

Before the
Federal Communications Commission
Washington, D.C. 20554

In re Applications of:
CALVARY CHAPEL OF BRANDON, INC.
For a Construction Permit for a New LPFM
Station at Gibsonton, FL
IGLESIA CRISTIANA LA NUEVA
JERUSALEM, INC.
For a Construction Permit for a New LPFM
Station at East Tampa, FL
PROJET LA METROPOLE/THE
METROPOLE PROJECT
For a Construction Permit for a New LPFM
Station at Tampa, FL
FLORIDA FORCE, INC.
For a Construction Permit for a New LPFM
Station at Gibsonton, FL
File No. BNPL-20010613AGK
Facility ID No. 134707
File No. BNLP-20010615AAV
Facility ID No. 135008
File No. BNPL-20010615ASL
Facility ID No. 134771
File No. BNPL-20010615AKC
Facility ID No. 134322

MEMORANDUM OPINION AND ORDER

Adopted: May 17, 2005

Released: May 27, 2005

By the Commission: Commissioners Copps and Adelstein issuing a joint statement.

I. INTRODUCTION

1. The Commission has before it the captioned, mutually exclusive applications of Calvary Chapel of Brandon, Inc. ("Brandon Calvary Chapel"); Iglesia Cristiana La Nueva Jerusalem, Inc. ("Iglesia"); Projet La Metropole/The Metropole Project ("Metropole"); and Florida Force, Inc. ("FFI") seeking construction permits in the Low Power FM ("LPFM") Broadcast Service in the Tampa, Florida, area. In accordance with our procedures, the Commission published notice of the applications' tentative selectee status. National Lawyers Guild Center on Democratic Communications, Microradio

1 See Creation of a Low Power Radio Service, Report & Order, 15 FCC Rcd 2205 (2000); Creation of a Low Power Radio Service, Memorandum Opinion & Order on Reconsideration, 15 FCC Rcd 19208 (2000); and Creation of Low Power Radio Service, Second Report & Order, 16 FCC Rcd 8026 (2001).

2 See Public Notice, Closed Groups of Pending Low Power FM Mutually Exclusive Applications Accepted for Filing, DA 04-679, (rel. Mar. 12, 2004).

Implementation Project, and Prometheus Radio Project (“Lawyers Guild”) filed an informal objection against Brandon Calvary Chapel’s application on September 27, 2001. Bureau staff denied the Lawyers Guild informal objection on December 22, 2004.³ Radio Training Network, Inc. (“RTN”), filed a petition to deny Iglesia’s application on April 13, 2004.⁴ However, petitions to deny the captioned Gibsonton applications were due April 12, 2004.⁵ We will, therefore, treat the RTN filing as an informal objection pursuant to Section 73.3587.⁶ No parties filed petitions to deny or informal objections in response to the other captioned applications. For the reasons set forth herein, we deny the RTN objection.

II. DISCUSSION

2. In its objection, RTN alleges that the grant of Iglesia’s application would cause interference to FM translator station W244BE. LPFM applications must meet the minimum spacing requirements set forth in Section 73.807(d) with respect to FM translators.⁷ According to Section 73.807(d), the required spacing between an LPFM and a first-adjacent translator with a 60 dBu distance of less than 7.3 kilometers is 15 kilometers. The actual distance between Iglesia’s LPFM application and W244BE is 15 kilometers. Therefore, the application is in compliance with Section 73.807(d). Accordingly, we find RTN’s informal objection to be without merit.

3. Before applying the mutually exclusive selection procedure preference to determine the number of merit points to be awarded to each applicant, we first ascertain the basic eligibility of the applicants. In order to further our diversity goals and foster local, community-based service, we do not allow any broadcaster or other media entity subject to our ownership rules to control or to hold an attributable ownership interest in an LPFM station or enter broadcast-related operating agreements with an LPFM licensee. Additionally, to foster the local nature of LPFM service, we have limited eligibility to local entities during the first two years that LPFM licenses are available. Based on the complete application record, we conclude that Brandon Calvary Chapel, Iglesia, Metropole, and FFI are qualified to hold an LPFM station license.

4. Mutually exclusive LPFM applications are subject to the comparative selection procedures set forth in Section 73.872 of the Commission’s rules.⁸ This procedure awards a maximum of three points based on three criteria deemed to be most relevant to predicting the applicant best qualified to provide the service for which LPFM spectrum has been allocated.⁹ Each applicant that certified that it has had an *established community presence of at least two years’ duration* is awarded one point. An applicant is deemed to have an established community presence if, for a period of at least two years prior to application, the *applicant* has been physically headquartered, has had a campus, or has had 75 percent of its board members residing within 10 miles of the reference coordinates of the proposed transmitting antenna. Second, an applicant that has *pledged to operate at least 12 hours per day* is awarded one point. Third, an applicant that has *pledged to originate locally at least eight hours of programming per day* is

³ See *Letter to Alan Korn, Esq. and Eric S. Kravetz, Esq.*, Reference 1800B3-SS (Audio Division, Media Bureau, Dec. 22, 2004).

⁴ RTN filed a supplement to its objection on April 15, 2004; Iglesia filed on opposition on April 30, 2004.

⁵ See n.2, *supra*.

⁶ 47 C.F.R. § 73.3587.

⁷ 47 C.F.R. § 73.807(d).

⁸ 47 C.F.R. § 73.872.

⁹ *Id.*

awarded one point. For purposes of this criterion, local origination is defined as the production of programming within 10 miles of the reference coordinates of the proposed transmitting antenna.¹⁰ The tentative selectee is the applicant with the highest score.

5. Under this comparative selection process, the applicants are awarded the following points:

Established Community Presence. Brandon Calvary Chapel, Iglesia, and Metropole are each entitled to one point because they certify that for a period of at least two years prior to the filing date of its application, they have existed as an educational institution or organization and have been physically headquartered, have had a campus, or have had 75 percent of their board members residing within 10 miles of the coordinates of the proposed transmitting antenna.¹¹ FFI is not entitled to a point because it certifies that it does not meet the requirements of being physically headquartered, having a campus, or having 75 percent of its board members residing within 10 miles of the reference coordinates of the proposed transmitting antenna for a period of at least two years prior to the filing date of its application.¹²

Proposed Operating Hours. Each applicant is entitled to one point because it pledges to operate at least 12 hours per day.¹³

Local Program Origination. Each applicant is entitled to one point because it pledges to originate at least eight hours of local programming per day.¹⁴

Total. Accordingly, Brandon Calvary Chapel, Iglesia, and Metropole are entitled to three points, and FFI is entitled to two points. A time-share agreement and amendment to the time-share agreement have been submitted by Brandon Calvary Chapel and Iglesia. Under the terms of the agreement, Brandon Calvary Chapel proposes to broadcast 2:00 pm until 2:00 am local time each day, while Iglesia proposes to broadcast 2:00 am until 2:00 pm local time each day. We conclude that the acceptance of Brandon Calvary Chapel's and Iglesia's voluntary time-share agreement, which also aggregates their points, and fully complies with the requirements of Section 73.872,¹⁵ would serve the public interest, convenience and necessity. The terms of this time-share agreement will also be made part of the authorization issued to each of these applicants. Thus, Brandon Calvary Chapel and Iglesia are the prevailing tentative selectees in LPFM Mutually Exclusive Group No. 13.¹⁶

¹⁰ See *id.*

¹¹ See File No. BNPL-20010613AGK ("Brandon Calvary Chapel Application") at Section III, Question 1(a); see also Exhibit 7; File No. BNPL-20010615AAV ("Iglesia Waters Application") at Section III, Question 1(a); see also Exhibit 7; and File No. BNPL-20010615ASL ("Metropole Application") at Section III, Question 1(a); see also Exhibit 7.

¹² See File No. BNPL-20010615AKC ("FFI Application") at Section III, Question 1(a); see also Exhibit 7..

¹³ See Brandon Calvary Chapel; Iglesia; Metropole; and FFI Applications at Question 2.

¹⁴ See Brandon Calvary Chapel; Iglesia; Metropole; and FFI Applications at Question 3.

¹⁵ See 47 C.F.R. § 73.872.

¹⁶ The application of The Haitian Community Moving Together, Inc. (File No. BNPL-20010611ACI) was dismissed by Bureau staff on Jan. 19, 2005.

III. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED, that the applications of Project La Metropole/The Metropole Project (File No. BNPL-20010615ASL); and Florida Force, Inc. (File No. BNPL-20010615AKC) ARE DISMISSED.

7. IT IS FURTHER ORDERED, that the applications of Calvary Chapel of Brandon, Inc. (File No. BNPL-20010613AGK) and Iglesia Cristiana La Nueva Jerusalem, Inc. (File No. BNPL-20010615AAV) ARE GRANTED. IT IS FURTHER ORDERED that the April 13, 2004, informal objection filed by Radio Training Network, Inc., IS HEREBY DENIED, and all related pleadings ARE DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

**JOINT STATEMENT OF
COMMISSIONERS MICHAEL J. COPPS AND JONATHAN S. ADELSTEIN**

Re: Applications for Construction Permits for New LPFM Stations

We are pleased that the Commission is moving ahead to license additional low power FM radio stations. These community-based stations are licensed to churches, schools and other local organizations and can help in significant ways to meet the needs of under-represented communities. Low power benefits recording artists by providing more outlets for airplay, especially on a local or regional level. It provides community coverage in often strikingly-successful ways. To promote these local stations, we hope the Commission would also move forward on its recent proceeding on low power FM radio and consider opening a new filing window for the many noncommercial entities that want to offer new low power FM radio services wherever possible.