

March 20, 2023

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

REPLY TO OPPOSITION TO PETITION TO DENY

RE: FCC File No. 167104 Vida Ministry Inc. (FCC MX Group 200)

Dear Ms. Dortch:

Call Communications Group, Inc. (“Call”), applicant File Number 167747, filed a Petition to Deny (“Petition”) the above-captioned application by Vida Ministry Inc. (“VMI”) for a new noncommercial FM broadcast station at Central Gardens, Texas. VMI was declared the tentative selectee of FCC MX Group 200 because the Commission arbitrarily accepted two applicants’ erroneous and unsupported coverage and population claims.¹ The applications filed by Christian Ministries of the Valley, Inc. (“CMV”) (File Number 166728) and CCS Radio, Inc. (“CCSR”) (File Number 166698) were not prepared according to the instructions.² The failure of the two aforementioned applicants to follow the instructions affected the point system analysis of the Commission’s initial comparative consideration and the resulting decision of tentative selectee of FCC MX Group 200. Only VMI responded to the Petition by filing an Opposition (“Opposition”) on March 15, 2023. Call hereby submits its Reply (“Reply”) to that Opposition.

First, VMI makes the false statement “**Both CMV and CCSR timely provided area and population coverage figures in their applications.**” The CMV application contained only two maps. One map was clearly titled “§73.515 Compliance” with no value for area and

¹ “In considering this criterion, we have generally accepted applicants’ coverage and population claims.” See “Comparative Consideration of 34 Groups of Mutually Exclusive Applications for Permits to Construct New Noncommercial Educational FM Stations” FCC 23-5 January 24, 2023.

² “Each applicant must include an application exhibit explaining how it calculated the technical parameters. The applicant should specify the year and blocks of census information used and the method used to determine area. Area must be measured in square kilometers and **exclude significant areas of water, e.g., ocean and lakes.**” See “MEDIA BUREAU ANNOUNCES NCE FM NEW STATION FILING PROCEDURES AND REQUIREMENTS FOR NOVEMBER 2 - 9, 2021, WINDOW” DA 21-885, July 23, 2021

no reference to population. The other map was titled “Allocation Study” which only plotted contours of numerous facilities onto a single map. The words “census,” “population,” “people,” “area,” and “square kilometers” do not appear anywhere in the CMV exhibits. CCSR’s application contains only a single map titled “Map of Interfering Contours” which only plotted contours of numerous facilities onto a single map with no value for area and no reference to population. The words “census,” and “square kilometers” do not appear anywhere in the CCSR exhibits. The only use of the words “area” and “population” are in a single sentence “*The only new service area falls over water and contains no population.*” Therefore, neither CMV and CCSR provided any “area and population coverage” figures in their applications and VMI’s statement is blatantly false.

Next, VMI then claims that the missing CMV and CCSR supporting exhibits were to be placed in the respective public inspection files of CMV and CCSR. However, the instructions for the 2021 NCE-FM filing window clearly instructed applicants to include an “application exhibit” to support its new population served and new area served.³ Furthermore, the January 2023 Order evaluating FCC MX Group 200 reiterated that points claims require supporting exhibits and applications that failed to include the required exhibits “cannot have made a valid certification and will not receive the claimed points.”⁴

Both CMV and CCSR certified “YES” in response to “*Applicant certifies that the numbers in the boxes below accurately reflect the new area and population....*” These certifications made by both CMV and CCSR have been shown to be invalid. In fact, VMI, in its Objection, does not dispute Call’s analysis of the CMV and CCSR technical parameters and neither CMV or CCSR have defended, corrected, or supported their coverage and population claims which have been proven wrong by Call. Therefore, the Commission must view the “YES” certifications by both applicants as invalid for two reasons. First, both applicants failed to provide the required supporting documentation (the Commission’s instruction in DA 21-855 could not have been clearer) and the resulting consequence of that omission is clearly stated in FCC 23-5 (“*...will not receive the claimed points.*”). Second, Call has

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⁴ “While there is some flexibility in the type of documentation an applicant may provide, an applicant that does not submit timely support cannot have made a valid certification and will not receive the claimed points.” See “Comparative Consideration of 34 Groups of Mutually Exclusive Applications for Permits to Construct New Noncommercial Educational FM Stations” FCC 23-5 January 24, 2023.

demonstrated that both applicants' area calculations were significantly overstated and must have included significant areas of water in their tabulations, and this also invalidates the "YES" certifications on the CMV and CCSR applications. Even if just one of the two cases above occurs, the CMV and CCSR "YES" certifications are absolutely invalidated. In actuality, both cases occurred (absence of supporting exhibits and erroneous new area served tabulations). Therefore, CMV and CCSR should not have been considered in the technical parameters points analysis.

In its January 2023 tentative decision (FCC 23-5) the Commission stated, *"In considering this criterion, we have generally accepted applicants' coverage and population claims."* However, the Commission does not have a "rational basis" to accept erroneous and unsupported coverage and population claims and must reevaluate FCC MX Group 200. Neither CMV or CCSR have defended, corrected, or supported their coverage and population claims which have been proven wrong by Call. VMI is essentially asking the Commission to award it a construction permit with a decision that would be both arbitrary and capricious since the technical parameters considered by the Commission in its tentative analysis did not represent reality.

For the reasons stated above, Call respectfully requests that the Commission deny the above-captioned application by Vida Ministry Inc. (FCC MX Group 200) for a new noncommercial FM broadcast station at Central Gardens, Texas.

Sincerely,



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