

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

In re Application of)	
)	
Big Bend Heritage Music)	
Association, Inc.)	LMS File No. 166291
)	Facility ID 767145
For a New Noncommercial)	MX Group No. 59B
Educational FM Station)	
At Perry, FL)	
)	

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

PETITION TO DENY

Georgia Public Telecommunications Commission (“Georgia Public”), by its attorneys, hereby petitions to deny the above-captioned application (the “Big Bend Application”) of Big Bend Heritage Music Association, Inc. (“Big Bend”) for a new noncommercial educational (“NCE”) FM station at Perry, Florida based on facts that the FCC may officially notice.

Earlier this week, after release of the Order in this proceeding, Big Bend amended its application to change its technical parameters due to loss of its specified transmitter site (the “Big Bend Amendment”).¹ Based on the changed coverage area, the Big Bend Amendment no longer certifies as to first or second NCE service; thus, Big Bend no longer qualifies for a decisive and dispositive fair distribution preference. Accordingly, based on facts of record, Big Bend can no longer be the tentative selectee of MX Group 59B and the Big Bend Application

¹ See LMS File No. 166291, amended on December 7, 2022.

must be denied. FCC staff must re-analyze MX Group 59B and determine a new tentative selectee for the group.

Georgia Public filed an application for a new NCE FM station at Pelham, Georgia, in LMS File No. 167018 during the FCC's November 2021 filing window (the "Georgia Public Application"). The Georgia Public Application is part of the filing window's MX Group 59B, which currently includes five other applicants: Big Bend for Perry, Florida; Church Planters of America ("CPA") for Quitman, Georgia; Elijah Radio ("Elijah") for Dasher, Georgia; Bemiss Road Baptist Church and Lowndes County Christian Academy Inc. ("Bemiss") for Valdosta, Georgia; and Faith and Action Community Outreach, Inc. ("FACO") for Madison, Florida.²

On November 9, 2022, the Media Bureau released a Memorandum Opinion and Order (the "307(b) Order") which, among other things, named Big Bend as the tentative selectee for MX Group 59B.³ The Commission's selection was based on Big Bend's claim that it would provide combined first and second NCE service to at least 5,000 more people than the Georgia Public Application and Elijah Radio's application.⁴ On that basis, the Big Bend Application was named tentative selectee.

² See LMS File Nos. 166291 (Big Bend); 167096 (CPA); 167410 (Elijah); 167233 (Bemiss); and 165985 (FACO). CSN International's application to serve Valdosta, Georgia (LMS File No. 167809) was dismissed after the FCC's May 2, 2022, 307(b) Memorandum Opinion and Order was released. InVerse Focus Ministry, Inc.'s application to serve Baconton, Georgia (LMS File No. 167493) was dismissed on July 19, 2022. Group 59, which originally contained 17 applications, was bifurcated as a result of a technical amendment.

³ *Threshold Fair Distribution Analysis of 5 Groups of Mutually Exclusive Applications for Permits to Construct New Noncommercial Educational FM Stations*, Memorandum Opinion and Order, DA 22-1166 (rel. Nov. 9, 2022) ("Order"). The Order also provided that petitions to deny the applications it tentatively selected must be filed within 30 days of its release, or by December 9, 2022. *Id.* at ¶1. This Petition to Deny is therefore timely filed. In addition, as a party-in-interest to this proceeding, Georgia Public has standing to file this Petition.

⁴ *Id.* at ¶10. Georgia Public notes, for the record, that the Order does not correctly state Elijah Radio's combined first/second NCE service population. The Order states that Elijah Radio would provide combined first/second NCE service to 12,723 persons. *Id.* at ¶10. This was the

Just two days ago, on December 7, 2022, Big Bend filed the Big Bend Amendment with the FCC. The Big Bend Amendment removes its “previous certifications that it is entitled to a preference for Fair Distribution of Service.”⁵ The Big Bend Amendment is a matter of record with the FCC and FCC staff may take official notice of those facts.

Therefore, Big Bend is no longer eligible for a decisive fair distribution (Section 307(b)) preference – in fact, Big Bend no longer claims any Section 307(b) preference. On that basis, the FCC must take official notice of the new facts on the record, deny the Big Bend Application its tentative selectee status, and reassess MX Group 59B pursuant to the process codified in Part 73, Subpart K of the FCC rules.

Respectfully submitted,

Georgia Public Telecommunications Commission

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December 9, 2022

population count claimed in Elijah Radio’s initial 2021 window application. However, Elijah Radio amended its application on January 28, 2022, and reduced its combined first/second NCE service population to 2,149 persons. *See Engineering Exhibits for 767346 Amendment.pdf*, Exhibit attached to LMS File No. 167410 amended application.

⁵ See LMS File No. 166291 and Amendment Purpose Exhibit.

CERTIFICATE OF SERVICE

I, Joshua Turiel, hereby certify that on this 9th day of December, 2022, I sent via email copies of the foregoing Petition to Deny to the following:

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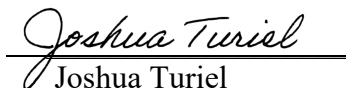
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