

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

In re Applications of:)	
)	
GSRI PROPERTY OWNERS ASSOCIATION)	File No. BNPL-20000605ACE
)	Facility ID No. 123973
For a Construction Permit for a New LPFM Station at Baton Rouge, Louisiana)	
)	
JEFFERSON BAPTIST CHURCH, INC.)	File No. BNLP-20000605AEM
)	Facility ID No. 124170
For a Construction Permit for a New LPFM Station at Baton Rouge, Louisiana)	
)	
ETHICS, INC.)	File No. BNPL-20000602ABW
)	Facility ID No. 123791
For a Construction Permit for a New LPFM Station at Baton Rouge, Louisiana)	

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 GSRI Property Owners Association (“GSRI”), Jefferson Baptist Church, Inc. (“Jefferson”), and Ethics, Inc. (“Ethics”) seeking construction permits in the Low Power FM (“LPFM”) Broadcast Service at Baton Rouge, Louisiana. In accordance with our procedures,¹ the Commission published notice of the applications’ tentative selectee status.² No parties filed petitions to deny or informal objections in response to these applications.

II. DISCUSSION

2. 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

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 04-123, (rel. Jan. 28, 2004).

application record, we conclude that GSRI, Jefferson, and Ethics are qualified to hold an LPFM station license.

3. Mutually exclusive LPFM applications are subject to the comparative selection procedures set forth in Section 73.872 of the Commission's rules.³ 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.⁴ 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 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.⁵ The tentative selectee is the applicant with the highest score.

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

Established Community Presence. GSRI is entitled to one point because it certifies that for a period of at least two years prior to the filing date of its application, it has existed as an educational institution or organization and has been physically headquartered, has had a campus, or has had 75 percent of its board members residing within 10 miles of the coordinates of the proposed transmitting antenna.⁶ Jefferson is entitled to a point because it certifies that it meets 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.⁷ Ethics 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.⁸

Proposed Operating Hours. Each applicant is entitled to one point because it pledges to operate at least 12 hours per day.⁹

Local Program Origination. Each applicant is entitled to one point because it pledges to originate at least eight hours of local programming per day.¹⁰

³ 47 C.F.R. § 73.872.

⁴ *Id.*

⁵ *See id.*

⁶ *See* File No. BNPL-20000605ACE ("GSRI Application") at Section III, Question 1(a); *see also* Exhibit 7.

⁷ *See* File No. BNPL-20000605AEM ("Jefferson Application") at Section III, Question 1(a); *see also* Exhibit 7.

⁸ *See* File No. BNPL-20000605ABW ("Ethics Application") at Section III, Question 1(a); *see also* Exhibit 7.

⁹ *See* GSRI Application at Question 2; *see also* Jefferson Application at Question 2; Ethics Application at Question 2.

¹⁰ *See* GSRI Application at Question 3; *see also* Jefferson Application at Question 3; Ethics Application at Question 3.

Total. Accordingly, GSRI and Jefferson are entitled to three points, and Ethics is entitled to two points.¹¹ A time-share agreement has been submitted by GSRI and Jefferson. Under the terms of the agreement, GSRI, using its own facilities, shall broadcast each day between the hours of 3:00 pm and 3:00 am Central time. Jefferson, using its own facilities, shall broadcast each day between the hours of 3:00 am and 3:00 pm Central time. We conclude that the acceptance of GSRI's and Jefferson's voluntary time-share agreement, which also aggregates their points, and fully complies with the requirements of Section 73.872,¹² 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, GSRI and Jefferson are the prevailing tentative selectees in LPFM Mutually Exclusive Group No. 48.

III. ORDERING CLAUSES

5. Accordingly, IT IS ORDERED, that the application Ethics, Inc. (File No. BNPL-20000605ABW) IS DISMISSED.

6. IT IS FURTHER ORDERED, that the applications of GSRI Property Owners Association (File No. BNPL-20000605ACE) and Jefferson Baptist Church, Inc. (File No. BNPL-20000605AEM) ARE GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

¹¹ Ethics filed an amendment on January 18, 2001, to change its answer to Section III, Question 1(a) of its application from "no" to "yes." In addition, Ethics' counsel submitted a letter on December 18, 2003, seeking acceptance of the amendment. The staff denied the amendment on March 31, 2003.

¹² See 47 C.F.R. § 73.872.

**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.