



PUBLIC NOTICE

Federal Communications Commission
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MEDIA BUREAU ANNOUNCES FILING WINDOW FOR NEW NONCOMMERCIAL EDUCATIONAL TELEVISION STATIONS FROM DECEMBER 4 THROUGH DECEMBER 11, 2024, AND SETS FORTH FILING PROCEDURES AND REQUIREMENTS

Limited Filing Freezes for all Full Power and Class A Television Stations to Commence December 3, 2024 Until Close of the Filing Window

This Public Notice provides an overview of the procedures, filing requirements, and comparative selection process that will apply to the upcoming filing window for applications for new noncommercial educational television (NCETV) station construction permits (NCETV Filing Window). **The window will open at 12:01 a.m. EST on December 4, 2024, and close at 6:00 p.m. EST on December 11, 2024.** The window is available for the locations and reserved noncommercial educational channels in the Table of TV Allotments (Table)¹ listed in Appendix A of this Public Notice.

In conjunction with the NCETV Filing Window, effective immediately upon release of this Public Notice, the Commission will not accept petitions to amend the Table to allot new reserved noncommercial educational channels to communities. **In addition, effective 12:01 a.m. EST on December 3, 2024, the Commission will not accept rulemaking petitions for full power television stations to change channel, and minor and major change applications for full power and Class A television stations. These freezes will continue in effect until the close of the NCETV Filing Window on December 11, 2024 at 6:00 p.m. EST (Application Deadline).**

I. ELECTRONIC LMS FILING INSTRUCTIONS

Applications for construction permits for new NCETV stations must be filed electronically on the FCC Form 2100, Schedule A-340 – Noncommercial Educational Reserved Channel Construction Permit Application (“Form 2100, Schedule A-340” or “Schedule A-340”) in the Commission’s Licensing and Management System (LMS).² Applicants must complete *all* sections of Schedule A-340, consistent with additional instructions discussed in this Public Notice. Paper filed applications will not be considered. There is no filing fee required for the application.³

Applications must be filed between **12:01 a.m. EST on December 4, 2024, and 6:00 p.m. EST on December 11, 2024.** The opening and closing of the NCETV Filing Window will be strictly enforced. Applications submitted before the opening of the NCETV Filing Window or after the 6:00 p.m. EST Application Deadline will be dismissed by public notice without further consideration. We therefore encourage applicants to file early in the window to ensure proper and timely submission and to contact

¹ 47 CFR § 73.622(j). Channels are identified in the Table by an asterisk to indicate they are reserved for noncommercial educational use. 47 CFR § 73.622(a).

² Instructions for filing construction permits for new NCETV stations are contained in Appendix B.

³ See 47 CFR § 1.1116(c) (exempting applicants, permittees, or licensees of NCE broadcast stations from filing fees).

Video Division, Media Bureau (Bureau) staff with any questions applicants may have about filing and qualification requirements.⁴ Applications filed during the window will not be made available to the public until after the close of the filing window.

Schedule A-340 is primarily certification-based, and requires applicants to document certain of their claims by submitting supporting information. **Each applicant should carefully read the Instructions to Schedule A-340, as well as this Public Notice, to ensure that each response contained in its application, which constitutes a certification or material representation, is correct. Each applicant bears full responsibility for submitting an accurate, complete, and timely application.**

LMS Help Center. Instructions on using the LMS electronic filing system are available on the Bureau's LMS Help Center page, which can be found at <https://www.fcc.gov/media/radio/lms-help-center>.

Form 2100, Schedule A-340 Instructions. Instructions on completing each section of Schedule A-340 (Instructions) that are specific to NCETV are available at: <https://www.fcc.gov/sites/default/files/lms-Form-2100-Schedule-A-340-NCE-construction-permit-application-instructions.pdf>. The Schedule A-340 Instructions must be read in conjunction with this Public Notice. Applicants should also refer to Commission policy statements and cases cited herein for guidance on basic NCETV eligibility requirements.

LMS Data Entry Login. Applicants can access the LMS applicant data entry home page at: <https://enterpriseefiling.fcc.gov/dataentry/login.html>, and login using the FCC Registration Number (FRN) associated with the applicant.⁵

For questions regarding basic filing requirements, or assistance logging into LMS or accessing Schedule A-340, please contact the Commission at (877) 480-3201 (Option 2), Monday-Friday, 8:00 a.m.-6:00 p.m. EST, or submit a request online at <https://www.fcc.gov/media/radio/lms-help-center>.

II. BASIC NCETV ELIGIBILITY CERTIFICATIONS

Nonprofit Educational Eligibility Qualifications. Applicants for NCETV stations must meet basic eligibility requirements set forth in section 73.621 of the Commission's rules (Rules)⁶ and established licensing policies that are not codified in its rules.⁷ In addition to this Public Notice,

⁴ Applicants that have successfully filed Schedule A-340 will receive a confirmation page that indicates "Application Submitted." The page will provide a summary of the information in the application and will also include the Application File Number (a 10 digit number starting with zeroes). If a confirmation page is not displayed, the application may not have been properly filed and applicants should contact the Commission for assistance.

⁵ To submit an application, an applicant must first have, or obtain, an FRN. An FRN is a 10-digit identifying number that is assigned to entities doing business with the Commission. Applicants who do not have an FRN must register for an FRN in the Commission's CORES (Commission Registration System) web page. Go to <https://www.fcc.gov/licensing-databases/commission-registration-system-fcc> and follow the links to register. For further assistance with CORES, applicants may view tutorial videos at <https://www.fcc.gov/licensing-databases/fcc-registration-system-cores/commission-registration-system-video-tutorials>, or call the FRN help desk from 8:00 a.m. to 6:00 p.m. ET at 1-877-480-3201. Prospective applicants can obtain an FRN immediately. We encourage them to do so.

⁶ See 47 CFR § 73.621.

⁷ See, e.g., *Amendment of the Television Table of Allotments to Delete Noncommercial Reservation on Channel *16, 482-488 MHz, Pittsburgh, Pennsylvania*, Report and Order, 17 FCC Rcd 14038, 14055, para. 46 and n.58 (2002) (considering request for waiver of uncodified rule requiring that newly de-reserved noncommercial educational television channels be made available for competing applications); *Amendment of Part 90 of the Commission's Rules Concerning the Construction, Licensing, and Operation of Private Land Mobile Radio Stations*, PR Docket No. 90-481, *Notice of Proposed Rulemaking*, 5 FCC Rcd 6401, 6402, para. 9 (1990) (describing uncodified policy of

(continued....)

applicants should refer to the Instructions to Schedule A-340 for guidance on basic eligibility requirements.

Section 73.621(a) of the Rules requires that a reserved channel be “licensed only to nonprofit educational organizations”⁸ Thus, Schedule A-340 requires that each applicant certify that it is either a nonprofit educational institution, a governmental entity other than a school, or a nonprofit educational organization. All nonprofit educational institutions, including public and private schools and colleges, should choose “nonprofit educational institution” under “Legal Certifications/Eligibility” on Schedule A-340. Government entities, including agencies and boards that do not operate a school, should choose “governmental entity other than school.” Nonprofit educational organizations that are neither schools nor government entities, such as private educational nonprofit corporations, should choose “nonprofit educational organization, other than described above.” **If the applicant cannot answer “Yes” to any subpart of this question, the applicant is not eligible to hold an NCETV station authorization.**

Television applicants other than governments and schools are eligible to hold NCETV authorizations only if the majority (more than 50 percent) of their governing board or leaders are representative of a broad cross section of community elements.⁹ Thus, if the applicant chooses “nonprofit educational organization” under the Eligibility certification, it is required to certify that persons in leadership positions, such as its officers, directors and members of its governing board, are broadly representative of the educational, cultural, and civic segments of the principal community to be served in order to establish their basic qualifications. Some examples of elements of the community are businesses; charities; civic, neighborhood and fraternal organizations; culture; education; environment; government; labor; military; minority and ethnic groups; organizations of and for the elderly, women, or youth; professions; and religion.¹⁰ For the governing board or leadership to be considered broadly representative, the applicant must have at least four different elements of the community among its leadership.¹¹ And, as the Commission has stated, “a local headquarters or residence must be a primary place of business or primary residence and not, for example, a Post office box, lawyer’s office, branch (Continued from previous page) _____

allowing private land mobile radio service licenses to seek reinstatement within six months of expiration and noting that reinstatement policy is primarily based on application processing policy).

⁸ See 47 CFR § 73.621(a). NCETV stations are licensed *only* to nonprofit educational organizations, **and not individuals**. See 47 CFR § 73.621(a) and (b) (NCETV stations will be licensed only to nonprofit educational organizations based upon various showings depending on whether the applicant is a school, government entity, or a nonprofit educational organization that is neither a school nor a government entity).

⁹ See *Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, MM Docket No. 95-31, Report and Order, 15 FCC Rcd 7386, 7409, n.38 (2000) (*NCE Comparative Report and Order*) (subsequent citations omitted) (“We note that under basic eligibility requirements for NCE television applicants, there must be a majority (over 50%) of local board members in non-government entities. These local members must be broadly representative of elements of the community, as traditionally considered, (e.g. businesses, civic groups, professions, religious groups, schools, government”); *Memorandum Opinion and Second Order on Reconsideration*, 17 FCC Rcd 13132, *passim* (2002) (affirming importance of localism in NCE broadcasting) (subsequent citations omitted).

¹⁰ See *Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, MM Docket No. 95-31, Memorandum Opinion and Order, 16 FCC Rcd 5074, 5092-93, n.33 (2001) (*NCE MO&O*), citing *Ascertainment of Community Problems by Broadcast Applicants*, 41 Fed. Reg. 1372, 1384 (Jan. 7, 1976) (subsequent history omitted). Although the Commission no longer requires stations to conduct formal ascertainment, i.e., public outreach, to determine important local needs and issues, the elements articulated in a “community leader checklist” continue to be used to determine whether NCETV applicants are broadly representative.

¹¹ *La Dov Educational Outreach, Inc.*, Memorandum Opinion and Order, 23 FCC Rcd 12457, 12460, para. 9 (2008) (*La Dov*). See also *Reexamination of the Comparative Standards and Procedures for Licensing Noncommercial Educational Broadcast Stations and Low Power FM Stations*, MB Docket No. 19-3, Notice of Proposed Rulemaking, 34 FCC Rcd 851, 855, n.33 (2019) (subsequent citations omitted).

office, or vacation home, which would not provide sufficient contact between the station's decision and policy makers and the area to be served."¹²

Applicants whose educational qualifications and proposed programming were previously approved by the Commission and intend to use the proposed station to advance a similar program may so certify by answering "Yes" to the second question in the "Eligibility" section on the Legal Certifications page of Schedule A-340 and indicate the file number of the most recent full power television NCETV application in which the Commission granted such approval.¹³ Applicants not previously approved or those applicants planning to advance a program dissimilar from one previously approved, i.e., answering "No," must establish their qualifications. The applicant must provide an exhibit showing that it has an educational objective and that the station will be used **primarily** for the advancement of an educational program that will further that objective in accordance with 47 CFR § 73.621. In considering these requirements, emphasis is placed on proposed station programs which are clearly educational in nature, i.e., actually involve teaching or instruction, whether for formal credit or not. However, it is not necessary that the proposed station's programming be exclusively educational in nature. Also, all programming on the station must be noncommercial in nature, with no advertisements, and must not offer support for or opposition to a candidate for political office. The applicant should carefully review its governing documents to confirm that it has an educational objective and that the station will be used for the advancement of an educational program. In addition, we remind applicants that, should they obtain a permit in this window, they cannot conduct third-party fundraising on their stations beyond a minimal amount permitted by our rules.¹⁴

Section 73.621(a) of the Rules further provides that an NCETV station will be licensed only upon a showing that the station will be used "**primarily** to serve the educational needs of the community; for the advancement of educational programs; and to furnish a nonprofit and noncommercial television broadcast service."¹⁵ In order to comply with the requirement that an NCETV station "be used primarily to serve the educational needs of the community," more than half of the hours of programming aired on a reserved channel must primarily serve an educational, instructional or cultural purpose in the applicant's proposed community of license.¹⁶ The applicant must provide an attachment showing that the station will

¹² *La Dov* at 12459, para. 4, citing *NCE Comparative Report and Order*, 15 FCC Rcd at 7410, para. 54.

¹³ We note that the licensing and service requirements for noncommercial educational FM radio stations and NCETV stations differ. Compare 47 CFR §§ 73.503 and 73.621. While some Class A stations may operate on a noncommercial educational basis, they are not licensed as such.

¹⁴ In 2017, the Commission adopted rules that permitted NCE stations to conduct third-party fundraising as long as the fundraising programming did not exceed a one-percent cap of their annual total air time. See *Noncommercial Educational Station Fundraising for Third-Party Non-Profit Organizations*, MB Docket No. 12-106, Report and Order, 32 FCC Rcd 3411 (2017). The one-percent cap equates to 88 hours annually or 1.7 hours weekly for stations on the air 24 hours a day. *Id.* at 3421, para. 18. For example, the Commission explained that "[t]hird-party fundraising programs may enhance the educational nature of NCE stations by educating the public about the social needs and charitable causes supported by non-profit organizations" such as a fundraising program for a breast cancer charity or a child poverty relief organization and "[s]ome of this financial support may directly benefit NCE stations' local communities." *Id.* at 3415, para. 6. See also 47 CFR § 73.621(e) and (f).

¹⁵ *Id.* at § 73.621(a) (emphasis added). While applicants for NCE FM stations must demonstrate that their programming will be "used for the advancement of" an educational program, only applicants for NCETV stations must show that "the proposed stations will be used **primarily** to serve the educational needs of the community." (emphasis added). Compare 47 CFR §§ 73.503(a) and 73.621(a).

¹⁶ See *Consent to the Assignment of License of Noncommercial Educational Station WQED(TV), Channel *16, Pittsburgh, Pennsylvania*, Memorandum Opinion and Order, 15 FCC Rcd 202, 224, para. 43 (1999), *vacated in part on other grounds*, 15 FCC Rcd 2534 (2000).

be used for the advancement of an educational program in compliance with this requirement for NCETV stations.¹⁷

Financial Qualifications. Schedule A-340 requires each applicant for a new NCETV station to certify that, at the time it files its application, the applicant has sufficient net liquid assets on hand or committed sources of funds to construct the proposed facility and operate it for three months, without additional funds.¹⁸ Each applicant should be prepared to submit supporting documentation upon Bureau staff request.

Reasonable Site Assurance. At the time it files its application, an applicant must have reasonable assurance that the specified site will be available.¹⁹ Applicants filing this Schedule A-340 must certify that the site specified in the application is available for its intended use. If reasonable assurance is not based on the applicant's ownership of the proposed site or structure, the applicant must certify that it has obtained reasonable assurance of the site's availability by contacting the owner or person possessing control of the site or structure. The applicant must specify the name of the person contacted, the person's telephone number, and whether the contact is the tower owner, agent, or authorized representative.²⁰

III. COMPARATIVE CONSIDERATION OF APPLICATIONS

During the NCETV Filing Window, applications may be filed for the channels at the locations listed in Appendix A to this Public Notice. Applications filed for the same channel and location are considered mutually exclusive (MX).²¹ Each NCETV applicant must complete the "Point System Factors/Tie Breakers" section of Schedule A-340 by the NCETV Application Deadline. If MX applications proceed to a point system analysis, the Commission will review the point submissions to compare the MX applications and tentatively select the application with the highest point total from each MX group for grant.

Point System Selection Criteria. In cases of MX applications for new NCETV stations to operate on reserved channels, each application is reviewed pursuant to the Commission's comparative process. This procedure awards a maximum of seven merit points based on four criteria deemed to be

¹⁷ The requirement that NCETV licensees promote a primarily educational purpose may be satisfied by a variety of programs, including, but not limited to, "instructional programs, programming selected by students, bible study, cultural programming, in-depth news coverage, and children's programs such as *Sesame Street* that entertain as they teach." *Reexamination of Comparative Standards for Noncommercial Educational Applicants*, Further Notice of Proposed Rulemaking, MM Docket No. 95-31, 13 FCC Rcd 21167, 21168, para. 2, n.2 (1998) (subsequent citations omitted).

¹⁸ See Financial certification of FCC Form 2100, Schedule A-340.

¹⁹ See *William F. Wallace and Anne K. Wallace*, Memorandum Opinion and Order, 49 FCC 2d 1424, 1427, para. 7 (1974) (*Wallace*); *South Florida Broad. Co.*, Memorandum Opinion and Order, 99 FCC 2d 840, 842, para. 3 (1984). Although an applicant does not need to have a binding agreement or absolute assurance of a proposed site, a mere possibility that the site will be available is not sufficient. See *Wallace*, 49 FCC 2d at 1427, para. 6.

²⁰ See Form 2100, Schedule A-340 Instructions at page 12; see also *Reexamination of the Comparative Standards and Procedures for Licensing Noncommercial Educational Broadcast Stations and Low Power FM Stations*, MB Docket No. 19-3, Report and Order, 34 FCC Rcd 12519, 12543, para. 59 (2019) (*2019 NCE LPFM Order*) (subsequent citations omitted) (directing the Bureau to update the Schedule 340 instructions to explain the requirement of obtaining reasonable site availability prior to the application filing and amend Schedule 340 to add a reasonable site assurance certification).

²¹ Unlike in the reserved educational FM service, because mutually exclusive NCETV applications are always for the same community and channel due to the use of the Table of TV Allotments, the Commission proceeds directly to a point system, without going through a section 307(b) analysis, 47 U.S.C. § 307(b), to determine which proposal best achieves our statutory goal of a fair distribution of services. See *NCE Comparative Report and Order*, 15 FCC Rcd at 7388, para. 3.

most relevant to predicting the applicant best qualified to provide the service for which this spectrum has been reserved.²² First, three points are awarded to applicants who have been local and established for at least two years. Second, two points are awarded for local diversity of ownership if there is no overlap of the principal community contour of the proposed station and any other station attributable to the applicant. Third, two points will be awarded for certain statewide networks providing programming to accredited schools, which cannot claim a credit for local diversity of ownership. Fourth, one point is awarded to an applicant if its proposed area and population is 10 percent greater than the next best proposal, or two points if 25 percent greater than the next best proposal. The tentative selectee is the applicant with the highest score.²³ An overview of the Commission's current comparative procedures and details on comparative information an applicant must submit are provided below.

Established Local Applicant. To qualify for the three points as an "established local applicant"²⁴ an applicant must certify that it has been local continuously for at least two years immediately prior to the Application Deadline.²⁵ To be considered local, a non-governmental applicant must have a physical headquarters, campus, or 75 percent of its governing board members residing within 25 miles of the reference coordinates of the proposed community of license.²⁶ A governmental unit is considered local within its jurisdictional boundaries.

If an applicant certifies that it is an "established local applicant," it must submit substantiating documentation with its application to illustrate how it qualifies as local and established.²⁷ Examples of acceptable documentation include corporate material from the secretary of state, lists of names, addresses, and length of residence of board members and copies of governing documents requiring a 75 percent local governing board, or course brochures indicating that classes have been offered at a local campus for the preceding two years.

Diversity of Ownership. To qualify for the two points for "diversity of ownership," an applicant must certify that the principal community contours of its proposed NCETV station do not overlap with those of any other full-service or Class A television station²⁸ in which the applicant, or any party to the application, holds an attributable interest.²⁹

²² 47 CFR § 73.7003.

²³ See 47 CFR § 73.7003. We note that in 2019, the Commission amended its rules and procedures for filing NCE applications and selecting and licensing competing NCE application. The changes were designed to improve the comparative selection procedures, reduce confusion among future applicants, expedite the initiation of new service to the public, and eliminate unnecessary applicant burdens. See *2019 NCE LPFM Order*.

²⁴ 47 CFR § 73.7000 (Definitions of terms (as used in subpart K only)).

²⁵ 47 CFR § 73.7003(b)(1).

²⁶ A local headquarters or residence must be a primary place of business or residence and not, for example, a post office box, lawyer's office, branch office, or vacation home, which are more easily feigned and/or present less of an opportunity for meaningful contact with the community. See *NCE Comparative Report and Order*, 15 FCC Rcd at 7410, para. 54.

²⁷ An applicant claiming points as an established local applicant must also pledge to maintain localism characteristics during the period from grant of the construction permit until the station has achieved at least four years of on-air operations. See 47 CFR § 73.7005(c).

²⁸ The NCETV applicant must count both commercial and noncommercial full power TV stations. Class A television stations are not designated as commercial or noncommercial.

²⁹ See 47 CFR § 73.7003(b)(2). Parties with attributable interests are defined as the applicant, its parent, subsidiaries, their officers, and members of their governing boards. See 47 CFR § 73.7000.

To qualify for the diversity of ownership points, an applicant must submit either a contour map showing no overlap with the proposed NCETV station, or a statement that the applicant holds no attributable interests in any nearby full service or Class A television stations.³⁰

Divestiture Pledges. We will permit an NCETV applicant with an overlapping attributable interest to qualify for diversity of ownership points if it commits to divest the broadcast interest or resign from the attributable positional interest.³¹ The divestiture pledge must be submitted with the application by the Application Deadline. The applicant, however, will not be required to complete the pledged action by the Application Deadline. Rather, if the permit is awarded based on points, the actual divestiture or resignation must be completed by the time the new NCETV station commences program test operations.³²

Statewide Network. The Commission awards two points for certain statewide networks providing programming to accredited schools. These points are available only to applicants that cannot claim a credit for local diversity of ownership.³³ The statewide network credit is an alternative for applicants that use multiple stations to serve large numbers of schools and, therefore, do not qualify for the local diversity of ownership credit. Applicants claiming points as a statewide network must submit supporting documentation as an application exhibit.³⁴

Technical Parameters. The Commission awards up to two points to an applicant that proposes the best technical proposal in an MX group (*i.e.*, proposes service to the largest population and area, excluding substantial areas of water). An applicant will receive one point if its proposed service area *and* population are 10 percent greater than those of the next best area and population proposals, or two points if both are 25 percent greater than those of the next best area and population proposals, as measured by each proposed station's predicted noise-limited service contour (NLSC) applicable to its channel.³⁵ If the best technical proposal does not meet the 10 percent threshold, no applicant will be awarded points under this criterion.

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

³⁰ An applicant claiming points for diversity of ownership must also pledge to comply with the restrictions on station modifications and acquisitions during the period from grant of the construction permit until the station has achieved at least four years of on-air operations. *See* 47 CFR § 73.7005(c); *see also* 2019 NCE LPFM Order, 34 FCC Rcd at 12524-25, para. 12.

³¹ *See* 2019 NCE LPFM Order, 34 FCC Rcd at 12525, para. 13 (expanding the Commission's divestiture policy by recognizing full-service station divestiture pledges for comparative purposes and crediting all contingent divestiture pledges that are made and submitted by the close of the filing window).

³² *Id.* at 12526, para. 15.

³³ *See* 47 CFR § 73.7003(b)(3).

³⁴ *See Mississippi Authority for Educational Television*, Memorandum Opinion and Order, 18 FCC Rcd 22727, 22728, para. 3 (2003) (applicant claiming state-wide points submitted documents showing number of accredited schools served by its Learning Services Division and detailed telecourse information).

³⁵ *See* 47 CFR § 73.7003(b)(4). While the rule refers to applicants' coverage within the Grade B contour of the proposed television station, Grade B refers to an obsolete analog contour. A television station's NLSC is now defined in section 73.619 of the Rules, formerly 47 CFR § 73.625(b). *See Media Bureau Announces March 4, 2024 Effective Date for All Revisions to Part 73 Commission Rules for Full Power and Class A Television Stations*, MB Docket No. 22-227, Public Notice, DA 24-196 (MB Mar. 4, 2024); *Amendment of Part 73 of the Commission's Rules to Update Television and Class A Television Broadcast Station Rules, and Rules Applicable to All Broadcast Stations*, MB Docket No. 22-227, Report and Order, 38 FCC Rcd 8706, 8727-28, para. 40 (Sept. 19, 2023).

water, e.g., ocean and lakes. Population should be measured using the 2020 Census Block Data available from the Census Bureau.³⁶

Tiebreakers. In the event MX applicants are tied with the highest number of points, the tied applicants will proceed to a tie-breaker round.³⁷ The first tie-breaker is the number of radio or television station authorizations attributable to each applicant.³⁸ The applicant must count all attributable full power commercial and NCE television, and Class A television, authorizations (licenses and construction permits).³⁹ The applicant with the fewest attributable authorizations prevails.⁴⁰

If the tie is not broken by this first factor, the Commission will apply a second tie-breaker: the number of pending television station applications attributable to each applicant.⁴¹ When reporting pending applications, applicants must include new and major change television applications, including the subject application and all other applications filed in this window by the Application Deadline. Applicants should *not* include any requests to participate in an auction filed on Schedule 175 and other applications such as voluntary assignment of license, license renewal, and minor change in existing facilities. The tentative selectee will be the applicant with the fewest pending new and major change applications in the same service at the time of filing.⁴²

Timely Documentation of Comparative Qualifications. As noted, Schedule A-340 is certification-based, but requires applicants to document certain claims by submitting supporting information.⁴³ We caution applicants that the basis for applicant point claims must be readily ascertainable from timely-filed application exhibits. Applicants, therefore, should review their supporting documentation thoroughly before filing.

Certifications which require the applicant to submit documentation, but which are not supported with any such timely documentation, will not be credited.⁴⁴ For example, every applicant claiming points

³⁶ Applicants should be aware that the Commission's *TVStudy* software will be used with its 2020 Census data to evaluate the population coverage of applications, and applicants are thus strongly encouraged to use *TVStudy* in determining their area and population counts. *See Media Bureau Announces the Incorporation of 2020 U.S. Census Population Data into the Commission's TVStudy Software and Requirement to Utilize Such Data Effective August 1, 2024*, Public Notice, DA 24-497 (rel. May 28, 2024). An updated version of the *TVStudy* software (Version 2.3.0) was released May 28, 2024. *See Office of Engineering and Technology Announces Release of Version 2.3.0 of TVStudy*, Public Notice, DA 24-499 (rel. May 28, 2024).

³⁷ *See* 47 CFR § 73.7003(c).

³⁸ 47 CFR § 73.7003(c)(1).

³⁹ *See NCE MO&O*, 16 FCC Rcd at 5102-03, para. 85.

⁴⁰ If the tie cannot be broken and the applicants cannot reach a voluntary settlement, the Commission will consider the tied applicants for mandatory timesharing on an equal-time basis.

⁴¹ 47 CFR § 73.7003(c)(2). Television applicants count UHF, VHF, and Class A stations. Our rules do not require television stations to count low power television or TV translator stations when reporting attributable commercial or noncommercial television stations for purposes of applying for a reserved channel station. *See NCE MO&O*, 16 FCC Rcd at 5103, para. 85.

⁴² *Id.* at 5100, para. 76. The Commission's rules provide for a third and final tie-breaker criterion – prior NCE applications – if a tie remains after the second tie-breaker. *See* 47 CFR § 73.7003(c)(3). Because this criterion is premised upon an applicant filing in a previous filing window, and this is the first NCETV filing window the Commission has opened, the third tie-breaker criterion is inapplicable for purposes of applying for a new NCETV construction permit.

⁴³ *See NCE Comparative Report and Order*, 15 FCC Rcd at 7423, para. 89.

⁴⁴ The Commission has repeatedly disallowed the late submission of requested information in comparative cases, finding that such an allowance could lead to abuse of Commission processes, applicant gamesmanship, and unfair advantage. *See, e.g., Comparative Consideration of Seven Groups of Mutually Exclusive Applications for Permits to*

(continued....)

for diversity of ownership must certify that the proposed station's service area would not overlap that of an attributable existing station. With respect to the diversity certification, the preferred supporting documentation is a map showing no overlap, or a statement that none of the parties to the application holds an attributable interest in any other station. While there is some flexibility in the type of documentation an applicant may provide, an applicant submitting no timely documentation at all cannot be found to have made a valid certification and will not receive the claimed points.⁴⁵ The Commission will not consider documentation to support a claimed comparative point if it is submitted in an amendment after the Application Deadline.

“Snap Shot” Date for Establishing Points and Comparing Applications. The NCETV applicant's qualifications for points will be initially determined “as of the closing of the filing window” – i.e., the Application Deadline.⁴⁶ For example, NCE organizations will be considered “established” if they have operated as local entities since December 11, 2022 – i.e., for at least two years prior to the Application Deadline. These “snap shot” applicant characteristics establish an applicant's maximum points and its maximum position in the event of a tie-breaker. This common reference date ensures a level competitive field for applicants, with their qualifications all compared as of the same time.⁴⁷

Any changes made after the Application Deadline may potentially diminish, but cannot enhance, an applicant's comparative position and point total. Therefore, the Commission will take into account any amendments that adversely affect an applicant's point total and comparative position. The Commission will *not* consider any amendments, filed after the Application Deadline, which improve an applicant's comparative position.⁴⁸ For example, an applicant may lose claimed points, such as the diversity of ownership points, as a result of acquiring an overlapping station after the Application Deadline. In contrast, if an applicant certifies that it does not qualify for one of the point factors, it cannot later amend its application to attempt to claim such points. This is the case even if the applicant actually would have qualified for the point it is seeking at the time it filed the application.⁴⁹

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Construct New Noncommercial Educational FM Stations, Memorandum Opinion and Order, 30 FCC Rcd 5161, 5170, paras. 26-27 (2015); *see also Comparative Consideration of 33 Groups of Mutually Exclusive Applications for Permits to Construct New or Modified Noncommercial Educational FM Stations*, Memorandum Opinion and Order, 26 FCC Rcd 9058, 9063 (2011) (comparative qualifications claims not supported with documentation on file by close of window cannot be credited); *Comparative Consideration of 59 Groups of Mutually Exclusive Applications for Permits to Construct New or Modified Noncommercial Educational FM Stations*, Memorandum Opinion and Order, 25 FCC Rcd 1681, 1694 (2010) (rejecting documentation filed after close of window as prohibited attempt to enhance comparative qualifications).

⁴⁵ *See, e.g., Comparative Consideration of 32 Groups of Mutually Exclusive Applications for Permits to Construct New or Modified Noncommercial Educational FM Stations Filed in the October 2007 Filing Window*, Memorandum Opinion and Order, 25 FCC Rcd 5013, 5017, para. 11 (2010) (“applicant submitting no timely documentation at all cannot be found to have made a valid certification”).

⁴⁶ *See* 47 CFR § 73.7003(e).

⁴⁷ *See, e.g., NCE MO&O*, 16 FCC Rcd at 5082-83, paras. 23-26; *see also id.* at 5083, para. 26 (“Of overall concern to us in this area is that we are comparing applications that use the same data. Reliance on information as of the close of the window will ensure that applicants have essentially a common reference date. With a common reference date and a common method of calculating population, the staff will analyze applicants on a similar basis.”).

⁴⁸ *See* 47 CFR § 73.7003(e).

⁴⁹ Another example of this principle is in the first tie-breaker criterion, which selects the applicant with the fewest number of broadcast authorizations at the time of filing. An applicant cannot enhance its position by selling one of its existing stations, but can diminish its position by acquiring an additional station.

Acceptability of Applications. Following the Application Deadline, the Bureau will review all applications for compliance with the relevant technical and legal rules.⁵⁰ If an application is defective (i.e., it does not comply with the Rules or meet the criteria specified in this Public Notice), we will issue a deficiency letter to the applicant providing the reason for deficiency and giving the applicant thirty days to amend its application to cure the deficiency. Failure to correct all deficiencies within 30 days of the date of the letter will result in dismissal of the application.

Amendments to Applications. Following the Application Deadline, each applicant must continue to maintain the accuracy and completeness of the information in its application, and notify the Commission, by electronically filing an amendment, of any substantial change that may be of decisional significance to the application.⁵¹ For example, an applicant will be required, pursuant to section 1.65 of the Rules, to update its number of authorizations (Tiebreaker section) if/when one of its pending applications is granted.⁵²

Local Public Notice. Applicants filing Schedule A-340 must provide the public with notice to inform the community about the proposal.⁵³ Applicants for construction permits for a new NCETV station must give online notice, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or otherwise by posting notice in the form prescribed in the Rules⁵⁴ on a publicly accessible, locally targeted website, for 30 consecutive days following acceptance of the application for filing.⁵⁵

IV. FILING FREEZES

In order to promote transparency and predictability for NCETV Filing Window applicants, we will institute limited and temporary filing freezes on certain applications and petitions. First, effective immediately upon release of this Public Notice, petitions to amend the Table to allot new reserved noncommercial educational channels to communities will be frozen until close of the NCETV Filing Window. Second, effective 12:01 a.m. EST on December 3, 2024, we will freeze channel change rulemaking petitions for all full power television stations, and minor and major change applications for full power and Class A television stations. These freezes apply to all channels in the TV band (channels 2-36), on a nationwide basis. The freezes will remain in effect until close of the NCETV Filing Window.⁵⁶ These freezes have been designed to provide sufficient time for applicants and consulting engineers to verify the availability of spectrum and perfect applications prior to filing, while minimizing expenditures on facility proposals that otherwise could be blocked by filings immediately prior to the opening of the window. Any application or petition filed during this freeze will be dismissed, without prejudice, absent a waiver of this temporary freeze. Applications and petitions filed after the freeze will be processed in accordance with Commission rules and processing standards.

Additional Information. For additional information on the filing window, procedures, and filing freezes, please contact Bureau staff by e-mail as follows: Joyce Bernstein (legal) at Joyce.Bernstein@fcc.gov; Emily Harrison (legal) at Emily.Harrison@fcc.gov; Kevin Harding (technical)

⁵⁰ See, e.g., 47 CFR §§ 73.618, 73.622(j), 73.623(a), and 73.1030.

⁵¹ See 47 CFR § 1.65.

⁵² See, e.g., *NCE MO&O*, 16 FCC Rcd at 5083, para. 25.

⁵³ 47 CFR § 73.3580(c)(1).

⁵⁴ See 47 CFR § 73.3580(b)(2).

⁵⁵ *Id.*

⁵⁶ The Bureau will consider waivers of this freeze on a case by case basis. These freezes do not include low power television or TV translator stations. However, as secondary stations, we remind LPTV/TV translators that they are secondary to any applications filed during the NCETV Filing Window and may be displaced by such filings.

at Kevin.Harding@fcc.gov; or Mark Colombo (technical) at Mark.Colombo@fcc.gov. Applicants may also contact Bureau staff by phone at: (202) 418-1600. Direct press inquiries to Nancy Murphy at (202) 418-1043 or Nancy.Murphy@fcc.gov.⁵⁷

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⁵⁷ The actions in the Public Notice are taken by the Chief, Media Bureau, pursuant to authority delegated by sections 0.61 and 0.283 of the Rules. 47 CFR §§ 0.61 and 0.283.

APPENDIX A**CONSTRUCTION PERMITS IN NCETV FILING WINDOW**

<u>State</u>	<u>Community</u>	<u>Channel Number</u>
AL	Vernon	*4
AK	Anchorage	*26
AK	Bethel	*3
CA	Colusa	*2
CA	Fort Bragg	*4
CA	Tulare	*3
ID	Filer	*18
IA	Ames	*21
NM	Alamogordo	*4
OR	Jacksonville	*4
TX	Waco	*20
VA	Waynesboro	*12

APPENDIX B**INSTRUCTIONS FOR ACCESSING AND FILING IN LMS****General Log-in Instructions**

1. Access the LMS data entry home page at: <https://enterpriseefiling.fcc.gov/dataentry/login.html>.
2. Log-in using the FRN associated with the station.

Application For Construction Permits for New NCETV Stations

1. Click on “Authorizations” tab on the left top of the page.
2. Click on the file number of the current license for the station.
3. Click on “File an Application” button.
4. Select “Form 2100, Schedule A-340 – Noncommercial Educational Reserved Channel Construction Permit Application” for NCETV stations from the drop-down menu.
5. Complete the application and click “Submit.”

For questions regarding basic filing requirements, or assistance logging into LMS or accessing Schedule A-340, please contact the Commission at (877) 480-3201 (Option 2), Monday-Friday, 8:00 a.m.-6:00 p.m. EST, or submit a request online at <https://www.fcc.gov/media/radio/lms-help-center>.