

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

In re:

NORTHERN ILLINOIS UNIVERSITY
Application for New NCE FM Construction Permit

MX Group 89

File No. 0000166990
Fac. ID. No. 767404

To: The Secretary, FCC
Attn: The Chief, Audio Division, Media Bureau

PETITION TO DENY

VCY America, Inc. (“VCY”), applicant for a new noncommercial educational FM station at Mineral, Wisconsin, by its attorney, hereby submits this petition to deny¹ the above-referenced application filed by Northern Illinois University (“NIL”) for a new noncommercial educational FM station at Galena, Illinois.² The Federal Communications Commission (“FCC” or “Commission”) identified NIL as the tentative selectee in MX Group 89 in its October 25, 2022 order (the “Order”).³ There, the FCC credited NIL with five points in its point system analysis, including three points as an established local applicant.⁴ However, as Albert Adam David

¹ See 47 CFR § 73.7004(b).

² LMS File No. 0000166990 (the “Application”). The Application was originally filed on January 21, 2022 and also amended on that date.

³ *In re: Comparative Consideration of 32 Groups of Mutually Exclusive Applications for Permits to Construct New Noncommercial Educational FM Stations*, Memorandum Opinion and Order, FCC 22-78 (rel. Oct. 25, 2022).

⁴ *Id.* at ¶ 65. VCY was credited with a total of two points. *Id.*

described in his informal objection dated January 27, 2022 (the “Informal Objection”),⁵ NIL does not qualify as an “established local applicant” under the Commission’s rules, including because NIL does not have a headquarters or campus within 25 miles of Galena.⁶

In the Order, the Commission states that it will “review the merits of Mr. David’s objection after the NIL application is accepted for filing.”⁷ Now that NIL’s application has been accepted for filing,⁸ VCY urges the Commission to consider the merits of the Informal Objection, which demonstrates that NIL is not entitled to credit as an established local applicant. Accordingly, the Application should be dismissed or denied.

Respectfully submitted,

VCY AMERICA, INC.

By: _____ /s/
Kathryne Dickerson

of

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Its Attorney

Dated: November 23, 2022

⁵ Albert Adam David, Informal Objection, Pleading No. 182183.

⁶ See 47 CFR § 73.7000.

⁷ Order at ¶ 65, n.73. See also *id.* at ¶ 99 (“Accordingly, upon the release of this Order, the tentative selectees are accepted for filing. This triggers a 30-day period for the filing of petitions to deny.”).

⁸ *Id.* at ¶ 123.

DECLARATION OF RANDY MELCHERT

I, Randy Melchert, declare under penalty of perjury as follows:

1. I am an officer of VCY America, Inc.
2. The facts contained in the foregoing "Petition to Deny" are true and correct to the best of my knowledge and belief.

November 23, 2022

/s/
Randy Melchert
Officer, VCY America, Inc.

CERTIFICATE OF SERVICE

I, Kathryn Dickerson, counsel to VCY America, Inc., do hereby certify that I have on this 23rd day of November 2022 directed a copy of the foregoing “Petition to Deny” to be served by First Class U.S. Mail, postage prepaid, upon the following:

Ernest T. Sanchez
The Sanchez Law Firm PC
1629 K Street NW, Suite 300
Washington, DC 20006
Counsel to Northern Illinois University

_____/s/_____
Kathryn Dickerson