

Before the
Federal Communications Commission
Washington, DC 20554

In re Application of

VIDA MINISTRY INC.

For New Non-Commercial

Educational FM Station at Central Gardens, Texas

)
) **MX Group 200**
) **File No. 0000167104**
) **Facility No. 768210**

Filed with: **Office of the Secretary**

Directed to: **Audio Division, Media Bureau**

**OPPOSITION TO SUPPLEMENT TO
PETITION FOR RECONSIDERATION**

Vida Ministry Inc. (“VMI”), by its attorney, hereby submits its Opposition to the “Supplement to Petition for Reconsideration” (“Supplement”) filed on July 7, 2023, by Call Communications Group, Inc. (“CCGI”) with respect to the Commission’s Letter Decision in *Christian Ministries of the Valley, Inc.*, DA 23-358 (April 27, 2023) (the “*Letter Decision*”), granting the application of VMI for a new NCE FM station in Central Gardens, Texas. With respect thereto, the following is stated:

The Supplement must be dismissed on procedural and substantive grounds.

First of all, the Commission’s Rules do not permit the filing after the 30-day deadline for petitions for reconsideration of a “Supplement” raising matters not raised in the petition for reconsideration.¹ On procedural grounds, the Supplement must be rejected and dismissed.²

¹ 47 C.F.R. § 1.106(f) provides that “the petition for reconsideration and any supplement thereto shall be filed within thirty days from the date of public notice of the final Commission action.” See 47 C.F.R. § 1.106(f) (emphasis added).

² See *Peninsula Communications, Inc.*, 15 FCC Rcd 3293, 3293 n.2 (2000) (Commission dismisses untimely supplement); *Holy Family Communications, Inc.*, 28 FCC Rcd 15687 (MB 2013) (Media Bureau dismisses untimely supplement to petition for reconsideration).

Moreover, in the Supplement, CCGI seeks to raise two brand new matters on “reconsideration.” Neither matter was timely raised in a Petition to Deny filed previously in this proceeding. Both matters pertain to facts readily available to CCGI prior to the filing of its Petition to Deny in this proceeding. Thus, they are not properly raised for the first time in conjunction with a “petition for reconsideration” at this late date. 47 C.F.R. § 1.106(c). As the Commission has stated repeatedly, “we cannot allow a party to ‘sit back’ and hope that a decision will be in its favor, and when it isn’t, to parry with an offer of more evidence. No judging process in any branch of government could operate efficiently or accurately if such a procedure were allowed.”³

In its Supplement, CCGI complains that VMI did not disclose an interest of one of its principals in Station KHGF-LP, Houston, Texas, Facility No. 195789, and claims that such disclosure would have affected the outcome of this proceeding. Supplement at 1.

On its merits, as well, this claim must be rejected. The Commission awards two points for local diversity of ownership if no party to the applications holds an attributable interest in any other station within the principal community contours of the applicant’s proposed station. CGI does not show any overlap of Station KHGF-LP that would affect a “local diversity of ownership” consideration. Moreover, with regard to the Tie-Breaker award of Points, the Instructions state:

Existing Authorizations. If mutually exclusive applicants differ in their number of existing authorizations, the applicant with the fewest attributable authorizations at the time of filing will be chosen. Applicant should indicate in the box provided the number of attributable authorizations held by parties to the application, but only full service stations in the same service (radio).

³ *Canyon Area Residents*, 14 FCC Rcd 8153, 8154 § 7 (1999) quoting *Colorado Radio Corp. v. FCC*, 118 F.2d 24, 26 (D.C. Cir 1941).

Instructions, FCC Form 340 at 17. Station KHGF-LP is not a “full service station in the same service” and would not be counted in any Tie-Breaker determination in this proceeding.

As to the Educational Statement (Supplement at 2), that was a clerical error. As noted above, the matter was not timely raised. Even if raised earlier, this application would have properly been able to be amended to correct all improper references from “Centro Cristiano de Vida Eterna San Antonio” to “Vida Ministry, Inc.”⁴

WHEREFORE, it is requested that this the “Supplement to Petition for Reconsideration” filed by Call Communications Group, Inc., be dismissed; the “Petition for Reconsideration” filed by Call Communications Group, Inc. be denied; and the application of Vida Ministry, Inc., for a new NCE station to serve Central Gardens, Texas, be affirmed.

Respectfully submitted,

VIDA MINISTRY INC.

By: ____/Dan J. Alpert/_____
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Its Attorney

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⁴ *In The Matter of Comparative Consideration Of 34 Groups Of Mutually Exclusive Applications For Permits To Construct New Noncommercial Educational Fm Stations.*, FCC-23-5 (Jan. 24 2023) at 25 n.90 (tentative selectee has one opportunity to submit a curative amendment).

CERTIFICATE OF SERVICE

I, Dan J. Alpert, hereby certify that a copy of the foregoing “Opposition to Supplement to Petition for Reconsideration” is being provided by First Class Mail to the following:

Robert J. Robbins, PhD.
President and General Manager
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_____/Dan J. Alpert_____
Dan J. Alpert