

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

In the Matter of)	
)	
Threshold Fair Distribution Analysis of 19 Groups of Mutually Exclusive Applications for Permits to Construct New Noncommercial Educational FM Stations)	NCE FM 2021 Window, MX Group Numbers 22, 25, 36, 37, 46, 48, 56, 62, 77, 99, 127, 129, 171, 177, 182, 183, 213, 214, and 216
)	

MEMORANDUM OPINION AND ORDER

Adopted: March 24, 2022

Released: March 24, 2022

By the Chief, Audio Division, Media Bureau

I. BACKGROUND

1. The Media Bureau (Bureau) has before it for comparative consideration 19 groups of mutually exclusive (MX) applications for new noncommercial educational (NCE) FM station construction permits.¹ By this Memorandum Opinion and Order (Order), the Bureau performs threshold fair distribution of service analyses and identifies the tentative selectee 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

2. The groups addressed in this Order consist of applications that were filed in November 2021, during the filing window for new NCE FM applications.³ These applicants have had an opportunity to settle among themselves,⁴ and are now subject to a simplified, comparative process codified in Part 73, Subpart K, of the Commission's rules.⁵ During the first step of this process, the Bureau, acting pursuant to delegated authority,⁶ uses service area population data, Tribal Priority criteria, and certifications

¹ On November 29, 2021, the 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 on the *NCE MX Public Notice*. The Bureau continues to analyze and process the remaining NCE MX groups and will release additional Orders, identifying the tentative selectees, as soon as the analyses are complete.

² *See* 47 CFR § 73.7004(b).

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.

⁵ 47 CFR §§ 73.7000 – 7005.

⁶ *See Comparative Consideration of 76 Groups of Mutually Exclusive Applications*, Memorandum Opinion and Order, 22 FCC Rcd 6101, n.16 (2007). *See also* 47 CFR §§ 0.61 and 0.283.

provided by the applicants to perform a threshold fair distribution analysis.

II. THRESHOLD FAIR DISTRIBUTION OF SERVICE PROCEDURES

3. Section 307(b) of the Communications Act of 1934, as amended (Section 307(b)) states that the Commission must “provide a fair, efficient, and equitable distribution” of broadcast service among the states and communities.⁷ 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 process.⁸ Accordingly, when applicants in a mutually exclusive NCE FM group⁹ propose to serve different communities, the Bureau first performs a threshold “fair distribution” analysis to ascertain whether grant of any of the applications would best further the Section 307(b) objective.¹⁰ In the first step of the Section 307(b), or fair distribution, analysis, the Bureau determines whether any of the applicants in the MX group is a federally recognized Native American Tribe or Alaska Native Village proposing to serve Tribal Lands¹¹ and claims the Tribal Priority.¹²

4. If there is no Tribal Applicant in the MX group,¹³ the Bureau proceeds to the second step in the Section 307(b) analysis and determines 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) and compares population coverage totals.¹⁴ Specifically, during this step, an NCE FM applicant is eligible to receive a fair distribution preference (or Section 307(b) preference)¹⁵ if it would

⁷ 47 U.S.C. § 307(b).

⁸ See 47 CFR § 73.7002; *Reexamination of Comparative Standards for Noncommercial Educational Applicants*, Report and Order, 15 FCC Rcd 7386, 7396 (2000) (*NCE Order*) (concluding that “fair distribution of stations to communities should remain a threshold issue”), Memorandum Opinion and Order, 16 FCC Rcd 5074, 5077 (2001) (*NCE MO&O*) (“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”).

⁹ Conflicting NCE FM 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.

¹⁰ 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 Bureau to consider whether service to one community over the other would best achieve the Commission’s directive to distribute radio service fairly among communities.

¹¹ See 47 CFR §§ 73.7000, 73.7002(b).

¹² 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).

¹³ 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 unnecessary herein.

¹⁴ See 47 CFR § 73.7002(b).

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 an MX group qualifies for the First or Second NCE Service Preference, its "fair distribution" (Section 307(b)) preference is dispositive,¹⁶ and the applicant will be awarded the construction permit.

5. 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.¹⁷ First service will be preferred over second service.¹⁸ Accordingly, the Bureau 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 Bureau 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 Bureau 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.¹⁹

6. 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.²⁰ 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.²¹

¹⁵ 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) of the Act.

¹⁶ 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.

¹⁷ 47 CFR § 73.7002(b).

¹⁸ *Id.*

¹⁹ See 47 CFR §73.7003 (point system selection procedures).

²⁰ 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; *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).

²¹ 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

III. GROUP-BY-GROUP ANALYSES

7. 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.²²

8. **Group 22.** In this group, there are three applicants that would serve different communities in Arizona and California. Remante Broadcasting Network (RBN) proposes to serve La Paz Valley, Arizona; Arizona Western College (AWC) proposes to serve Quartzsite, Arizona; and the Association for Community Education, Inc. (ACE) proposes to serve Desert Center, California. Each applicant claims that it is eligible for a fair distribution preference.²³ ACE is the only applicant to claim a first NCE service preference. ACE, however, states that it will provide first NCE service to only 272 persons, which does not satisfy the 2,000 people minimum criterion.²⁴ Accordingly, ACE is eliminated.²⁵ RBN would provide a second NCE service to 5,072 people; AWC to 22,318 people. Because AWC would provide new NCE service to at least 5,000 more people than RBN, AWC is the tentative selectee in Group 22.

9. **Group 25.** This group consists of three applications that would serve different communities in Arizona and New Mexico. Good News Broadcasting Network, Inc. (GNBN) proposes to serve Pinon, Arizona; Indian Country Grassroots Support (ICGS) proposes to serve Newcomb, New Mexico; and Crownpoint Baptist Church (CBC) proposes to serve Standing Rock, New Mexico. Each applicant claims that it is eligible for a fair distribution preference based on first NCE service population totals.²⁶ GNBN would provide a first NCE service to 33,725 people; ICGS to 12,263 people; and CBC to 2,280 people. GNBN would provide new first NCE service to at least 5,000 more people than ICGS, the next best proposal. Accordingly, GNBN is the tentative selectee in Group 25.

10. **Group 36.** The three applications in this group would serve different communities in California. Ondas de Vida, Inc. (Ondas) and Poder de Dios Centro Familiar, Inc. (Poder) each propose to serve Paso Robles. Radio Bilingue, Inc. (RB) proposes to serve San Miguel, California. Ondas and Poder do not claim to be eligible for a fair distribution preference while RB claims that it is eligible for a

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.*

²² See FCC Form 2100, Schedule 340, Noncommercial Educational Station for Reserved Channel Construction Permit Application, Fair Distribution of Service certifications. An applicant responding “Yes” to any of the certification questions was required to submit an attachment with a justification for its certification.

²³ See File Nos. 167392, 166975, and 167307, Fair Distribution of Service Section, and associated exhibits. RBN’s 60 dBu contour encompasses 5,072 people, and its claimed second NCE service is 5,072 people. AWC’s 60 dBu contour encompasses 22,844 people, and its claimed first and second NCE service is 22,319 people (1 first service plus 22,318 second service). RBN and AWC would each provide second NCE service to at least 10% of the population within its respective 60 dBu contour and to more than 2,000 people. ACE’s 60 dBu contour encompasses 272 people, and its claimed first NCE service is 272 people, which does not satisfy the 2,000 minimum threshold.

²⁴ See *supra* para. 4.

²⁵ ACE does not claim to provide any people with a second NCE service.

²⁶ See File Nos. 167852, 166945 and 167332, Fair Distribution of Service Section, and associated exhibits. GNBN claims to provide aggregated first and second NCE service to 40,169 of the 40,422 people within its 60 dBu contour (33,725 first service plus 6,444 second service); ICGS to 13,920 of the 18,273 people (12,263 first service plus 1,657 second service); and CBC claims to provide a first NCE service to 2,280 of the 2,296 people within its 60 dBu contour. Accordingly, each applicant would provide a new first or second NCE service to at least 10% of the population within its respective 60 dBu contour and to more than 2,000 people.

fair distribution preference based on providing a second NCE service to 2,367 people.²⁷ Therefore, Ondas and Poder are each eliminated, and RB is the tentative selectee in Group 36.

11. **Group 37.** In this group, there are three applicants that would serve different communities in California and Nevada. Friends of Black Rock High Rock (FBRHR) proposes to serve Doyle, California; Nevada City Community Broadcast Group (NCCBG) proposes to serve East Quincy, California; and Sunrise Church DbA Calvary Chapel Of Northwest Reno (SC) proposes to serve Spanish Springs, Nevada. Each applicant claims that it is eligible for a fair distribution preference.²⁸ FBRHR, however, is the only applicant to claim a first NCE service preference. Specifically, FBRHR claims that it would provide new first NCE service to 3,045 people. Accordingly, FBRHR is the tentative selectee in Group 37.

12. **Group 46.** This group consists of three applications to serve different communities in Colorado. San Tan Educational Media (STEM) proposes to serve Alma. The Open Mind Project (TOMP) and Specialized Educational Broadcasting (SEB) each propose to serve Aspen. STEM asserts that it is eligible for a fair distribution preference based on first NCE service population totals.²⁹ TOMP and SEB do not claim eligibility for a fair distribution preference. Accordingly, TOMP and SEB are eliminated. STEM is the tentative selectee in Group 46.

13. **Group 48.** This group consists of three applications to serve different communities in Connecticut. Revival Christian Ministries, Inc. (RCM) proposes to serve Bolton. New River Community Church (NRCC) and Connecticut Public Broadcasting, Inc. (CPB) each propose to serve Manchester. RCM asserts that it is eligible for a fair distribution preference based on second NCE service population totals.³⁰ NRCC and CPB do not claim eligibility for a fair distribution preference. Accordingly, NRCC and CPB are eliminated. RCM is the tentative selectee in Group 48.

14. **Group 56.** This group consists of three applications to serve different communities in Florida. Ethree Group, Inc. (EG) proposes to serve Carrabelle. Centro Familiar de Restauracion y Vida (Centro) proposes to serve Eastpoint. Calvary Chapel Pearl Harbor (CCPH) proposes to serve Port St.

²⁷ See File Nos. 167245, 166471, and 166377, Fair Distribution of Service Section, and associated exhibits. RB's 60 dBu contour encompasses 22,789 people, and its claimed second NCE service is 2,367 people. RB would provide second NCE service to at least 10% of the population within its 60 dBu contour and to more than 2,000 people.

²⁸ See File Nos. 167405, 166368, and 165626, Fair Distribution of Service Section, and associated exhibits. FBRHR claims to provide aggregated first and second NCE service to 5,791 of the 25,333 people within its 60 dBu contour (3,045 first service plus 2,746 second service); NCCBG to 10,952 of the 30,879 people within its 60 dBu contour (1,063 first service plus 9,889 second service). FBRHR and NCCBG would each provide aggregated first and second NCE service to at least 10% of the population within its respective 60 dBu contour and to more than 2,000 people. SC's "fair distribution of service" exhibit states that its proposed 60 dBu contour encompasses 53,387 people, and its claimed aggregated first and second NCE service is 6,270 people (328 first service plus 5,942 people). SC's application, however, states that the 60 dBu contour encompasses 193,411 people. Accordingly, we are unable to determine whether SC satisfies the 10% of the population threshold requirement and merits a fair distribution preference.

²⁹ See File No. 166357, Fair Distribution of Service Section, and associated exhibit. STEM's 60 dBu contour encompasses 12,966 people, and its claimed first NCE service is 4,534 people. Thus, STEM would provide first NCE service to at least 10% of the population within its 60 dBu contour and to more than 2,000 people.

³⁰ See File No. 166267, Fair Distribution of Service Section, and associated exhibit. RCM's 60 dBu contour encompasses 29,542 people, and its claimed aggregated first and second NCE service is 3,601 people (0 first service plus 3,601 second service). Thus, RCM would provide second NCE service to at least 10% of the population within its 60 dBu contour and to more than 2,000 people.

Joe. EG and Centro each claim eligibility for a fair distribution preference,³¹ and specifically, each claims that it is entitled to a first NCE service preference. CCPH does not claim eligibility for a fair distribution preference and is eliminated. EG would provide a first NCE service to 7,816 people. Centro would provide a first NCE service to 13,644 people. Because Centro would provide a first NCE service to at least 5,000 more people than EB, Centro is the tentative selectee in Group 56.

15. **Group 62.** This group consists of three applications to serve different communities in Georgia. Living Springs Retreat (LSR) proposes to serve Bowdon. B. Jordan Communications Corporation (BJCC) and Life Radio Ministries, Inc. (LRM) each propose to serve Franklin. Each applicant claims that it is eligible for a fair distribution preference based solely on second NCE service population totals.³² LSR would provide a first or second NCE service to 32,151 people (299 first service plus 31,852 second service); BJCC to 12,500 people (39 first service plus 12,461 second service); and LRM to 14,743 people (all second service). BJCC and LRM are each eliminated because the next best proposal of LSR would serve at least 5,000 more people. LSR is the tentative selectee in Group 62.

16. **Group 77.** This group consists of three applications to serve different communities in Iowa. St. Gabriel Communications (SGC) proposes to serve Carroll. Minn-Iowa Christian Broadcasting (MICB) proposes to serve Eagle Grove. Faith Lutheran Church (FLC) proposes to serve Odebolt. SGC and FLC each asserts that it is eligible for a fair distribution preference based on first NCE service population totals.³³ MICB does not claim eligibility for a fair distribution preference. Accordingly, MICB is eliminated. SGC would provide a first NCE service to 4,644 people. FLC would provide a first NCE service to 20,915 people. Because FLC would provide a first NCE service to at least 5,000 more people than SGC, FLC is the tentative selectee in Group 77.

17. **Group 99.** This group consists of three applications to serve different communities in Kansas. Krh Educational Foundation (KEF) and Libertad en Cristo Ministries (LCM) each propose to serve Liberal. Radio Vida Kansas, Inc. (RVK) proposes to serve Sublette. KEF asserts that it is eligible for a fair distribution preference based on second NCE service population totals.³⁴ LCM and RVK do not claim eligibility for a fair distribution preference. Accordingly, LCM and RVK are eliminated. KEF is the tentative selectee for Group 99.

18. **Group 127.** This group consists of three applications to serve different communities in Missouri and Tennessee. Crossroads Worship Center (CWC) proposes to serve Hayti, Missouri. Pure Word Communications (PWC) proposes to serve Sikeston, Missouri. Violet Fm Inc. (Violet) proposes to

³¹ See File Nos. 166680 and 167087, Fair Distribution of Service Section, and associated exhibits. EG's 60 dBu contour encompasses 20,688 people. EG's claimed first NCE service is 7,816 people. Centro's 60 dBu contour encompasses 17,780 people. Centro's claimed first NCE service is 13,644 people. Thus, each would provide first NCE service to at least 10% of the population within its 60 dBu contour and to more than 2,000 people.

³² See File Nos. 167119, 166112 and 165527, Fair Distribution of Service Section, and associated exhibits. LSR claims to provide aggregated first and second NCE service to 32,151 of the 53,568 people within its proposed 60 dBu contour; BJCC to 12,500 of the 17,599 people; and LRM to 14,743 of the 21,756 people within its 60 dBu contour. Thus, each applicant would provide 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.

³³ See File Nos. 167518 and 166954, Fair Distribution of Service Section, and associated exhibits. SGC's 60 dBu contour encompasses 29,967 people. SGC claims that it would provide a first NCE service to 4,644 people. FLC's 60 dBu contour encompasses 43,985 people. FLC claims that it would provide a first NCE service to 20,915 people. Thus, each would provide first NCE service to at least 10% of the population within its 60 dBu contour and to more than 2,000 people.

³⁴ See File No. 167060, Fair Distribution of Service Section, and associated exhibit. KEF's 60 dBu contour encompasses 21,715 people. KEF claims that it would provide a second NCE service to all 21,715 people. Thus, KEF would provide second NCE service to 100% of the population within its 60 dBu contour and to more than 2,000 people.

serve Henning, Tennessee. Each applicant claims that it is eligible for a fair distribution preference based solely on second service population totals.³⁵ CWC would provide a first or second NCE service to 24,983 people (4,491 first service plus 20,492 second service); PWC to 18,207 people (0 first service plus 18,207 second service); and Violet to 6,668 people (0 first service plus 6,668 second service). Because CWC would provide a first or second NCE service to at least 5,000 more people than PWC's next best proposal, CWC is the tentative selectee for Group 127.

19. **Group 129.** This group consists of three applications to serve different communities in Mississippi and Tennessee. Community Service Broadcasting Foundation, Inc. (Community) proposes to serve Cleveland, Mississippi. Delta State University (Delta) proposes to serve Shelby, Mississippi. Ivory Enterprise Foundation (Ivory) proposes to serve Memphis, Tennessee. Delta claims that it is eligible for a fair distribution preference based solely on second NCE service population totals.³⁶ Community and Ivory do not claim a fair distribution preference and are, therefore, each eliminated. Delta is the tentative selectee for Group 129.

20. **Group 171.** This group consists of two applications to serve different communities in Oklahoma. Centro Familiar de Restauracion y Vida (Centro) proposes to serve Caddo. St. William Parish (SWP) proposes to serve Durant. Centro asserts that it is eligible for a fair distribution preference based on second NCE service population totals.³⁷ SWP does not claim eligibility for a fair distribution preference. Accordingly, SWP is eliminated. Centro is the tentative selectee for Group 171.

21. **Group 177.** This group consists of three applications to serve different communities in Oklahoma. Outside the Doors Ministry Foundation (Outside) proposes to serve Altus. Western Oklahoma Catholic Faith Foundation (Western) proposes to serve Elk City. Top O' Texas Educational Broadcasting Foundation, Inc. (Top) proposes to serve Sayre. Western claims that it is eligible for a fair distribution preference.³⁸ Outside and Top do not. Therefore, Outside and Top are eliminated. Western is the tentative selectee for Group 177.

22. **Group 182.** In group 182, Iglesia Casa de Milagros (ICM) and the First Baptist Church of Riverview (FBCR) each propose to serve The Dalles, Oregon, and Growing Christian Foundation (GCF) proposes to serve Centerville, Washington. GCF asserts that it is eligible for a fair distribution preference.³⁹ ICM and FBCR do not. Accordingly, ICM and FBCR are eliminated. GCF is the tentative

³⁵ See File Nos. 166716, 167656, and 165618, Fair Distribution of Service Section, and associated exhibits. CWC claims that it would provide aggregated first and second NCE service to 24,983 people of the 85,082 people within its 60 dBu contour; PWC to 18,207 of 55,661 people; and Violet to 6,668 of the 31,246 people within its proposed 60 dBu contour. Thus, each would provide 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.

³⁶ See File No. 167491, Fair Distribution of Service Section, and associated exhibit. Delta's 60 dBu contour encompasses 64,892 people. Delta's claimed aggregated first and second NCE service is 20,627 people. Thus, it would provide 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.

³⁷ See File No. 167089, Fair Distribution of Service Section, and associated exhibits. Centro's 60 dBu contour encompasses 48,147 people. Centro claims that it would provide a first or second NCE service to 19,995 people (3,406 first service plus 16,589 second service). Thus, Centro would provide 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.

³⁸ See File No. 167817, Fair Distribution of Service Section, and associated exhibit. Western's 60 dBu contour encompasses 23,870 people. Western's claimed first NCE service is 6,572 people. Thus, it would provide first NCE service to at least 10% of the population within its 60 dBu contour and to more than 2,000 people.

³⁹ See File No. 167211, Fair Distribution of Service Section, and associated exhibit. GCF's 60 dBu contour encompasses 38,282 people. GCF's claimed combined first and second NCE service is 5,965 people (0 first service

selectee for Group 182.

23. **Group 183.** In group 183, Cascade Educational Broadcast Service (CEBS) proposes to serve Hood River, Oregon; Radio Tierra (RT) proposes to serve Bingen, Washington; and Growing Christian Foundation (GCF) proposes to serve Wishram, Washington. GCF asserts that it is eligible for a fair distribution preference.⁴⁰ CEBS and RT do not. Accordingly, CEBS and RT are eliminated. GCF is the tentative selectee for Group 183.

24. **Group 213.** This group consists of three applications to serve different communities in Virginia. La Ft L Aumon Np (LFLAN) and Pathway Christian Academy, Inc. (PCA) each propose to serve Danville, Virginia. Solid Foundation Broadcasting Corporation (SFBC) proposes to serve Halifax, Virginia. Each applicant claims that it is eligible for a fair distribution preference.⁴¹ Only SFBC, however, asserts that it is entitled to a first NCE service preference. Accordingly, LFLAN and PCA are eliminated. SFBC is the tentative selectee for Group 213.

25. **Group 214.** This group consists of three applications to serve different communities in Virginia. The Rector & Visitors of the University of Virginia (RVUV) proposes to serve Appomattox, Virginia; Farmville Seventh Day Adventist Church (FSDAC) proposes to serve Farmville, Virginia; and Calvary Chapel Pearl Harbor (CCPH) proposes to serve Flood, Virginia. RVUV and FSDAC each claim eligibility for a fair distribution preference.⁴² CCPH does not and is eliminated. Only FSDAC asserts that it is entitled to a first NCE service preference. Accordingly, RVUV is also eliminated. FSDAC is the tentative selectee for Group 214.

26. **Group 216.** This group consists of three applications to serve different communities in Vermont. North Country Educational Radio, Dba North Country Community Radio (NCER) proposes to serve Concord, Vermont; Christian Ministries, Inc. (CM) proposes to serve Derby Center, Vermont; and Vermont Public Co. (VPC) proposes to serve St. Johnsbury, Vermont. CM and VPC each claim eligibility for a fair distribution preference.⁴³ NCER does not and is eliminated. Only CM, asserts that it is entitled to a first NCE service preference. Accordingly, VPC is also eliminated, and CM is the

and 5,965 second service). Thus, GCF 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.

⁴⁰ See File No. 167209, Fair Distribution of Service Section, and associated exhibit. GCF's 60 dBu contour encompasses 23,461 people. GCF's claimed combined first and second NCE service is 4,587 people (477 first service and 4,110 second service). Thus, GCF 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.

⁴¹ See File Nos. 167347, 166378, and 165574, Fair Distribution of Service Section, and associated exhibits. LFLAN claims to provide combined first and second NCE service to 51,359 of the 104,061 people within its 60 dBu contour; PCA to 50,830 of the 101,751 people; and SFBC claims that it will provide first NCE service to 8,780 of the 69,865 people within its 60 dBu contour. Thus, LFLAN, PCA, and SFBC would each provide first or second NCE service to at least 10% of the population within its 60 dBu contour and to more than 2,000 people.

⁴² See File Nos. 166185 and 166121, Fair Distribution of Service Section, and associated exhibits. RVUV's 60 dBu contour encompasses 125,379 people. RVUV's claimed combined first and second NCE service is 22,019 people (6,566 first service and 15,453 second service). FSDAC's 60 dBu contour encompasses 36,505 people. FSDAC's claimed first NCE service is 14,335 people. Thus, RVUV and FSDAC would each provide first or second NCE service to at least 10% of the population within its 60 dBu contour and to more than 2,000 people.

⁴³ See File Nos. 166822 and 166829, Fair Distribution of Service Section, and associated exhibits. CM's 60 dBu contour encompasses 7,359 people. CM's claimed first NCE service is 7,359 people. VPC's 60 dBu contour encompasses 60,075 people. VPC's claimed combined first and second NCE service is 9,955 people (0 first service and 9,955 second service). Thus, CM and VPC would each provide first or second NCE service to at least 10% of the population within its 60 dBu contour and to more than 2,000 people.

tentative selectee for Group 216.

IV. ADDITIONAL MATTERS

27. **Acceptability Studies.** Once the Bureau identifies a tentative selectee pursuant to the fair distribution analysis, the next step is to consider whether the selectee's application has defects.⁴⁴ If the Bureau finds the application acceptable for filing, we announce acceptance by the release of this Order, and petitions to deny may be filed within 30 days following the release date of the Order.

28. The Bureau has studied the applications of all of the tentative selectees identified herein and determined that each application is acceptable for filing. Each of the tentative selectees identified in this Order 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 each application would serve the public interest, convenience, and necessity. It is our intention to grant each application if, after the 30-day petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application. Such determinations of grantability may, of course, involve additional matters that may impact the timing or outcome of a decision. For example, a proposal to serve an area near the United States border with Canada or Mexico cannot become ripe for grant prior to the successful completion of international coordination.

29. **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 with respect to any other group.

V. ORDERING CLAUSES

30. 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, petitions for reconsideration, review on the Commission's own motion, and appeals.⁴⁵ 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.

31. **Group 22.** Accordingly, IT IS ORDERED, That the Application filed by Arizona Western College (File No. 166975) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Quartzsite, 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, there is no substantial and material question concerning the grantability of the tentative selectee's application, we intend, by public notice, TO DISMISS the mutually exclusive applications of Remante Broadcasting Network (File No. 167392) and The Association for Community Education, Inc. (File No. 167307), and TO GRANT the application of Arizona Western College (File No. 166975) CONDITIONED UPON that selectee's compliance with Section 73.7002(c) of the Commission's Rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

32. **Group 25.** Accordingly, IT IS ORDERED, That the Application filed by Good News Broadcasting Network, Inc. (File No. 167852) is TENTATIVELY SELECTED to be awarded a

⁴⁴ 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.

⁴⁵ See 5 U.S.C. §§ 702, 704, 706; 47 U.S.C. §§ 309(d), 402(b), 405; 47 CFR §§ 1.106-08, 1.120, 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).

construction permit for a new NCE FM station in Pinon, 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, there is no substantial and material question concerning the grantability of the tentative selectee's application, we intend, by public notice, TO DISMISS the mutually exclusive applications of Indian Country Grassroots Support (File No. 166945) and Crownpoint Baptist Church (File No. 167332), and TO GRANT the application of Good News Broadcasting Network, Inc. (File No. 167852) CONDITIONED UPON that selectee's compliance with Section 73.7002(c) of the Commission's Rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

33. **Group 36.** Accordingly, IT IS ORDERED, That the Application filed by Radio Bilingue, Inc. (File No. 166377) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in San Miguel, 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, there is no substantial and material question concerning the grantability of the tentative selectee's application, we intend, by public notice, TO DISMISS the mutually exclusive applications of Ondas De Vida, Inc. (File No. 167245) and Poder De Dios Centro Familiar, Inc. (File No. 166471), and TO GRANT the application of Radio Bilingue, Inc. (File No. 166377) CONDITIONED UPON that selectee's compliance with Section 73.7002(c) of the Commission's Rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

34. **Group 37.** Accordingly, IT IS ORDERED, That the Application filed by Friends of Black Rock High Rock (File No. 167405) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Doyle, 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, there is no substantial and material question concerning the grantability of the tentative selectee's application, we intend, by public notice, TO DISMISS the mutually exclusive applications of Nevada City Community Broadcast Group (File No. 166368) and Sonrise Church DbA Calvary Chapel of Northwest Reno (File No. 165626), and TO GRANT the application of Friends of Black Rock High Rock (File No. 167405) CONDITIONED UPON that selectee's compliance with Section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

35. **Group 46.** Accordingly, IT IS ORDERED, That the Application filed by San Tan Educational Media (File No. 166357) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Alma, Colorado, 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, there is no substantial and material question concerning the grantability of the tentative selectee's application, we intend, by public notice, TO DISMISS the mutually exclusive applications of the Open Mind Project (File No. 167830) and Specialized Educational Broadcasting (File No. 166816), and TO GRANT the application of San Tan Educational Media (File No. 166357) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

36. **Group 48.** Accordingly, IT IS ORDERED, That the Application filed by Revival Christian Ministries, Inc. (File No. 166267) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Bolton, 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, there is no substantial and material question concerning the grantability of the tentative selectee's application, we intend, by public notice, TO DISMISS the mutually exclusive applications of New River Community Church (File No. 167390) and Connecticut Public Broadcasting, Inc. (File No. 166861), and TO GRANT the application of Revival Christian Ministries, Inc. (File No. 166267) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

37. **Group 56.** Accordingly, IT IS ORDERED, That the Application filed by Centro Familiar de Restauracion y Vida (File No. 167087) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Eastpoint, 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, there is no substantial and material question concerning the grantability of the tentative selectee's application, we intend, by public notice, TO DISMISS the mutually exclusive applications of Ethree Group, Inc. (File No. 166680) and Calvary Chapel Pearl Harbor (File No. 167424), and TO GRANT the application of Centro Familiar de Restauracion y Vida (File No. 167087) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

38. **Group 62.** Accordingly, IT IS ORDERED, That the Application filed by Living Springs Retreat (File No. 167119) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Bowdon, 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, there is no substantial and material question concerning the grantability of the tentative selectee's application, we intend, by public notice, TO DISMISS the mutually exclusive applications of B. Jordan Communications Corporation (File No. 166112) and Life Radio Ministries, Inc. (File No. 165527), and TO GRANT the application of Living Springs Retreat (File No. 167119) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

39. **Group 77.** Accordingly, IT IS ORDERED, That the Application filed by Faith Lutheran Church (File No. 166954) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Odebolt, 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, there is no substantial and material question concerning the grantability of the tentative selectee's application, we intend, by public notice, TO DISMISS the mutually exclusive applications of St. Gabriel Communications (File No. 167518) and Minn-Iowa Christian Broadcasting (File No. 165765), and TO GRANT the application of Faith Lutheran Church (File No. 166954) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

40. **Group 99.** Accordingly, IT IS ORDERED, That the Application filed by Krh Educational Foundation (File No. 167060) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Liberal, Kansas, 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, there is no substantial and material question concerning the grantability of the tentative selectee's application, we intend, by public notice, TO DISMISS the mutually exclusive applications of Libertad en Cristo Ministries (File No. 166651) and Radio Vida Kansas, Inc. (File No. 167183), and TO GRANT the application of Krh Educational Foundation (File No. 167060) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

41. **Group 127.** Accordingly, IT IS ORDERED, That the Application filed by Crossroads Worship Center (File No. 166716) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Hayti, Missouri, 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, there is no substantial and material question concerning the grantability of the tentative selectee's application, we intend, by public notice, TO DISMISS the mutually exclusive applications of Pure Word Communications (File No. 167656) and Violet Fm Inc. (File No. 165618), and TO GRANT the application of Crossroads Worship Center (File No. 166716) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

42. **Group 129.** Accordingly, IT IS ORDERED, That the Application filed by Delta State University (File No. 167491) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Shelby, 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, there is no substantial and material question concerning the grantability of the tentative selectee's application, we intend, by public notice, TO DISMISS the mutually exclusive applications of Community Service Broadcasting Foundation, Inc. (File No. 167376) and Ivory Enterprise Foundation (File No. 166755), and TO GRANT the application of Delta State University (File No. 167491) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

43. **Group 171.** Accordingly, IT IS ORDERED, That the Application filed by Centro Familiar de Restauracion y Vida (File No. 167089) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Caddo, 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, there is no substantial and material question concerning the grantability of the tentative selectee's application, we intend, by public notice, TO DISMISS the mutually exclusive application of St. William Parish (File No. 167815), and TO GRANT the application of Centro Familiar de Restauracion y Vida (File No. 167089) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

44. **Group 177.** Accordingly, IT IS ORDERED, That the Application filed by Western Oklahoma Catholic Faith Foundation (File No. 167817) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Elk City, 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, there is no substantial and material question concerning the grantability of the tentative selectee's application, we intend, by public notice, TO DISMISS the mutually exclusive applications of Outside the Doors Ministry Foundation (File No. 167013) and Top O' Texas Educational Broadcasting Foundation, Inc. (File No. 166005), and TO GRANT the application of Western Oklahoma Catholic Faith Foundation (File No. 167817) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

45. **Group 182.** Accordingly, IT IS ORDERED, that the Application filed by Growing Christian Foundation (File No. 167211) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Centerville, Washington, 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, there is no substantial and material question concerning the grantability of the tentative selectee's application, we intend, by public notice, TO DISMISS the mutually exclusive applications of Iglesia Casa de Milagros (File No. 167609) and the First Baptist Church of Riverview (File No. 167601), and TO GRANT the application of Growing Christian Foundation (File No. 167211) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

46. **Group 183.** Accordingly, IT IS ORDERED, that the Application filed by Growing Christian Foundation (File No. 167209) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Wishram, Washington, 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, there is no substantial and material question concerning the grantability of the tentative selectee's application, we intend, by public notice, TO DISMISS the mutually exclusive applications of Cascade Educational Broadcast Service (File No. 167064) and Radio Tierra (File No. 166634), and TO GRANT the application of Growing Christian Foundation (File No. 167209) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules,

47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

47. **Group 213.** Accordingly, IT IS ORDERED, that the Application filed by Solid Foundation Broadcasting Corporation (File No. 165574) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Halifax, Virginia, 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, there is no substantial and material question concerning the grantability of the tentative selectee's application, we intend, by public notice, TO DISMISS the mutually exclusive applications of La Ft L Aumon Np (File No. 167347) and Pathway Christian Academy, Inc. (File No. 166378), and TO GRANT the application of Solid Foundation Broadcasting Corporation (File No. 165574) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

48. **Group 214.** Accordingly, IT IS ORDERED, that the Application filed by Farmville Seventh Day Adventist Church (File No. 166121) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Farmville, Virginia, 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, there is no substantial and material question concerning the grantability of the tentative selectee's application, we intend, by public notice, TO DISMISS the mutually exclusive applications of The Rector & Visitors of the University of Virginia (File No. 166185) and Calvary Chapel Pearl Harbor (File No. 167393), and TO GRANT the application of Farmville Seventh Day Adventist Church (File No. 166121) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

49. **Group 216.** Accordingly, IT IS ORDERED, that the Application filed by Christian Ministries, Inc. (File No. 166822) is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Derby Center, Vermont, 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, there is no substantial and material question concerning the grantability of the tentative selectee's application, we intend, by public notice, TO DISMISS the mutually exclusive applications of North Country Educational Radio DbA North Country Community Radio (File No. 167665) and Vermont Public Co. (File No. 166829), and TO GRANT the application of Christian Ministries, Inc. (File No. 166822) CONDITIONED UPON that selectee's compliance with section 73.7002(c) of the Commission's rules, 47 CFR § 73.7002(c), which sets forth a four-year period of on-air operations substantially as proposed.

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner
Chief, Audio Division
Media Bureau