



Federal Communications Commission  
Washington, D.C. 20554

February 7, 2008

**DA 08-309**

*In Reply Refer To:*

1800B3-IB/DB/KD

Released: February 7, 2008

Central Florida Educational Foundation, Inc.  
c/o Joseph E. Dunne, Esq.  
P.O. Box 9203  
Durango, CO 81302-9203

Re: NEW(FM), Favoretta, FL  
Facility ID No. 92458  
BPED-19981231MB  
MX Group No. 980616  
**Petition to Deny**  
**Petition for Reconsideration**

Dear Counsel:

We have before us several pleadings contesting the Commission's tentative decision to grant a permit to construct a new noncommercial educational ("NCE") FM station to Daystar Public Radio, Inc. ("Daystar"), as proposed in the Commission's *Omnibus Order*.<sup>1</sup> Post-Newsweek Stations, Orlando, Inc. ("Post-Newsweek") and Central Florida Educational Foundation, Inc. ("Central") filed Petitions to Deny.<sup>2</sup> Central also sought reconsideration of the *Omnibus Order*.<sup>3</sup> For the reasons set forth below, we deny the Post-Newsweek Petition, dismiss Central's *Reconsideration Request*, and grant the Central Petition in part. The latter action results in the dismissal of Daystar's application as patently defective, negates the need for a point system analysis between Daystar and Central, and causes Central to become the new tentative selectee.

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<sup>1</sup> See *Comparative Consideration of 76 Groups of Mutually Exclusive Applications for Permits to Construct New or Modified Noncommercial Educational FM Stations*, Memorandum Opinion and Order, 22 FCC Rcd 6101 (2007) ("*Omnibus Order*").

<sup>2</sup> Petition to Deny of Central Florida Educational Foundation, Inc. (May 2, 2007) ("Central Petition"); Petition to Deny of Post-Newsweek Stations, Orlando, Inc. (May 2, 2007) ("Post-Newsweek Petition").

<sup>3</sup> See Petition for Reconsideration (Apr. 26, 2007) ("*Reconsideration Request*"). However, Section 1.106(a)(1) of the Commission's Rules (the "Rules") specifically prohibits petitions for reconsideration of interlocutory actions. See 47 C.F.R. § 1.106(a)(1). Confirming the interlocutory nature of the *Omnibus Order*, the Commission emphasized that its selections were 'tentative' and took no final action with regard to any of the tentatively selected applications. See *Omnibus Order*, 22 FCC Rcd at 6102; See also *Bennett v. Spear*, 520 U.S. 154, 177-78 (1997). The *Reconsideration Request* is therefore dismissed. Moreover, as discussed *infra*, the arguments therein would not have changed the outcome of this proceeding.

**BACKGROUND.** The *Omnibus Order* applied the Commission’s NCE comparative selection criteria<sup>4</sup> to seventy-six groups of mutually exclusive NCE FM applications. Group No. 980616 consisted of the Daystar and Central applications, along with applications filed by four additional parties: Christian Educational Association (“CEA”), Good Idea, Inc. (“Good”), Pathway Public Radio, Inc. (“Pathway”), and Community Public Radio, Inc. (“CPR”). The applicants proposed service to several different communities, and the Commission, therefore, performed a Section 307(b) fair distribution analysis based on proposed new NCE first and/or second service.<sup>5</sup> That analysis eliminated all but the Central and Daystar applications.<sup>6</sup> The Commission found the populations and areas covered by Daystar’s Favoretta, Florida proposal and by Central’s Palm Coast, Florida proposal to be comparable for fair distribution purposes. The Commission, therefore, proceeded to consider the Daystar and Central applications in a point system analysis.<sup>7</sup> The Commission tentatively selected Daystar’s application (the “Application”) for grant based on Daystar’s receipt of the most points in the group.<sup>8</sup> The Commission dismissed as premature an informal objection that Post-Newsweek had filed against the Application in 2001.<sup>9</sup>

In response to the *Omnibus Order*, Post-Newsweek and Central filed petitions to deny the Application. Post-Newsweek alleges that the Daystar proposal would cause interference to WKMG-TV, Orlando, Florida, a TV Channel 6 station licensed to Post-Newsweek. Central argues that the Application must be dismissed because Favoretta, Florida is not a licensable community. Central also alleges that Daystar is not qualified for the points awarded by the Commission.

**DISCUSSION. Potential Interference.** The Application certifies that Daystar’s proposed operation would protect the operations of Post-Newsweek’s station WKMG-TV, consistent with Section 73.525 of the Rules.<sup>10</sup> That rule allows applicants for new NCE FM stations to propose predicted interference to the TV Channel 6 reception of no more than 4,000 people (assuming that the applicant will eliminate interference to 1,000 of those people by installing filters).<sup>11</sup> Applicants must base their calculations on “the most recently published U.S. Census of Population.”<sup>12</sup> The Rules prescribe a general method for performing the calculations, but give the NCE FM applicant or the affected TV Channel 6 station the option to use “more detailed population data.”<sup>13</sup> The Application, filed in 1998, identifies interference

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<sup>4</sup> See 47 C.F.R. §§ 73.7000 – 05. See also *Reexamination of Comparative Standards for Noncommercial Educational Applications*, Report and Order, 15 FCC Rcd 7386 (2000) (“*NCE R&O*”), *affirmed and clarified*, Memorandum Opinion and Order, 16 FCC Rcd 5074, 5106 (2001) (“*NCE MO&O*”), *Erratum*, 16 FCC Rcd 10549, *recon. denied*, Memorandum Opinion and Second Order on Reconsideration, 17 FCC Rcd 13132 (2002) (“*NCE Second Order*”), *aff’d sub nom. American Family Ass’n v. FCC*, 365 F.3d 1156 (D.C. Cir. 2004), *cert. denied*, 543 U.S. 1004 (history concerning non-reserved channels omitted).

<sup>5</sup> See 47 U.S.C. § 307(b); 47 C.F.R. § 73.7002.

<sup>6</sup> See *Omnibus Order*, 22 FCC Rcd at 6111-12. CEA was eliminated because its claimed numbers appeared significantly inaccurate. *Id.* CPR was eliminated because it certified that it was not entitled to a preference based on first service alone. *Id.* at 6112. Good and Pathway were eliminated because each proposed to provide a first local service to at least 5,000 fewer potential listeners than either Daystar or Central. *Id.*

<sup>7</sup> See 47 C.F.R. § 73.7003(b)(2).

<sup>8</sup> See *Omnibus Order*, 22 FCC Rcd at 6149. Daystar and Central received four and two points respectively.

<sup>9</sup> *Id.* at 6149, n.206, 6176.

<sup>10</sup> See Application, Question V(B)(29), Exhibit E-6.

<sup>11</sup> See 47 C.F.R. § 73.525(c).

<sup>12</sup> See 47 C.F.R. § 73.525(e)(2).

<sup>13</sup> See 47 C.F.R. § 73.525(e)(2)(iv).

within permitted parameters, *i.e.*, to 2,427 people, using 1990 Census population data. In 2001, following release of 2000 Census data, Post-Newsweek filed an informal objection alleging interference to a population in excess of that permitted, *i.e.*, to 4,032 persons.

As discussed *supra*, the Commission dismissed Post-Newsweek's 2001 objection as premature. The dismissal was without prejudice, and Post-Newsweek has raised similar arguments in a new Petition. Post-Newsweek contends that Daystar's reliance on 1990 population data is outdated, does not take into account growth in the region, and is inconsistent with the requirement to use the "most recently published U.S. Census of Population." Post-Newsweek now computes that 4,143 persons in 42.49 sq. km reside within the predicted interference area.<sup>14</sup> Post-Newsweek argues that its use of 2000 Census data is consistent with the Rules' allowance for use of "more detailed population data."

Daystar responds that its application was filed several years before the 2000 Census data was available and that the 1990 Census data was the most recent at the time of filing. Daystar argues that nothing in the Rules require updates to pending applications each time new census data is released. It contends that the application was acceptable when filed, and should be considered so now, despite changes in population that may have occurred since that time.

The parties do not dispute the size of the predicted area of potential interference to Channel 6 reception. Post-Newsweek has not cited any case requiring an applicant to revise population data following release of a new Census, or finding that such data is necessarily "more detailed." Daystar's continued use of the Census data that was most recent at the time it filed its TV Channel 6 showing is consistent with the Commission's continued use of such Census data to examine an applicant's qualifications under the NCE fair distribution and technical parameter criteria.<sup>15</sup> For example, in reminding NCE applicants to report changes to pending applications, the Bureau excluded as non-cognizable "changes in overall population coverage or in population receiving a first or second service" which were due to population shifts reflected in a new Census rather than to any action taken by the applicant.<sup>16</sup> The population changes in the instant proceeding occurred naturally, not as a direct result of any action by Daystar. The Application was found to be compliant with Section 73.525, and was placed on a "B" cutoff list, well before the release of 2000 Census data and well before Post-Newsweek's initial informal objection. Consequently, we will deny the Post-Newsweek Petition.<sup>17</sup>

**Licensable Community.** Central objects to Favoretta as a licensable community. It asserts that Favoretta has no geographical boundaries and is not: (1) incorporated; (2) recognized as a separate

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<sup>14</sup> The technical exhibit to Post-Newsweek's May 2, 2007 filing shows a figure of 4,143 persons, while the text in the petition shows 4,413 persons. Apparently the middle two numbers were transposed when the figure was transferred from the technical exhibit to the petition to deny.

<sup>15</sup> See *NCE R&O*, 15 FCC Rcd at 7398, n.17; *Supplements and Settlements to Pending Closed Groups of NCE Applications*, Public Notice, 16 FCC Rcd 6893 (MB 2001).

<sup>16</sup> See *Section 1.65 Amendment Deadline Established for NCE FM and FM Translator Applicants*, Public Notice, 19 FCC Rcd 24740, 24743 (MB 2004).

<sup>17</sup> Daystar proposes to mount its antenna on the tower covered by antenna structure registration number 1032476. However, since the application was filed, the tower owner corrected the tower coordinates and site elevation in FAA Study No. 2003-ASO-5097-OE. This causes the proposed longitude to differ by 2 seconds from the values in the antenna structure registration, and the site elevation to be increased by 2 meters. In similar cases, we have routinely permitted applicants to amend to correct such small discrepancies. Given the lengthy pendency of this proceeding, we have incorporated these corrections into Daystar's proposal on our own motion. These minor changes did not affect any co-channel or adjacent channel NCE FM station, and these corrections are of no decisional significance.

community; (3) listed in a Rand McNally atlas; (4) recognized as a community in U.S. Census Data; or (5) recognized by Flagler County on its zoning map.<sup>18</sup> According to Central, there is only one house and one business located in Favoretta, and that there are no “religious, cultural, fraternal ... or business groups or organizations which are in Favoretta or meet there.”<sup>19</sup> Central also alleges that Favoretta has no newspaper, government, schools, libraries, or social gathering places.<sup>20</sup> Central argues that “[w]ithout a community to serve, Daystar’s application must be denied.”<sup>21</sup>

In response, Daystar concedes that Favoretta is not incorporated and has no independent local government,<sup>22</sup> but asserts that Favoretta is shown on a Rand McNally map and in the 2004 “Road Atlas” published by the American Map Corporation, with a listed population of 650 persons.<sup>23</sup> In addition, Daystar observes that the Commission, in the *Omnibus Order*, noted that Favoretta is on a list of communities compiled by the Florida Department of Education. Daystar attaches the declaration of Daystar’s Vice President, who states that he has “met several local residents,” has visited two businesses located in Favoretta, and has seen a business center that is currently under development.<sup>24</sup> Daystar further argues that “[f]irst service to a given community has never been a paramount concern of the Commission in the NCE context, a fact which it noted as it formulated the 307(b) criteria that would be employed in connection with the NCE point system.”<sup>25</sup> As such, Daystar argues that the “commercial band allocation criteria invoked by [Central] are not a valid basis upon which to evaluate or to deny Daystar’s application.”<sup>26</sup>

We reject Daystar’s argument that community of license is a commercial allocations concept that has little relevance in NCE licensing proceedings. Daystar’s argument that Section 307(b) criteria differ for commercial and NCE purposes is immaterial to the present proceeding because a station’s community of license is important beyond a Section 307(b) context.<sup>27</sup> Section 307(b) factors may or may not be

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<sup>18</sup> See Central Petition at 3-5.

<sup>19</sup> See *id.* at 5.

<sup>20</sup> *Id.* at 10 -11. Central provides a sworn statement under penalty of perjury from its President, who states that he is personally familiar with Favoretta because the transmitter site for Central’s station WEAZ(FM), Holly Hill, Florida is located “in” Favoretta (with a Bunnell address). See Verified Statement of James S. Hoge, President, Central (May 2, 2007).

<sup>21</sup> See Central Petition at 7.

<sup>22</sup> See Opposition at 3. Daystar further asserts that Central should have raised these arguments by the B cut-off date on November 4, 1999. As such, Daystar argues that the Petition should be dismissed as being untimely filed. See *id.* at 2.

<sup>23</sup> See *id.* at 2. See also Opposition, Declaration of Jason Linkous, Vice-President of Daystar (May 16, 2007) (the “Linkous Declaration”).

<sup>24</sup> See Opposition, Linkous Declaration. The Linkous Declaration includes photographs showing three buildings and a sign announcing planned construction.

<sup>25</sup> See *id.* at 4.

<sup>26</sup> See *id.* at 5.

<sup>27</sup> Additionally, even in a Section 307(b) context, an NCE station’s proposed community indeed plays a role. See 47 C.F.R. § 73.7002(a) (fair distribution analysis performed if applications would “serve different communities.”). See also *Tullahoma, Tennessee*, Report and Order, 18 FCC Rcd 17636 (MB 2003) (denying commercial applicant preference as first local service where the community was already served by an NCE station).

material to a particular case,<sup>28</sup> but it is axiomatic that *all* broadcasters, including NCE FM applicants, must specify a *bona fide* community in their applications.<sup>29</sup> Contrary to Daystar's position that the concept of a licensable community is unimportant outside of a commercial allocations context, several Commission requirements applicable specifically to NCE applicants and licensees are phrased in terms of community of license. For example, applicants for new NCE stations must maintain a public file "in the proposed community of license or at its proposed main studio."<sup>30</sup> A fundamental public interest obligation considered in license renewal proceedings is the track record of an NCE licensee's efforts to identify issues and problems of its community of license, broadcast programs responsive to those issues, and maintain quarterly lists of its most significant treatment of community issues.<sup>31</sup> NCE applications filed after 2000 must provide a required signal strength to at least 50 percent of the area or population of the station's proposed community of license.<sup>32</sup>

The Commission has defined "communities" as geographically identifiable population groupings, which have common local interests.<sup>33</sup> This requirement is generally satisfied if the proposed community is either incorporated or listed in the U.S. Census.<sup>34</sup> Incorporation, however, is not a prerequisite to community status. The key factor in determining the existence of a community is the presence of a community of interest associated with an identifiable population grouping. A mere geographical location is not enough; there must be a clearly established, separate and distinct community with palpable political, economic and social needs that a radio station can address.<sup>35</sup> The principal test is whether the residents function as and conceive of themselves as a community around which their interests coalesce.<sup>36</sup> This may be proven by direct testimony of residents of the locality and by various community indicia. These could include separate municipal services and institutions, or significant political, commercial, social and/or religious organizations and services serving the residents.

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<sup>28</sup> For example, Section 307(b) factors are not considered where all applicants in a group propose to serve the same community of license. *See* 47 C.F.R. § 73.7002(a).

<sup>29</sup> *Id.* *See also* *Beacon Broadcasting*, Memorandum Opinion and Order, 2 FCC Rcd 3469 (1987) (where the Commission first had to determine whether Fairforest was a community for the purposes of the Commission's rules before proceeding to a 307(b) analysis).

<sup>30</sup> *See* 47 C.F.R. § 73.3527(b).

<sup>31</sup> *See* 47 C.F.R. § 73.3527(e)(8). Daystar's Application focuses primarily on meeting the needs and interests of the station's service contour" or "service area," but implicitly recognizes the importance of community of license by promising to consult "community leaders" and citizens to determine "the programming needs of Favoretta." Application at Exs. L-1, L-2, L-4.

<sup>32</sup> *See* 47 C.F.R. § 73.515.

<sup>33</sup> *See Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88, 98 (1982).

<sup>34</sup> *Id.*

<sup>35</sup> *See, e.g., Beacon Broadcasting*, Decision, 104 FCC2d 808 (Rev. Bd. 1986), *modified*, 2 FCC Rcd 3469 (1987), *aff'd sub nom. New South Broadcasting Corp. v FCC*, 879 F.2d 867 (D.C. Cir. 1989) (The specified location must be an identifiable population grouping separate and apart from all others, and the geographic boundaries of the location must not enclose or contain areas or populations more logically identified as or associated with some other location).

<sup>36</sup> *See Vimville, Mississippi*, Report and Order, 48 FR 56613 (Dec. 22, 1983).

We find that Favoretta is not a licensable community.<sup>37</sup> As discussed above, Favoretta is not listed in the U.S. Census Data, is not incorporated, and has no local government, post office, or schools. Moreover, Favoretta is not recognized by the United States Post Office. The two businesses allegedly located in Favoretta (Favoretta Lawn & Garden and Favoretta Business Center) have Bunnell, Florida, mailing addresses. While Daystar's Vice President declares that he has "met several local residents"<sup>38</sup> of Favoretta, Daystar fails to provide any direct testimony from the residents themselves. The Commission's statement in the *Omnibus Order* that the Florida Department of Education ("FDE") lists Favoretta, but not "Favorita" on its web site, was not made for the purposes of finding Favoretta licensable, but rather to show that Favorita and Favoretta were apparently the same place, with a variant spelling.<sup>39</sup> The FDE web site merely indicated that Favoretta is within the Flagler County school district.<sup>40</sup> There are no indications of commercial, cultural, religious or social organizations in Favoretta. While Daystar asserts that Favoretta is shown on maps with a population of 650, it has not verified this statement by providing copies of the maps. Assuming *arguendo* that Favoretta is listed on Rand McNally maps, the appearance of a place name on a map is not alone sufficient to establish that location as a *bona fide* community.<sup>41</sup> Because we conclude that Favoretta does not have the attributes of a licensable community, the three applications proposing service to Favoretta – those of Daystar, Pathway, and CEA – are patently defective.<sup>42</sup> Accordingly, those applications will be dismissed.<sup>43</sup>

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<sup>37</sup> See, e.g., *Pike Road, Al*, Report and Order, 10 FCC Rcd 10347 (MMB 1991) (holding that Pike Road was not a community, despite acknowledging that some indicia of community status was present, such as the Pike Road Community and Civic Clubs, a volunteer fire department, a library, a few churches, some commercial activity, and a postal facility).

<sup>38</sup> See Opposition, Linkous Declaration.

<sup>39</sup> See *Omnibus Order*, 22 FCC Rcd at 6111, n.63.

<sup>40</sup> See [www.fldoe.org/eias/flmove/city.asp](http://www.fldoe.org/eias/flmove/city.asp) (accessed Nov. 5, 2007) (formerly [www.firn.edu/doe/eias/flmove/city.htm](http://www.firn.edu/doe/eias/flmove/city.htm)). Daystar's Application asserts that CEA "has incorrectly stated the community as being Favorita when it is actually Favoretta. There is no Favorita, Florida." See Application, Exhibit E-6. Central, states that there is uncertainty whether the location's name is 'Favoretta' or 'Favorita,' noting that Favorita appears on a railroad utility box and in the 2007 Rand McNally Road Atlas. See Verified Statement of Randy Woods, Technical Director, Central (June 4, 2007).

<sup>41</sup> See *Jefferson City, TN*, Notice of Proposed Rulemaking, 9 FCC Rcd 5738 (MB 1994) (citing *Oak Beach and Bay Shore, New York*, 57 RR2d 1275 (1980)).

<sup>42</sup> See 47 C.F.R. § 73.3566. As discussed *supra*, Favorita and Favoretta appear one and the same.

<sup>43</sup> A dismissed NCE applicant generally has one opportunity to make any corrections that can be accomplished through a "minor" amendment within 30 days of dismissal, accompanied by a petition for reconsideration and request that the amended application be considered *nunc pro tunc*. Applicants specifying a non-licensable community, however, cannot cure the defects without changing community which, in the present case, would be considered a "major" change. Applications to construct new reserved band NCE stations are merely proposals, with no authorized footprint, and are not tantamount to a Commission license, permit, or allotment. Thus, the instant NCE applicants, including the tentative selectee, could not show that a community change is "minor" through continued service to a "previously authorized 1 mV/m service area" or mutual exclusivity with a "current assignment." See 47 C.F.R. §§ 73.3573(a)(1)(i) and (g)(2). See also *Changes of Community of License in the Radio Broadcast Services*, Report and Order, 21 FCC Rcd 14212, 14221 (2006) (new procedures to change community of license are applicable to authorized reserved band and non-reserved band NCE FM stations; NCE applications have nothing akin to facilities that can be protected until "an assignment is made, *i.e.*, upon 'reservation,' . . . [of a non-reserved channel allotment for NCE purposes]."). *Media Bureau Offers Examples to Clarify the Treatment of Applications and Rulemaking Petitions Proposing Community of License Changes, Channel Substitutions, and New FM Allotments*, Public Notice, 22 FCC Rcd 6852 (MB 2007) (limiting examples of AM, FM, and NCE community of license changes permitted as minor to circumstances where the proposal would be mutually exclusive with a Commission-approved allotment, permit, or license). *Accord, New(AM), Jackson, MS*, (footnote continued...)

**Revised Fair Distribution Analysis.** With the elimination of the three Favoretta applications, only Central, Good, and CPR remain in Group No. 980616. Elimination of the Favoretta applications does not, with respect to the remaining parties, alter the outcome of the Section 307(b) analysis performed previously by the Commission. As the Commission observed in the *Omnibus Order*, Central's Palm Coast, Florida proposal, with first NCE aural service to 36,725 people, is entitled to a decisive Section 307(b) preference over Good's Beverly Beach, Florida proposal, with first NCE aural service to 23,915 people.<sup>44</sup> Also, as specified in the *Omnibus Order*, CPR's Beverly Beach proposal is eliminated from Section 307(b) consideration because it did not assert that it is entitled to a preference based solely on first service. Without Daystar in the group, however, there is no longer a Section 307(b) proposal comparable to that of Central. Thus, Central prevails as a threshold matter based on fair distribution criteria and a new point system analysis between the remaining applicants is not necessary.<sup>45</sup> Central becomes the tentative selectee in Group No. 980616. Because a point system analysis is no longer appropriate, Central's arguments regarding the "technical parameters" points previously awarded to Daystar have become moot.

#### **ORDERING CLAUSES.**

Accordingly, IT IS ORDERED, That the Petition to Deny filed on May 2, 2007, by Post-Newsweek Stations, Orlando, Inc. IS DENIED.

IT IS FURTHER ORDERED, That the Petition for Reconsideration filed April 26, 2007 by Central Florida Educational Foundation, Inc. IS DISMISSED.

IT IS FURTHER ORDERED, That the Petition to Deny filed on May 2, 2007, by Central Florida Educational Foundation, Inc. IS GRANTED to the extent indicated herein and DISMISSED AS MOOT in all other respects.

IT IS FURTHER ORDERED, That the applications of Daystar Public Radio, Inc. (File No. BPED-19981231MB), Christian Educational Association (File No. BPED-19980610MB), and Pathway Public Radio, Inc. (File No. BPED-19990104MB) all proposing service to Favoretta, Florida ARE DISMISSED AS PATENTLY DEFECTIVE.

IT IS FURTHER ORDERED, That Central Florida Educational Foundation, Inc. is TENTATIVELY SELECTED to be awarded a construction permit for a new NCE FM station in Palm Coast, Florida. A public notice will be issued announcing the new tentative selectee in NCE Group 980616 and establishing a deadline thirty (30) days thereafter for the filing of petitions to deny. If, after the petition to deny period has run, there is no substantial and material question concerning the grantability of the tentative selectee's application, it is the Bureau's intent TO DISMISS the mutually exclusive applications of Good Idea, Inc. (BPED-19990104MA) and Community Public Radio, Inc.

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Letter (MB Jun. 6, 2007), *recon. pending* (proposed amendment by applicant for new AM station denied as a major change because an applicant in a non-tabled service can have no existing or authorized facilities with which to be mutually exclusive). Major amendments are not acceptable outside a filing window and, even in a filing window, would result in receipt of a new file number which would effectively disqualify the Favoretta applications by removing them from this mutually exclusive group. See 47 C.F.R. § 73.3573(a)(1), (3).

<sup>44</sup> See *Omnibus Order* at 6112.

<sup>45</sup> The Bureau has delegated authority to revise fair distribution analyses without referral to the Commission. See *Omnibus Order*, 22 FCC Rcd at 6104, n.16. See also 47 C.F.R. § § 0.61, 0.283.

(BPED-19990104MN) and TO GRANT the application of Central Florida Educational Foundation, Inc. (File No. BPED-19990104MP) CONDITIONED UPON that selectee's compliance with Section 73.7005 of the Commission's Rules, 47 C.F.R. § 73.7005, which provides that an applicant receiving a Section 307(b) preference that is decisive over another applicant must operate technical facilities substantially as proposed for a period of four years of on-air operations.

Sincerely,

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

cc: Christian Educational Association  
Daystar Public Radio, Inc.  
Good Idea, Inc.  
Pathway Public Radio, Inc.  
Community Public Radio, Inc.