



# (REFERENCE COPY - Not for submission)

## Amendment to a New NCE FM Construction Permit Application

File Number: **0000166099** | Submit Date: **01/11/2022** | Lead Call Sign: | FRN: **0030651236**  
Service: **Full Power FM** | Purpose: **New NCE FM CP Amendment** | Status: **Superceded** | Status Date: **02/02/2022** |  
Filing Status: **Inactive**

### General Information

Section	Question	Response
Attachments	Are attachments (other than associated schedules) being filed with this application?	Yes

### Fees, Waivers, and Exemptions

Section	Question	Response
Waivers	Does this filing request a waiver of the Commission's rule (s)?	Yes
	Total number of rule sections involved in this waiver request:	1

### Applicant Information

#### Applicant Name, Type, and Contact Information

Applicant	Address	Phone	Email	Applicant Type
Theatre Organ Preservation of Nebraska	Joshua Kautz 109 West 10th McCook, NE 69001 United States	+1 (308) 340-3555	j.a.kautz@theatreorgans.com	NFP

### Contact Representatives (1)

Contact Name	Address	Phone	Email	Contact Type
<b>Jerrell E Kautz</b> <i>TechnicalAdvisor</i> Theatre Organ Preservation of Nebraska	Jerrell Kautz 8006 Roos Rd Houston, TX 77036 United States	+1 (713) 498-3381	j.e.kautz@theatreorgans.com	Technical Representative

### Eligibility Certifications

Section	Question	Response
Eligibility Certifications	The applicant certifies that it is a:	Nonprofit educational organization, other than as described above.
	The applicant certifies that the Commission has previously granted a broadcast application identified here by file number that found this applicant qualified as a noncommercial educational entity with a qualifying educational program, and that the applicant will use the proposed station to advance a program similar to that the Commission has found qualifying in applicant's previous application.	No

	The applicant certifies that its governing documents (e.g., articles of incorporation, by-laws, charter, enabling statute, and/or other pertinent organizational document) permit the applicant to advance an educational program and that there is no provision in any of those documents that would restrict the applicant from advancing an educational program or complying with any Commission rule, policy, or provision of the Communications Act of 1934, as amended.	Yes
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Parties to the Application (3)

Party Name	Address	Phone	Email	Positional Interest
<b>Isaac Capri Moshay</b> <i>Director</i> Theatre Organ Preservation of Nebraska	5839 Belneath St Houston, TX 77033	+1 (832) 373-1172	imoshay@theatreorgans.com	<b>Positional Interest:</b> Director <b>Citizenship:</b> United States <b>Percentage of Votes:</b> 33.3% <b>Percentage of Total Assets:</b> 0%
<b>Julio Caesar Pecina</b> <i>Secretary Treasurer</i> Theatre Organ Preservation of Nebraska	13354 Force St Houston, TX 77015	+1 (832) 659-3399	jpecina2013@theatreorgans.com	<b>Positional Interest:</b> Director <b>Citizenship:</b> United States <b>Percentage of Votes:</b> 33.3% <b>Percentage of Total Assets:</b> 0%
<b>Joshua Adam Kautz</b> <i>President</i> Theatre Organ Preservation of Nebraska	109 W. 10th Street McCook, NE 69001	+1 (308) 340-3355	j.a.kautz@theatreorgans.com	<b>Positional Interest:</b> Director <b>Citizenship:</b> United States <b>Percentage of Votes:</b> 33.4% <b>Percentage of Total Assets:</b> 0%

Attributable Interest

Section	Question	Response
<b>Equity and Financial Interests</b>	Applicant certifies that equity and financial interests not listed in the Parties to the Application section are non-attributable pursuant to the notes to 47 C.F.R. Section 73.3555.	Yes
<b>Other Authorizations</b>	Does the applicant or any party to the application have an attributable interest in any other broadcast station(s).	No

Legal Certifications

Section	Question	Response
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<b>Character Issues</b>	<p>Applicant certifies that neither the applicant nor any party to the application has or had any interest in, or connection with:</p> <p>(a) any broadcast application in any proceeding where character issues were left unresolved or were resolved adversely against the applicant or party to the application; or</p> <p>(b) any pending broadcast application in which character issues have been raised.</p>	Yes
<b>Adverse Findings</b>	Applicant certifies that, with respect to the applicant and each party to the application, no adverse finding has been made, nor has an adverse final action been taken by any court or administrative body in a civil or criminal proceeding brought under the provisions of any laws related to any of the following; any felony; mass media-related antitrust or unfair competition; fraudulent statements to another government unit; or discrimination.	Yes
<b>Program Service Certification</b>	Applicant certifies that it is cognizant of and will comply with its obligations as a Commission licensee to present a program service responsive to the issues of public concern facing the station's community of license and service area.	Yes
<b>Local Public Notice</b>	Applicant certifies that it has or will comply with the public notice requirements of 47 C.F.R. Section 73.3580.	Yes
<b>Equal Employment Opportunity (EEO)</b>	If the applicant proposes to employ five or more full-time employees, applicant certifies that it is filing simultaneously with this application a Broadcast EEO Model Program Report.	N/A
<b>Financial</b>	The applicant certifies that sufficient net liquid assets are on hand or that sufficient funds are available from committed sources to construct and operate the requested facilities for three months without revenue.	Yes
	The applicant certifies that this application is contingent upon receipt of a grant from a charitable organization, the approval of the budget of a school or university, or an appropriation from a state, county, municipality or other political supervision.	N/A

Alien Ownership

Question	Response
1) Is the applicant a foreign government or the representative of any foreign government as specified in Section 310(a) of the Communications Act?	No
2) Is the applicant an alien or the representative of an alien? (Section 310(b)(1))	No
3) Is the applicant a corporation, or non-corporate entity, that is organized under the laws of any foreign government? (Section 310(b)(2))	No
4) Is the applicant an entity of which more than one-fifth of the capital stock, or other equity or voting interest, is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any entity organized under the laws of a foreign country? (Section 310(b)(3))	No
5) Is the applicant directly or indirectly controlled by any other entity of which more than one-fourth of the capital stock, or other equity or voting interest, is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any entity organized under the laws of a foreign country? (Section 310(b)(4))	No
6) Has the applicant received a declaratory ruling(s) under Section 310(b)(4) of the Communications Act?	No
6a) Enter the citation of the applicable declaratory ruling by DA/FCC number or the FCC Record citation, release date, or any other identifying information.	
7) Has there been any change in the applicant's foreign ownership since issuance of the declaratory ruling(s) cited in response to Question 6?	

8) Does the applicant certify that it is in compliance with the terms and conditions of the foreign ownership declaratory ruling(s) cited in response to Question 6?	
9) In connection with this application, is the applicant filing a foreign ownership Petition for Declaratory Ruling pursuant to Section 310(b)(4) of the Communications Act?	No

Fair Distribution  
of Service

Section	Question	Response
Fair Distribution of Service	Applicant certifies that it provides a first aural (reception) service.	No
	Applicant certifies that:  (a) it is a Tribal Applicant, as defined in 47 C.F.R. Section 73.7000;  (b) the facilities proposed in this Application will provide Tribal Coverage, as defined in 47 C.F.R. Section 73.7000, of Tribal Lands occupied by the applicant Tribe(s);  (c) the proposed community of license is located on Tribal Lands, as defined in 47 C.F.R. Section 73.7000; and  (d) the proposed facility would be the first local Tribal-owned noncommercial educational transmission service at the proposed community of license.	No
	Applicant certifies that the proposed station will provide a first noncommercial aural service to  (a) at least 10 percent of the people residing within the station's 60 dBu (1mV/m) service contour and  (b) to a minimum of 2,000 people.	Yes
	Applicant certifies that the proposed station will provide a second noncommercial aural service, or an aggregated first and second noncommercial educational aural service, to  (a) at least 10 percent of the people residing within the station's 60 dBu (1mV/m) service contour and  (b) to a minimum of 2,000 people.	Yes

Point System  
Factors  
/Tiebreakers

Section	Question	Response
Established Local Applicant	Applicant certifies that for at least the 24 months immediately prior to application, and continuing through the present, it qualifies as a local applicant pursuant to 47 CFR Section 73.7000, and that it is has placed documentation of its qualifications as an established local applicant in the applicant's public inspection file and has submitted to the Commission copies of the documentation.	No
	If the applicant certifies above that it qualifies for points as an "established local applicant," applicant pledges to maintain localism characteristics during the period from the grant of the construction permit until the station has achieved at least four years of on-air operations.	Yes

<b>Diversity of Ownership</b>	<p>Applicant certifies</p> <p>(1) that the principal community (city grade) contour of the proposed station does not overlap the principal community contour of any other authorized station (comparing radio to radio and television to television, including non-fill-in translator stations) in which any party to the application has an attributable interest as defined in 47 CFR Section 73.3555, and</p> <p>(2) that it has placed documentation of its diversity qualifications in the applicant's public inspection file and has submitted to the Commission copies of the documentation.</p>	Yes
	Is the applicant's certification to the question above based on a pledge to divest an attributable broadcast interest or resign from an attributable positional interest?	Yes
	If the applicant certifies above that it qualifies for points for "diversity of ownership," applicant and any party to the application pledge to comply with the restrictions on station modifications and acquisitions, as defined in 47 CFR Section 73.7005, during the period from grant of the construction permit until the station has achieved at least four years of on-air operations.	Yes
<b>State-wide Network</b>	<p>Applicant certifies that</p> <p>(a) it has NOT claimed a credit for diversity of ownership above;</p> <p>(b) it is one of the three specific types of organizations described in 47 C.F.R. Section 73.7003(b)(3); and</p> <p>(c) it has placed documentation of its qualifications in a local public inspection file and has submitted to the Commission copies of the documentation.</p>	No
<b>Technical Parameters</b>	Applicant certifies that the numbers in the boxes below accurately reflect the new area and population that its proposal would serve with a 60 dBu signal measured in accordance with the standard predicted contours in 47 C.F. R. Section 73.313(c) and that it has documented the basis for its calculations in the local public inspection file and has submitted copies to the Commission. Major modification applicants should include new area proposed only (exclude any area already within the station's existing service area). (Points, if any, will be determined by FCC)	Yes
	New area served in square kilometers (excluding areas of water):	5368.6
	Population served based on the most recent census block data from the United State:	14489
<b>Existing Authorizations</b>	By placing a number in the box, the applicant certifies that it and other parties to the application have, as of the date of the filing and pursuant to 47 C.F.R. Section 73.3555, attributable interests in the stated number of relevant broadcast station authorizations. Radio applicants should count all attributable full service radio stations, AM and FM, commercial and noncommercial, and FM translator stations other than fill-in stations or those identified in the second question (pledge to divest an attributable broadcast interest /resign from an attributable positional interest) under Diversity of Ownership above.	0

Pending Applications	By placing a number in the box, the applicant certifies that it and other parties to the application have, as of the date of the filing and pursuant to 47 C.F.R. Section 73.3555, attributable interests in the stated number of pending applications for new or major changes to relevant broadcast stations. Radio applicants should count all attributable full service radio stations, AM and FM, commercial and noncommercial, and FM translator stations other than fill-in stations or those identified in the second question (pledge to divest an attributable broadcast interest/resign from an attributable positional interest) under Diversity of Ownership above.	2
Prior NCE applications	Applicant certifies that it applied for an NCE construction permit in a prior filing window and had its application accepted for filing and processed, but subsequently dismissed in favor of an applicant with superior points, or based on a tie-breaker preference.	No
	Applicant certifies that  (1) it has been in continuous existence from the date of the previous filing window until the present, and  (2) it does not hold any NCE construction permit or license.	N/A
Established Community Presence	Provide the date on which the applicant qualified as local. See 47 CFR Section 73.7000.	2020-07-20 00:00:00.0
	Applicant certifies that it has remained local at all times since this date.	Yes

Channel and Facility Information

Section	Question	Response
Proposed Community of License	State	Nebraska
	City	Culbertson
	Channel	209
	Frequency	89.7
Facility Type	Facility Type	Noncommercial Educational
Station Class	Station Class	C2

Antenna Location Data

Section	Question	Response
Antenna Structure Registration	Do you have an FCC Antenna Structure Registration (ASR) Number?	Yes
	ASR Number	1316688
Coordinates (NAD83)	Latitude	40° 11' 26.2" N+
	Longitude	100° 48' 27.7" W-
	Structure Type	GTOWER-Guyed Structure Used for Communication Purposes
	Overall Structure Height	54.9 meters
	Support Structure Height	54.9 meters
	Ground Elevation (AMSL)	855.9 meters

Antenna  
Technical Data

Antenna Data	Height of Radiation Center Above Ground Level	Horizontal:0 meters Vertical:47.24 meters
	Height of Radiation Center Above Average Terrain	Horizontal:0 meters Vertical:91 meters
	Height of Radiation Center Above Mean Sea Level	Horizontal:0 meters Vertical:903.14 meters
	Effective Radiated Power	Horizontal:0 kW Vertical: 50 kW

Section	Question	Response
Antenna Type	Antenna Type	Non-Directional

Directional Antenna Relative Field Value

Degree	Value	Degree	Value	Degree	Value	Degree	Value
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Additional Azimuths

Degree	Value
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Technical  
Certifications

Section	Question	Response
Environmental Effect	Would a Commission grant of Authorization for this location be an action which may have a significant environmental effect? (See 47 C.F.R. Section 1.1306)	No
Broadcast Facility	Does the proposed facility comply with the applicable engineering standards and assignment requirements of 47 C.F.R. Sections 73.203, 73.207, 73.213, 73.315, 73.509, and 73.515?	Yes
Contour Protection	Does the proposed facility request processing pursuant to the contour protection provisions of 47 C.F.R Section 73.215?	Yes
Reasonable Site Assurance	Applicant certifies that it has reasonable assurance in good faith that the site or proposed structure at the location of its transmitting antenna will be available to the applicant for the applicant's intended purpose.	Yes
	If reasonable assurance is not based on applicant's ownership of the proposed site or structure, applicant certifies that it has obtained such reasonable assurance by contacting the owner or person possessing control of the site or structure.	Yes

Certification

Section	Question	Response
General Certification Statements	The Applicant waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by authorization or otherwise, and requests an Authorization in accordance with this application (See Section 304 of the Communications Act of 1934, as amended.).	

	<p>The Applicant certifies that neither the Applicant nor any other party to the application is subject to a denial of Federal benefits pursuant to §5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862, because of a conviction for possession or distribution of a controlled substance. This certification does not apply to applications filed in services exempted under §1.2002(c) of the rules, 47 CFR . See §1.2002(b) of the rules, 47 CFR § 1.2002(b), for the definition of "party to the application" as used in this certification § 1.2002(c). The Applicant certifies that all statements made in this application and in the exhibits, attachments, or documents incorporated by reference are material, are part of this application, and are true, complete, correct, and made in good faith.</p>	
Authorized Party to Sign	<p><b>FAILURE TO SIGN THIS APPLICATION MAY RESULT IN DISMISSAL OF THE APPLICATION AND FORFEITURE OF ANY FEES PAID</b></p> <p>Upon grant of this application, the Authorization Holder may be subject to certain construction or coverage requirements. Failure to meet the construction or coverage requirements will result in automatic cancellation of the Authorization. Consult appropriate FCC regulations to determine the construction or coverage requirements that apply to the type of Authorization requested in this application.</p> <p>WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18, §1001) AND/OR REVOCATION OF ANY STATION AUTHORIZATION (U.S. Code, Title 47, §312(a)(1)), AND /OR FORFEITURE (U.S. Code, Title 47, §503).</p>	
	<p>I declare, under penalty of perjury, that I am an authorized representative of the above-named applicant for the Authorization(s) specified above.</p>	<p><b>Joshua Adam Kautz</b> <i>President</i></p> <p>01/11/2022</p>

## Attachments

File Name	Uploaded By	Attachment Type	Description	Upload Status
<u>89.7 Culbertson NE Engineering exhibits 1-15 50kw Amended 1-11-22.pdf</u>	Applicant	Technical Certifications	Amended to 50KW 91M HAAT on 1-11-22	Done with Virus Scan and/or Conversion
<u>89.7 FM FORM 340 AMENDMENT 2 Correct HAAT Clerical Error on 340 Form..pdf</u>	Applicant	Amendment	Correct clerical error regarding Height of Radiation Center Above Average Terrain: 925.9 Correct answer is 114 No other changes. 340 now matches the technical exhibits.	Done with Virus Scan and/or Conversion
<u>AMENDED EXHIBIT 18 Diversity of OWNERSHIP Points NOT CLAIMED.pdf</u>	Applicant	Point System Factor/Tie Breakers	Diversity of Ownership points changed to 0	Done with Virus Scan and/or Conversion
<u>Amendment 1 Correct Name of Isaac Moshay and Email of Tech Rep.pdf</u>	Applicant	Amendment	Amend Middle Name of Isaac Moshay and Email of Tech. Rep.	Done with Virus Scan and/or Conversion
<u>EXHIBIT 16 FAIR DISTRIBUTION OF SERVICE STUDY.pdf</u>	Applicant	Fair Distribution of Service	Fair Distribution of Service Claim	Done with Virus Scan and/or Conversion



<a href="#"><u>EXHIBIT 16 FAIR DISTRIBUTION OF SERVICE STUDY.pdf</u></a>	Applicant	Fair Distribution of Service	Fair Distribution of Service 2nd NCE Also Included	Done with Virus Scan and/or Conversion
<a href="#"><u>EXHIBIT 17 Educational Objective.pdf</u></a>	Applicant	Eligibility Certifications	Educational Objective	Done with Virus Scan and/or Conversion
<a href="#"><u>EXHIBIT 18 Diversity of Ownership statement.pdf</u></a>	Applicant	Point System Factor/Tie Breakers	Diversity of Ownership Claim	Done with Virus Scan and/or Conversion
<a href="#"><u>EXHIBIT 1 to 16 TECHNICAL EXHIBITS.pdf</u></a>	Applicant	Technical Certifications	Technical Exhibits 1-16	Done with Virus Scan and/or Conversion
<a href="#"><u>EXHIBIT 5 LETTER FROM TOWER OWNER.pdf</u></a>	Applicant	Technical Certifications	Letter from Tower Owner	Done with Virus Scan and/or Conversion
<a href="#"><u>FCC MX Group 100 and 101 Settlement.pdf</u></a>	Applicant	Amendment	Settlement agreement between MX Group 100 and 101	Done with Virus Scan and/or Conversion
<a href="#"><u>FCC Potential Waiver Request 73.3520 rules AMENDED 1-11-22.pdf</u></a>	Applicant	Fees, Waivers and Exemptions	Possible Waiver needed for 73.3520	Done with Virus Scan and/or Conversion
<a href="#"><u>First Second NCE population.AMENDED 1-11-2022.pdf</u></a>	Applicant	Fair Distribution of Service	Amended 1-11-22 First and Second NCE counts for 50kw 91M	Done with Virus Scan and/or Conversion
<a href="#"><u>First Second NCE population.AMENDED 1-11-2022.pdf</u></a>	Applicant	Fair Distribution of Service	Amended 1st 2nd NCE counts 1-11-22	Done with Virus Scan and/or Conversion
<a href="#"><u>Reason for amendment 1-11-22-.pdf</u></a>	Applicant	Amendment	Reason for Amendment 1-11-22	Done with Virus Scan and/or Conversion