

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC

7 January 2022

In re Applications of	)	
	)	
THEATRE ORGAN PRESERVATION OF NEBRASKA	)	FRN 0030651236
	)	
For NEW Reserved Channel NCE Broadcast Station	)	FCC File No. 0000165964
in Culbertson, NE	)	Facility ID 762254

To: Marlene H. Dortch, Secretary  
Federal Communications Commission  
Attn: Media Bureau, Audio Division

**INFORMAL OBJECTION**

Triangle Access Broadcasting, Inc. (“Triangle”), pursuant to 47 C.F.R. §73.3587, objects to the grant of applications that are part of a multiple applications scheme. During the November 2021, NCE FM Filing Window, Theatre Organ Preservation of Nebraska (“TOP”) submitted the captioned application for a construction permit for a new NCE broadcast station in the reserved band. The Bureau accepted the application for filing on December 21, 2021.<sup>1</sup> Triangle objects on the grounds that TOP has submitted alternate technical proposals in violation of the Commission's longstanding Multiple Applications Rule, applicable to all broadcast stations.<sup>2</sup> The application has corresponding applications for additional new Class C1 facilities specifying the same Culbertson, NE, city of license as LMS File

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<sup>1</sup> Report No. PN-1-211221-01, Public Notice, Released December 21, 2021.

<sup>2</sup> See 47 C.F.R. §§ 73.3520 (“Multiple Applications rule”) and 73.1001(a). Future “Section” references refer to regulations in Title 47 of the Code of Federal Regulations.

Nos. 0000166099 (Facility ID 766020) and 0000166109 (Facility ID 766026) that were also filed during the November 2021, NCE Filing Window.<sup>3</sup>

Multiple applications create advantages for applicants who have had proposals determined to be mutually exclusive with other applicants. Those who have refrained from filing Multiple Applications are blocked from submitting similar “first come / first served” amendments that the Multiple Applications have cut-off.<sup>4</sup> Indeed, TOP's Culbertson, NE, applications are members of MX groups of applications filed during the window.<sup>5</sup> They also interfere with the Commission's goals of competition and diversity because, for example, since the Multiple Applications fall into separate MX groups, and because diversity tie breaker points represent a snapshot at application filing, no consideration is given during comparative analyses that other granted authorizations may affect a “Diversity of Ownership” tiebreaker. Such diversity points would not be available in a future window had the applicant succeeded on its only-allowed application to serve a community. Also, because of the Multiple Applications Rule, a procedure to make these evaluations was not necessary, thus not contemplated, during the development of NCE processing procedures.

Finally, TOP's Multiple Applications are delaying grants to other applicants. MX Group 98 only had two members, and as of January 7, 2022, three groups have broken out as legitimate singletons to leave only two MX Group 100 members.<sup>6</sup>

In the interests of efficiency, fairness, and protecting the NCE window's reliance on application secrecy, as well as because of the plainly written Multiple Applications Rule, the Bureau should

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<sup>3</sup> From the history of the Multiple Applications Rule (*see, e.g., Amendment of § 1.364*, 17 FR 6155 (1952)), “Class” refers to the type of service (e.g., AM, FM, TV), and not to the § 73.210 station class.

<sup>4</sup> Section 73.3573(e).

<sup>5</sup> *See November 2021, NCE FM Filing Window - MX Groups and Settlement Window*, Public Notice, MB Docket No. 20-343, DA No. 21-1476 (November 29, 2021) at Attachment A. Facility ID 762254 is a member of Group 98. Facility ID 766020 is in Group 100. Facility ID 766026 is in Group 101.

<sup>6</sup> Although many window participants are attempting major channel changes to non-adjacent channels, guised as channel substitutions only applying to previously-authorized stations, the amendments in MX Groups 98 and 100 have been for adjacent channels.

declare the latest-filed applications as multiple applications and DISMISS them before further consideration of TOP's remaining application.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Steven L. White", with a long, sweeping horizontal line extending to the right.

Steven L. White

Director; *Triangle Access Broadcasting, Inc.*

7813 Highlandview Cir  
Raleigh, NC 27613-4109

## **Certification of Steven L. White**

I, Steven L. White, declare under penalty of perjury that I have reviewed the foregoing Informal Objection and, to the best of my knowledge, the facts set forth therein are true and correct.


By: [Electronically Signed]\_\_\_\_\_  
Steven L. White

Dated: January 7, 2022

## **Certificate of Service**

I, Steven L. White, certify that a true and correct copy of the foregoing Informal Objection was sent, this 7th day of January, 2022, by first-class, postage paid mail to the following:

Joshua Kautz (Applicant)  
Theatre Organ Preservation of Nebraska  
109 W 10th St  
McCook, NE 69001-3520

By:   
\_\_\_\_\_  
Steven L. White