurisdiction to administer and oversee the affairs of The University of North Carolina at Chapel Hill and contribute to the education of citizens throughout North Carolina.

In furtherance of the foregoing mission and pursuant to the statutory mandate, the UNC-CH Board, through the LLC, operates the Applicant’s public, non-commercial educational radio network in central and eastern North Carolina and oversees, operates, and administers myriad other educational programs throughout the State of North Carolina. An illustrative list of such programs is included as Attachment 1 to this exhibit. The UNC-CH Board’s operation, administration, and oversight of such programs further illustrate statewide jurisdiction, which in turn extends to the Applicant.¹⁰

Accordingly, the Applicant is an established local applicant throughout the State of North Carolina and qualifies for three points for its proposal at Laurinburg, North Carolina.

III.

The Applicant Qualifies for Diversity of Ownership

As demonstrated in the technical attachment—Attachment 2—accompanying this Exhibit, the principal community contour of the proposed facilities does not overlap the principal community contour of any other authorized full-service radio or non-fill-in FM translator station in which any party to the application has an attributable interest. Accordingly, the Applicant qualifies for two points for its proposal at Laurinburg, North Carolina.

¹⁰ As the Commission has previously explained regarding mutual exclusivity in the Instructional Television Fixed Service (“ITFS”) context, “[e]ntities created by a state or local government for the purpose of serving formal educational needs will be considered ‘local’ throughout the area within the government’s jurisdiction over which its authority is intended to extend.” *In re Amend. of Part 74 of the Commission’s Rules & Regs. in re the Instructional Television Fixed Serv.*, Second Report and Order, 101 F.C.C.2d 49, ¶ 22 (1985). In adopting the NCE mutual exclusivity rules the FCC, in turn, relied on those ITFS definitions: “We will base the definition of local on the standards used in ITFS, as modified in response to commenter suggestions.” *In re Reexamination of the Compar. Standards for Noncommercial Educ. Applicants*, Report and Order, 15 FCC Rcd 7386, 7409 (2000).

IV. Tie Breakers

The Applicant submits the following information in response to the Tie Breaker certifications:

Existing Authorizations: The Applicant and the other parties to the application collectively, as of the date of this filing, have attributable interests in 19 other full-service radio and non-fill-in FM translator stations, as set out fully in the “Other Authorizations” Exhibit accompanying this application.

Pending Applications: Other than the application which this Exhibit accompanies and the Applicant’s contemporaneously filed application for a noncommercial educational station construction permit for a facility to serve Rockingham, North Carolina, to the Applicant’s knowledge, neither the Applicant nor any of the other parties to the application, as of the date of this filing, has an attributable interest in any other pending applications for new or major changes to full-service radio and non-fill-in FM translator stations.¹¹

Prior NCE Applications: The Applicant’s sole member¹² applied for an NCE construction permit in a prior filing window, had its application accepted for filing and processed, but subsequently dismissed in favor of another applicant due to a fair distribution preference (i.e., not because of an MX applicant with superior points or a tie-breaker preference). *See Comparative Consideration of 59 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 1681, 1714 (2010) (addressing proposed facility in Smithfield, N.C.). The Applicant’s sole member has been in continuous existence from the date of the previous filing window until the date of this application, and—and as cataloged in various parts of this application—the Applicant holds other NCE licenses.

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¹¹ In the event any party to this application files during the same window in which this application is being submitted, the Applicant will amend this application to account for such filing(s).

¹² As noted above, the Board of Trustees of the University of North Carolina at Chapel Hill (the “UNC-CH Board”) is the applicant’s sole member, and therefore exerts actual and ultimate control over the WUNC family of stations. Until 2015 the UNC-CH Board itself was the licensee of the WUNC family of stations, at which time the Applicant became the licensee for administrative purposes and pursuant to a pro forma assignment. *See* CDBS File No. BALED-20150611AAY.

**Attachment 1 to Exhibit Regarding
Point System Factors and Tie Breaker**

**Sample Statewide Programs Administered
By The Board of Trustees of The University of North
Carolina at Chapel Hill**

NC Growth works to create hundreds of jobs and equitable opportunities through applied research and technical assistance and throughout North Carolina and in parts of South Carolina. NC Growth has performed significant work at UNC-Pembroke, located in Robeson County and near Laurinburg.

NC Policy Collaboratory was established by the North Carolina General Assembly at the University of North Carolina at Chapel Hill to facilitate the dissemination of the policy and research expertise of the University of North Carolina System and other institutions of higher learning across the State for practical use by state and local government. Most recently, the Collaboratory has undertaken a significant COVID-19 research portfolio with more than 90 projects supported with \$29 million in funding from the North Carolina General Assembly.

The Carolina College Advising Corps helps low-income, first-generation, and underrepresented students find their way to colleges that will serve them well. Over the past approximately 14 years, the Corps has grown from 4 advisers serving 8 schools to 62 advisers serving more than 80 high schools in 34 counties across the state of North Carolina.

TEACCH Autism Program serves individuals with autism spectrum disorder (“ASD”) and their families through seven regional centers collectively serving the entirety of the state of North Carolina. TEEACH provides tailored clinical services, multiple employment services, and training and consultation to professionals working with individuals with ASD, as well as conducting research on community dissemination and implementation of the intervention and professional development programs dedicated to improving the quality of life for individuals with ASD.

ncIMPACT Initiative operates statewide, providing data and analysis to help local communities use those data and analyses to improve conditions and inform decisionmaking on critical issues they face, including the economy, health & community wellbeing, workforce education, environment, and criminal justice.

The William and Ida Friday Center for Continuing Education is home to most of Carolina’s continuing, online and distance education programs, including courses taught at correctional institutions and a nursing refresher program, for the latter of which tuition and fees were waived in 2020 in an effort to help combat the COVID-19 outbreak.

N.C. Area Health Education Centers in nine regional offices providing and supporting educational activities and services with a focus on primary care in rural communities and those with less access to resources to recruit, train, and retain the workforce needed to create a healthy North Carolina. Currently, N.C. AHEC serves 6,000 providers and 1,400 practices; serves 3,673 pre-college students annually; trains more than 215,000 total participants annually; and maintains 19 resident programs across North Carolina.

Carolina Geriatric Workforce Enhancement Program (“CGWEP”) brings education and training in geriatric care to nurses in rural or underserved areas and throughout the state of North Carolina with a goal of integrating geriatrics into primary care and expanding interprofessional

education in geriatrics. Since 2010 continuing Geriatrics education through the CGWEP and its predecessor, the Carolina Geriatric Education Center, has trained over 58,000 health professionals from all levels in medicine, nursing, pharmacy, social work, public health, dentistry, allied health, and health administration.

Innovate Carolina focuses on generating innovation and entrepreneurship to create jobs and opportunity through the state of North Carolina. As of July 2021, there were: 446 UNC startups headquartered in N.C. across 29 counties; 12,767 people in N.C. employed by UNC startups; and 89,579 employees globally.

Carolina Center for Public Service coordinates campus outreach and service activities across the state, including: managing a disaster relief fund to support hurricane recovery efforts in North Carolina; administering the Buckley Public Service Scholars program, through which 10,492 students have contributed 2.2 million hours of service addressing a multitude of issues ranging from disaster relief and recovery to access to healthy food and nutritional education in N.C.; and administering the APPLES Service-Learning program, through which 34,387 undergraduate students have taken 1,372 service-learning courses and committed more than 1.3 million hours to service-learning—i.e., engaging and partnering with community organizations through service opportunities identified by local community organizations to give back across the state.

School of Law Pro Bono Program matches law students with practicing attorneys across the state to work on cases that the attorneys have taken for free or on reduced rates, providing clients with high quality, low cost legal representation.

Center for Child and Family Health provides a full range of medical, mental health, legal and family support services for abused and neglected children from across the state, including direct services reaching more than 2,000 children and families per year.

WUNC Public Radio has over 60 staff members and operates a ten-station radio network serving more than 300,000 weekly listeners from Greensboro/High Point/Winston-Salem to the Outer Banks.

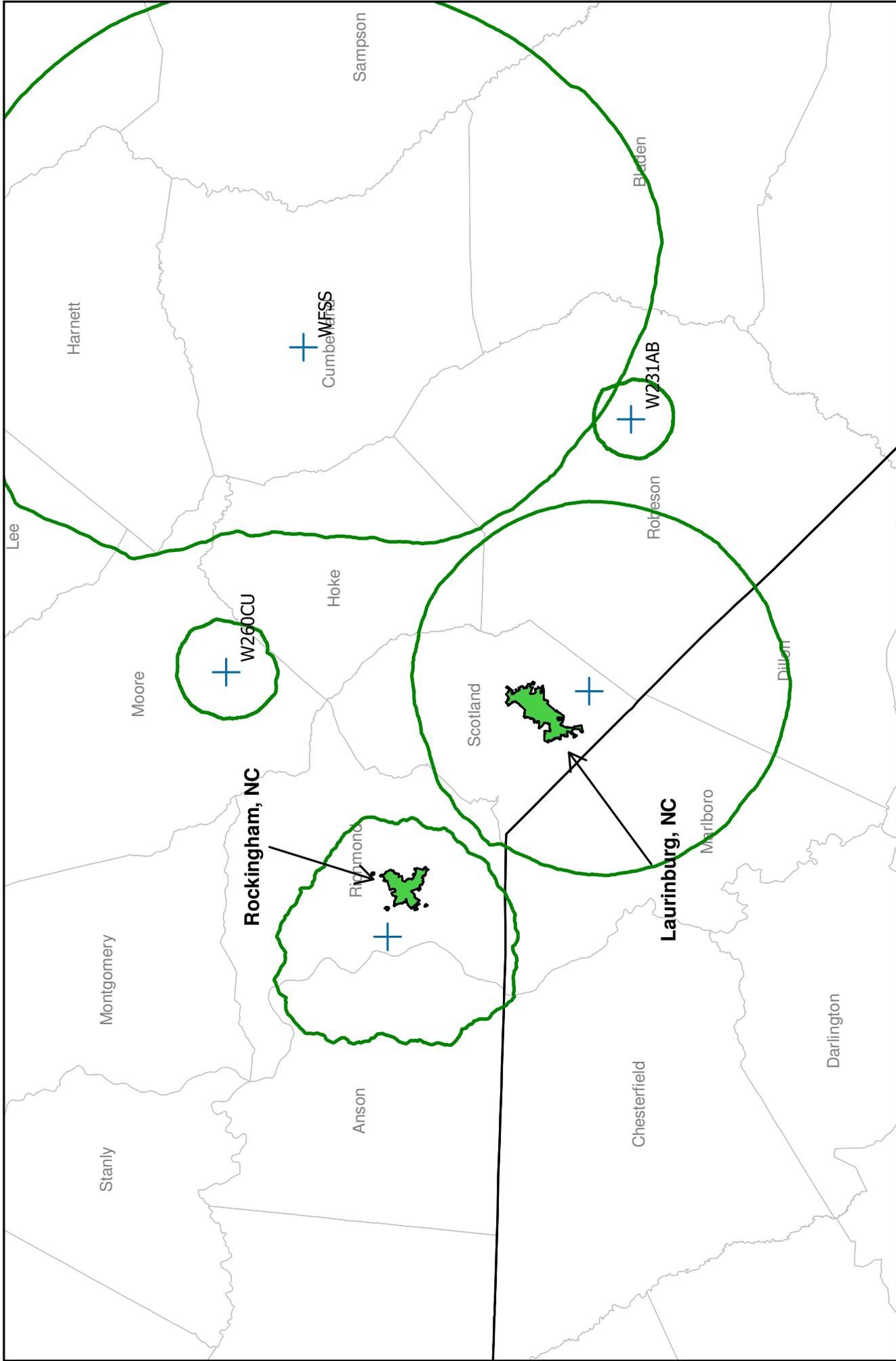
The Center for Media Law and Policy is an interdisciplinary research center run jointly out of the University of North Carolina's School of Law and School of Journalism and Mass Communications with missions of providing a forum for study and debate about the critical media law and policy issues facing North Carolina and the nation and having an impact on these issues by supporting the development of legal and policy initiatives that help the traditional and new media meet the information needs of all Americans.

The DESTINY Program for over a decade would take buses, fully equipped as science laboratories, to schools across the state, serving nearly 2,000 school teachers in North Carolina and delivering science education experiences to nearly 265,000 students in schools across the state.

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**Attachment 2 to Exhibit Regarding
Point System Factors and Tie Breaker**

Technical Demonstration of Diversity of Ownership



Diversity of Ownership Study
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