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August 10, 1992

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Donna R. Searcy
Secretary
Federal Communications Commission
Washington, D.C. 20554

ATTN: The Honorable Edward J. Kuhlmann
Administrative Law Judge

RE: Central Florida Educational Foundation, Inc., et. al., MM
Docket No. 92-33

Dear Ms. Searcy:

Transmitted herewith, on behalf of Central Florida Educational Foundation, Inc., is an original and six copies of its Findings of Fact and Conclusions of Law filed in connection with the above-referenced docketed proceeding.

Should any questions arise concerning this matter, kindly contact the undersigned directly.

Respectfully submitted,

MAY & DUNNE, CHARTERED

By: Joseph E. Dunne III
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Attorney for Central Florida Educational Foundation, Inc.

JED:gmcA41
enclosures

xc: All Per Attached Certificate of Service
James S. Hoge

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BEFORE THE

Federal Communications Commission AUG 10 1992

WASHINGTON, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)	MM Docket No. 92-33
)	
CENTRAL FLORIDA EDUCATIONAL)	File No. BPED-881207MA
FOUNDATION, INC.)	
Channel 203C3)	
Union Park, Florida)	
)	
BIBLE BROADCASTING NETWORK, INC.)	File No. BPED-890412MJ
Channel 202C2)	
Conway, Florida)	
)	
SOUTHWEST FLORIDA COMMUNITY RADIO,)	File No. BPED-891127MC
INC.)	
Channel 202C2)	
Conway, Florida)	
)	
MIMS COMMUNITY RADIO, INC.)	File No. BPED-891127MD
Channel 202C1)	
Oak Hill, Florida)	
)	
HISPANIC BROADCAST SYSTEM, INC.)	File No. BPED-891128ME
Channel 202C3)	
Lake Mary, Florida)	
)	
For Construction Permit for a)	
New Noncommercial Educational FM)	
Station)	

TO: The Honorable Edward J. Kuhlmann
Administrative Law Judge

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

By: Joseph E. Dunne III
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August 10, 1992

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PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

I. PRELIMINARY STATEMENT

1. This proceeding involves five mutually exclusive applications for noncommercial FM radio stations in Union Park, Conway, Mims, and Lake Mary, Florida. Two applicants, Bible Broadcasting Network (BBN) and Southwest Florida Community Radio, Inc. (Southwest), have requested the dismissal of their applications in a "Joint Request for Approval of Agreement" filed with the Commission on August 7.^{1/} On July 13, 1992, Mims Community Radio, Inc. (Mims) sought leave to amend its application to specify channel 204, in Samsula, Florida, a proposal which is not mutually exclusive with the remaining applicants, and submitted no evidence on the contingent comparative issues (Tr. 28).

2. By Hearing Designation Order, Central Florida Educational Foundation, Inc., et al., DA 92-224, 57 Fed. Reg. 8875 (March 13, 1992), this case was designated for comparative hearing on the following issues:^{2/}

2. To determine: (a) the number of other noncommercial educational FM services available in the proposed

^{1/} Out of an abundance of caution, CFEF submits findings with respect to the 307(b) issue with respect to BBN and Southwest.

^{2/} The HDO included issue number 1:

1. If a final environmental impact statement is issued with respect to the above mentioned applicants, in which it is concluded that the proposed facilities are likely to have an adverse effect on the quality of the environment, to determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by Sections 1.1301-1.1319 of the Commission's Rules.

Issue number 1 was deleted by the Presiding Officer for CFEF, BBN, Hispanic, and Southwest in his Memorandum Opinion and Order, FCC 92M-786 released, July 16, 1992.

service area of each applicant, and the area and population served thereby; (b) whether a share-time arrangement between the applicants would result in the most effective use of the channel and thus better serve the public interest and, if so, the terms and conditions thereof; and (c) in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would provide a fair, efficient and equitable distribution of radio service.

3. To determine, in the event it is concluded that a choice between the applications should not be based soled on considerations relating to Section 307(b), the extent to which each of the proposed operations will be integrated into the overall cultural and educational objectives of the respective applicants; and which other factors in the record demonstrate that one applicant will provide a superior FM educational broadcast service.

4. To determine, in light of the evidence adduced pursuant to the specified issues, which of the applications should be granted, if any.

3. A prehearing conference was held in this proceeding on May 11, 1992 and a hearing session took place on July 21, 1992. The record in this proceeding was closed on July 21 (Tr. 40).

II. FINDINGS ON 307(B) ISSUE

4. The area and population data (based on 1980 census data) for CFEF was as follows (Jt. Cov. St., p. 9):

	Population	Area (KM) ²	Area (MI) ²
No other services	0	0	0
One other service	184,775	1,090	421
Two other services	184,565	1,870	722
Three other services	212,472	728	281
Four other services	0	0	0
Five other services	0	0	0
Common to all	87,287	2,406	929
Area not common to all	494,525	1,282	495
TOTAL	581,812	3,688	1,424

5. The area and population data for Hispanic is as follows (Jt. Cov. St., p. 10):

	Population	Area (KM) ²	Area (MI) ²
No other service	0	0	0
One other service	138,791	11,225	473
Two other services	184,552	21,847	713
Three other services	216,196	8,343	22
Four other services	0	0	0
Five other services	0	0	0
Common to all	87,287	2,406	929
Not common to all	452,252	1,500	579
TOTAL	539,539	3,906	1,508

6. The area and population data for Mims is as follows:

	Population	Area (KM) ²	Area (MI) ²
No other service	0	0	0
One other service	23,241	554	214
Two other services	129,390	2,279	880
Three other services	31,670	635	245
Four other services	0	0	0
Five other services	0	0	0
Common to all	87,287	2,406	929
Not common to all	97,014	1,062	410
TOTAL	184,301	3,468	1,339

7. The area and population data for BBN and Southwest is as follows:

	Population	Area (KM) ²	Area (MI) ²
No other service	0	0	0
One other service	126,141	1,163	449
Two other services	184,291	1,732	669
Three other services	215,429	816	315
Four other services	0	0	0
Five other services	0	0	0
Common to all	87,287	2,406	929
Not common to all	438,574	1,305	504
TOTAL	525,861	3,711	1,433

8. Comparing these figures, CFEF proposes a second noncommercial service, or service to a "gray area," to a population of 45,984, or 33 percent more people than Hispanic, a population of

58,634, or 46.5 percent more than BBN or Southwest and a population of 161,534, or 695 percent, more people than Mims (calculations derived from Jt. Cov. St., pp. 9-11). CFEF will provide a third service to 13 more people than Hispanic, 291 more people than BBN/Southwest, and all applicants will provide a third service to approximately 55,000 more people than Mims (Id.). Hispanic and BBN/Southwest will provide a new fourth noncommercial service to a population 3,734 and 2,957, respectively, or approximately 1.75 percent, greater than that provided by CFEF, and all provide fourth service to approximately 180,000 more than Mims (Id.). CFEF proposes to serve a total population of 581,812, which is 42,273, or 7.8 percent, greater than Hispanic, 55,951, or 10.6 percent greater than BBN/Southwest, and 397,511, or 215 percent, greater than Mims (Id.).

III. FINDINGS ON SHARE TIME ISSUE

9. Hispanic believes that a share time arrangement would result in the most effective use of the frequency and requests that the Presiding Officer impose such an agreement, stating that it would be the first Hispanic FM station in the market and the only Hispanic noncommercial educational FM (Hisp. Ex. 6, p. 1). BBN stated that a share-time among all the applicants in this proceeding would be practical (BBN Ex. 1, p. 1).

IV. FINDINGS ON CONTINGENT COMPARATIVE ISSUE

10. Hispanic is a non-profit corporation organized under Puerto Rican law, authorized to construct and operate a noncommercial FM radio station (Hisp. Ex. 1, p. 1), and controlled by its Board of Directors (Hisp. Ex. 1, p. 12). The officers and

members of the Board of Directors of Hispanic are: Idalia Arzuaga, President-director; Jose Arzuaga, Vice-President-director; Ruben Reyes, Secretary-director (Hisp. Ex. 1, p. 1). All officers and members of Hispanic's Board are residents of Puerto Rico, and all are Hispanic (Id.).

11. Hispanic's single cultural and educational objective is to direct its programming mainly to the minority Hispanic population, and its station would be the first and only Spanish Educational Station in the Orlando Market (Hisp. Ex. 2, p. 1). Hispanic intends to serve the cultural and educational needs of the Hispanic community with a Spanish oriented, primarily secular educational facility (Id.). The program material would be designed to improve English language comprehension and usage among Hispanics (Id.). "Access" to Lake Mary Community school will be provided, as would cultural material and religious information (Id.). Hispanic will seek the cooperation of local educational institutions to achieve its educational objective with a primary focus on educational programs oriented to the Hispanic population. (Hisp. Ex. 3, p. 1). The general population will be served by exposing them to the language, culture and other needs of the Hispanic community (Id.). A course in Spanish will be provided for the English-speaking population which will foster harmony between the two cultures (Id.). No specific program plan or proposal was submitted by Hispanic, however.

12. 96,418, representing nine percent of the Orlando MSA, and 135,706, representing six percent of the Orlando ADI, are Hispanic (Hisp. Ex. 3, p. 4). Hispanics are also among the fastest growing

ethnic groups in the Orlando area (Hisp. Ex. 3, p. 5, CFEF Ex. 2, p. 6). In Seminole county, in which Lake Mary is located, 3,963 students are Hispanic and 2,652 of those students speak Spanish (Hisp. Ex. 3, p. 6). In the Orange County School District 11.8 percent of its 106,315 students are Hispanic, and 3,000 students are enrolled in English for Speakers of Other Language courses (Hisp. Ex. 3, p. 7). At present, the only spanish language program on the FM dial in Orlando is "the Hispanic Show" broadcast on WUCF-FM between 7:00-10:00 p.m. on Sundays (Hisp. Ex. 3, p. 9). Based on 1990 census data, however, Hispanic will actually have only 64,368 Hispanics within its predicted coverage area, representing 8 percent of its total population coverage of 804,279 (CFEF Ex. 10, p. 2). By way of contrast, CFEF's signal will cover 69,703 Hispanics representing 8 percent of its total population coverage of 871,353, or 5,335 more than Hispanic, and Mims will cover 15,532 Hispanics (Id.).

13. Hispanic conducted a random sample telephone survey using the Orlando metropolitan directory (Hisp. Ex. 4, p. 1). There was no evidence submitted concerning how many interviews were conducted, when the survey was taken or by whom (Id.). Drugs was the most frequent problem mentioned, with 76 mentions, followed by: roads/traffic; alcoholism; more police protection; Aids; lack of work; crime; break-ins; drunk drivers; rape; child abuse; stealing; smoking; overpopulation; air pollution; homeless people; communication; religion; need to support police; price of gasoline; and, foster homes (Hisp. Ex. 4, pp. 1-2). No mention was made of a need for Spanish-language programming (Id.). The survey also

sought data on the sorts of programming would be preferred on a new educational station, with English and Math being the most popular with 88 and 44 mentions respectively, followed by a number of programs including: science; classical music; money and stock; sex education; program for children; program about child abuse; and, marriage counseling (Hisp. Ex. 4, p. 2). 138 of the respondents said they would be interested in Spanish-language programming, while 53 said they would not (Id.). Of those who wanted Spanish-language programming, most expressed a preference for variety and music shows (Id.).

14. Hispanic's ability to effectuate its plans is dependent upon two of its directors who are experienced broadcasters and who can bring this experience to bear in effectuating its proposal (Hisp. Ex. 5, p.1) One director is an experienced educator (Id.). Idalia Arzuaga has been a manager, a commercial manager, in sales, an announcer, and worked in other capacities for WREI-FM, Quebradillas, Puerto Rico (Hisp. Ex. 5, p.2). Mrs. Arzuaga has also worked in an unspecified capacity at WJYT-AM, Quebradillas, Puerto Rico since 1985, and with W66BM-TV since 1990 (Id.). Likewise, Mr. Jose Arzuaga worked from 1958 to 1964 as an announcer and controlman for various Puerto Rican radio stations, including: WAPA, San Juan; WNEL, Caguas; and, WFID, Rio Piedras. From 1964 to 1974 Mr. Arzuaga worked as, among other things, assistant general manager and chief engineer for WVOZ-AM, Carolina, Puerto Rico, and worked in the same capacities for WOLA-FM, Rio Piedras, Puerto Rico, from 1968 to 1974. Mr. Arzuaga has worked as the general manager, chief engineer, and in other duties for WREI-

FM, Quebradillas, Puerto Rico from 1974 to the present and in the same capacities for WJYT-AM, from 1985 and W66BM from 1990 (Hisp. Ex. 5, pp. 3-4). All the stations for which Mr. and Mrs. Arzuaga have worked are commercial radio stations (FCC database, official notice requested). Mr. Ruben Reyes has an M.A. in teaching with specializations in merchandising and administration and supervision from New York University, and has worked as the adult coordinator and then general supervisor, marketing education program, Ponce, Puerto Rico Educational Region, from 1967 to the present (Hisp. Ex. 5, pp. 5-6).

15. CFEF is a nonprofit, nonstock, non-member, tax exempt Florida corporation controlled by its board of directors, whose corporate purposes include the operation of a radio station to broadcast educational programs and whose officers and directors include: James S. Hoge, president, director; Thomas H. Moffit, Jr., vice-president-treasurer, director; and, Richard A. Rosenberg, secretary, director (CFEF Ex. 1, p. 1). CFEF will also have access to an auxiliary power generator at its proposed site and will install an auxiliary power generator at its studio site to ensure the continuation of broadcast service in the event of a power failure effecting any of its facilities (CFEF Ex. 9, p. 1).

16. CFEF has adopted eight cultural and educational objectives to be served by its proposed station:

- (1) Provide Instructional Programming for Credit with Circle Community School and other Local Educational Institutions (CFEF Ex. 2, p. 1);
- (2) Provide Students with an Opportunity for Internships to Receive Hands-On Training for Credit as Part of Their Academic Program (CFEF Ex. 2, p. 3);

- (3) Provide a Local Transmission Service to Union Park (CFEF Ex. 2, p. 4);
- (4) Provide Quality Hispanic/Spanish Programming and Spanish Language Informational Programming to the Service Area, Especially at Night (CFEF Ex. 2, p. 4);
- (5) Provide Information On Home Schooling to Parents Within the Service Area (CFEF Ex. 2, p. 7);
- (6) Provide an Outlet for Christian Educational and Instructional Programming (CFEF Ex. 2, p. 8);
- (7) Provide Support for Families and Family Life Through the Broadcast of Programming Responsive to the Personal and Emotional Needs of Families (CFEF Ex. 2, p. 9);
- (8) Provide Programming Responsive to the Expressed Needs of the Community (CFEF Ex. 2, p. 10).

17. To meet objective number 1 CFEF has agreements with local educational institutions to broadcast programming for use as part of the schools' regular educational programs. These schools include: the Circle Community School (CCS), located in Orlando and operating since 1985, which provides materials, information and support to 652 home schooling students in the tri-county area of Orange, Seminole and Osceola counties (CFEF Ex. 2, p. 1); the Reformed Theological Seminary (RTS), one of the nation's largest theological seminaries located in Maitland, with over 900 students (CFEF Ex. 2, p. 1); Seminole County School District (Seminole), a public K-12 school district with 51,929 students (CFEF Ex. 2, p. 2); and, Stetson University (Stetson), a sectarian University of approximately 6,000 students located in DeLand, Florida (Id.). CCS will produce a daily hour long program broadcast on CFEF's station featuring its president, Jim Warner, and discussing the educational, legal and emotional issues involved in home schooling (CFEF Ex.

2, p. 2). RTS curriculum offerings are structured so that students may receive credit for work done in internships at the radio station in station operation and/or in program production, and RTS director of Media Ministries, Don Bush, will be coordinating the production of a regular radio program in which RTS faculty and students will discuss contemporary theological issues and mission outreach both locally and internationally (Id.). CFEF, Stetson and Seminole will develop instructional programs once CFEF receives a construction permit (CFEF Ex. 2, pp. 2-3).

18. With respect to objective two, CFEF will work with the instructional staffs of four different institutions (CCS, RTS, Seminole and Stetson) to provide internship programs in radio station operation and program production. CCS interns will assist in the production of local news and weather programs. Seminole students will assist in the production of five minute school news segments featuring a different Seminole County school broadcast eight times daily. RTS students will be involved in the production of RTS instructional programming and in the production of "Local College Forum," a program of news, music and features designed to appeal to a college age audience.

19. Union Park, CFEF's proposed city of license, is home to the campus of the University of Central Florida, with a student body of 10,000, but it presently has no radio or television station, newspaper or local magazine serving its needs (CFEF Ex. 2, p. 4). To meet Union Park's informational needs, CFEF proposes to broadcast local news, weather, and sports information on a daily basis (Id.).

20. CFEF's objective four is to provide quality Spanish language programming to Hispanics in its service area, and proposes to broadcast Spanish-language programming from 9:00 p.m. to 11:30 p.m. every night (CFEF Ex. 2, p. 4). This programming will include local news, sports, and weather in Spanish, as well as three programs responsive to the most critical needs of the Hispanic community (CFEF Ex. 2, pp. 4-5). These programs include a nightly live call-in show, "Vida en Los Estados Unidos," hosted by Eunice Medina Hoge, which will provide information on learning English, on American History and civics, on how to find a job and set up a checking account, on new IRS regulations, and other matters of interest to the Hispanic community. "TeleAmiga" will be a call-in show broadcast nightly hosted by Dr. Amapara de Medina, a trained psychologist specializing in family issues, which will discuss issues facing the Spanish-speaking community, especially family issues. CFEF will also broadcast "Adam y Eva: Siglo XX," a program already in production focussing on the problems of urban life such as drugs and marital strife (CFEF Ex. 2, p. 5). CFEF will also broadcast Spanish-language programming 24 hours per day on its SCA channel, consisting of the programming broadcast on the station supplemented by programming produced by the Southern Baptist Seminary in Cali, Columbia and other locally and nationally produced Spanish language programming (CFEF Ex. 2, p. 6). Interviews with community leaders and pastors of largely Hispanic churches reveal that one issue which is proving difficult in Hispanic families is the fact that Hispanic families are having difficulties adjusting to the two wage earner family, and the woman

as the primary bread winner (CFEF Ex. 2, p. 6). "TeleAmiga" was designed to deal with these issues (CFEF Ex. 2., p. 7). Mrs. Hoge is bilingual and has a background in education and teaching Spanish. One of CFEF's principals, James Hoge, is functionally bilingual, and has experience producing Spanish language programming through volunteer efforts with the Southern Baptist Seminary in Cali, Columbia, and with the production of a radio program with his father-in-law, also in Cali, Columbia (CFEF Ex. 2, p. 7).

21. The declining quality of public education and its failure to teach values is often mentioned as a problem in community leader surveys reviewed by CFEF's principals and in local media outlets, leading a large number of area residents to seek alternatives, including home schooling. CCS, of which Mr. Hoge is a director, was created to meet the need for materials and information for home school families. A number of CCS class offerings will be broadcast on CFEF's SCA channel for home school families, who will pay a small fee to CCS to rent a radio capable of picking up the SCA signal (CFEF Ex. 2, p. 8).

22. Another of CFEF's objectives is to provide support for families and family life through the broadcast of programming responsive to family needs. The need for programming responsive to family needs and issues was made clear in five years of "Family Expo" conventions, through many years of CFEF's principals listening to call-in shows and other listener feedback in which family issues were consistently at the top of the list of topics mentioned, and through any number of community leader interviews in which

such family issues as child abuse, latchkey kids, neighborhood fear, child care, and family violence were consistently mentioned prominently among family problems (CFEF Ex. 2, p. 9). CFEF's information shows that family problems and family stress are among the most cited issues among Hispanic families. (CFEF Ex. 2, pp. 9-10). CFEF accordingly proposes to broadcast not less than 30 hours per week of programming designed to treat family needs, in both English and Spanish, including: "Vida En Los Estados Unidos;" "TeleAmiga;" the Mirith-Meier Clinic," which often discusses the psychological stress on modern families; and, "Family Forum." (CFEF Ex. 2, p. 9)

23. One of CFEF's objective is to provide programming responsive to the problems, needs and interests of the community (CFEF Ex. 2, p. 10). CFEF's principals are aware of those needs through review of community leader survey forms filed out by employees of WTLN who attend community leader ascertainment sessions approximately every six months (CFEF Ex. 3, p. 1). Mr. Hoge himself attended the last session, and interviewed 24 community leaders ranging from the Chief of Police to the president of the Metropolitan Orlando Urban League (Id.). Both Mr. Hoge and Mr. Moffit conduct community leader survey interviews and discussions of local needs at local churches (CFEF Ex. 3, p. 3). Both are exposed on a daily basis to the public's perception of community needs through their involvement in the production and airing of public affairs programming on WTLN, specifically, "Central Florida Forum," during which community leaders are interviewed on the air. WTLN's sponsorship of the "Family Expo"

each year, its many remote broadcasts from sites like the Crisis Pregnancy Center, and the station's participation in projects like the food drive for the hungry, regularly expose Messrs. Hoge and Moffit to people discussing the problems, needs, and interests of the community (CFEF Ex. 3, p. 2). Based on this experience, CFEF will broadcast a number of programs responsive to specific community needs, including programs specifically designed to deal with women's, youth and handicapped issues (Id.). Local programming will include "Call to Action," a Monday-Friday program hosted by CFEF's president during which local newsmakers will be interviewed and respond to listener's questions on a whole range of issues. A program with a similar format, "Who Are They," will be broadcast on Sunday.

24. CFEF proposes a detailed and varied program schedule which includes the following, Monday through Saturday: five hours and 43 minutes per day of local programming; ten hours and 14 minutes per day of educational programming; two hours and 59 minutes per days of news programming; and one hour and 27 minutes per day of public affairs programming (calculations derived from CFEF Ex. 4, pp. 3-9).

25. Two of CFEF's officers and directors, James S. Hoge and Thomas H. Moffit, Jr. will work at CFEF's station full-time, a minimum of 40 hours per week as the station's general manager and station manager, respectively (CFEF Ex. 4, p. 1). Two of CFEF's directors, James S. Hoge and Richard Rosenberg, were directors of DeLand Christian Academy, a K-12 school in Central Florida for over 10 years, giving both experience in the educational and instruc-

tional needs of Central Florida's population (Id.). Mr. Hoge is a director of CCS which will be cooperating with CFEF to produce educational programming for CCS students. CCS students will also work at the station producing a program providing news, sports and music of interest to local high school students (CFEF Ex. 4, p. 2). One of CFEF's objectives is providing the opportunity for hands-on learning experiences at the station, and two CFEF principals already have experience educating and supervising student interns. Mr. Hoge, when he was the general manager of WYND utilized student interns from Stetson to develop a marketing plan for Deland Christian Academy (DCA) as part of a class project (CFEF Ex. 4, p. 2). WYND also sponsored a club for high school students, where DCA students assisted in station operation and produced radio programming as part of a DCA class taught by Mr. Hoge (Id.). At WTLN both Mr. Hoge and Mr. Moffit have supervised high school students from Forest Lake Academy who have worked at the station for credit (Id.). Mr. Hoge supervises and evaluates the students. Mr. Hoge, both when he was general manager at WYND, and later for WTLN, supervised a number of student interns from a number of educational institutions in the Orlando market which were provided through the auspices of the Orlando Radio Broadcasters Association (CFEF Ex. 4, pp. 2-3).

26. CFEF's principals who will work at its station full time, Messrs. Hoge and Moffit, will also bring with them the familiarity with the service area which comes from a long local residence in the station's service area, since 1968 in the case of Mr. Moffit (CFEF Ex. 8, p. 1), and since 1987 in the case of Mr. Hoge (CFEF

Ex. 7, p. 1). Both Mr. Moffit and Mr. Hoge have a great deal of experience in producing radio programming, and Mr. Hoge has a great deal of experience in producing Spanish-language programming (CFEF Ex. 4, p. 3). Messrs. Hoge and Moffit also have a great deal of broadcast experience, over 14 years for Mr. Hoge (CFEF Ex. 7, pp. 1-2) and over 24 years for Mr. Moffit (CFEF Ex. 8, pp. 1-2). Mr. Hoge's broadcast experience begins in 1978, and includes management positions as station manager in noncommercial stations such as WMUL-FM, Huntington, West Virginia, and as a general manager of commercial radio stations such as WYND(AM), Deland, Florida, and WXIT(AM), Charleston, West Virginia (CFEF Ex. 7, p. 1), and as the Chief Engineer and Director of Engineering for WTLN (AM and FM), Apopka, Florida, WRJZ-WYLV, Knoxville, Tennessee, and WEEE-FM, Cherry Hill, New Jersey (CFEF Ex. 5, p. 1). For the last five years that broadcast experience has been in the radio market which CFEF's station will be located, from May 1987 to May 1989 as general manager of WYND(AM) and since May 1989 as Director of Engineering for WTLN (AM & FM) (CFEF Ex. 7, pp. 1-2). Mr. Moffit has likewise been the general manager of WTLN (AM & FM), Apopka, Florida, located in the Orlando radio market, since July 1968, and an officer and director of the licensee corporation since the mid '70's (CFEF Ex. 8, p. 1). Mr. Moffit also has experience managing noncommercial stations as a president and chairman of the board of directors of the licensee of noncommercial educational station WYLV-FM, Alcoa, Tennessee since October 1989 and as the vice president and a director of the licensee of noncommercial station WEEE-FM, Cherry Hill, New Jersey (CFEF Ex. 8, p. 2).

27. Both Mr. Hoge and Mr. Moffit presently serve in management positions for WTLN (AM & FM), and both propose to work as the full time general manager and station manager of CFEF's proposed station (CFEF Ex. 5, p. 1). WTLN has an outstanding record of service to the same area to be served by CFEF's station. For example, WTLN broadcasts at least three hours of public affairs programming daily, including a program, "Central Florida Forum" which is specifically designed to be responsive to community needs, and "Life Perspectives," a daily one hour program dealing with family issues. Other WTLN public affairs programming includes "How to Manage Your Money," a call-in show which teaches basic money management, and "Focus on Family," which deals with family problems (CFEF Ex. 5, p. 2). Another WTLN produced program, "Eleuthros," is a half-hour program, unique to the Orlando radio market, broadcast every Saturday during which a rotating staff of counselors discuss the problems and traumas created by child sexual abuse and other forms of intra-family abuse (Id.). WTLN recently served as one of the sponsors of the recently concluded "Food Drive for the Hungry," the largest and most successful private food drive in the nation. In each of the last five years WTLN has sponsored and organized the "Family Expo," a three day fair and exposition where local social service agencies, counseling services, employment agencies, and health care institutions who serve the needs of the family gather to provide information and outreach services (Id.). WTLN also recently sponsored and organized a city-wide mental health clinic, produced in conjunction with the Mirith-Meier Clinic, which was attended by approximately 400 local residents.

28. In conjunction with the Orlando SunRays professional baseball team WTLN organized a baseball skills clinic attended by junior high school age students and their fathers (CFEF Ex. 5, p. 3). At the clinic the students were taught baseball skills and listened to professional ball players talking about the dangers of alcohol and drug abuse, AIDS, and other teen problems. Following Ted Bundy's execution, WTLN sponsored and organized a seminar on sexual abuse open to all city high school students and held at a local high school during which students asked questions about sexual abuse which were answered by trained psychologists and social service workers. This seminar was taped and broadcast several times on WTLN (Id.). WTLN also recently sponsored a city-wide seminar on family finances to help area residents cope with the recession (Id.). Finally, WTLN does a number of live remote broadcasts at local social service agencies and crisis centers whose exposure encourages listeners to make use of the services offered (Id.). For example, WTLN recently conducted a live remote broadcast from the Crisis Pregnancy Center, where the problems created by crisis pregnancies were discussed, as were the ministry and services available at the center (CFEF Ex. 5, p. 3).

V. CONCLUSIONS OF LAW ON 307(B) ISSUE

29. The criteria for resolving 307(b) issues was set forth in the Commission's 1982 Policy Statement, Revision of FM Assignment Policies and Procedures (Second Report and Order), 90 F.C.C.2d 88, 91, 51 R.R.2d 807 (1982), which established the 307(b) priorities as follows: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and, (4) other public

interest factors. The Commission placed the greatest emphasis on the first priority--first radio service--and equal importance on the next two priorities, second full-time radio service and local service (Id., 90 F.C.C.2d at 92.). The Commission has established the same priorities for noncommercial stations, FM Channel Assignments (Noncommercial Channels), 53 R.R.2d 1354, 1355 (M. Med. Bur. 1983). It is clear, under these 307(b) priorities, that CFEF's proposal to provide a first local service as well as a second full-time radio service to approximately 46,000 people, or 33 percent more people than Hispanic, 58,634 people, or 46.5 percent more than BBN/Southwest, and 161,534 more than Mims (Fdgs. ¶ 8), warrants a substantial preference over Hispanic, and BBN/Southwest, and an even greater preference compared to Mims. This preference is in accord with the traditional Commission emphasis on service to "white" and "gray" areas.

At the heart of the decision is a traditional recognition by both the Commission and the Court that provision of service to people who receive no service or little service is one of the Commission's basic missions ... providing service to underserved areas is not merely a matter of engineering efficiency ... it also helps achieve the basic mandate of Section 307(b) that the Commission make a fair and equitable distribution of radio facilities. FBC, Inc., 95 F.C.C.2d 256, 259-262, 55 R.R.2d 1344, 1348 (Rev. Bd 1983).

CFEF is also entitled to a slight preference for its 7.8 and 10.6 percent greater overall population coverage, compared to Hispanic and BBN/Southwest, Cotton Broadcasting Co., 104 F.C.C.2d 473, 60 R.R.2d 982 (Rev. Bd. 1986), and 215 percent greater coverage compared to Mims. Hispanic's, and BBN/Southwest's approximate 1.75 percent advantage in providing a fourth service to an already well

served area is not significant enough to affect CFEF's overall superiority.

30. To characterize CFEF's preference as at least substantial is clearly in accord with Commission precedent set in cases involving comparative coverage. For example, in Real Life Educational Foundation of Baton Rouge, Inc., 6 FCC Rcd 2577, 69 R.R.2d 420, 423 (Rev. Bd. 1991) the Review Board characterized a second service population advantage of 22,000, half the advantage of CFEF here, as "moderate." In Communications Properties, Inc., 92 F.C.C.2d 45, 52 R.R.2d 981 (Rev. Bd. 1982) and Town and Country Radio, Inc., 70 F.C.C.2d 572, 44 R.R.2d 149 (Rev. Bd. 1978), the Review Board characterized the applicant's preferences for an advantage of 4,456 and 5,341 in nighttime second service, respectively, as "moderate." Cf., Cuban American Ltd., 2 FCC Rcd 3264, 63 R.R.2d 1118 (Rev. Bd. 1987) (TV applicant given "moderate to substantial preference for superiority of 7,000 in second service and 500,000 in well-served areas). A 100 percent greater advantage than was found in Real Life, and a 1,000 percent greater advantage than was found in Communications Properties, Inc., surely warrants a substantial preference for CFEF. Clearly, CFEF's proposal better serves the 307(b) priorities of the Commission than any other applicant, and this substantial preference, given the contingent nature of the remaining comparative issue, is dispositive.

VI. CONCLUSIONS ON SHARE-TIME ISSUE

31. Issue 2(b) sought evidence on whether a share-time would be in the public interest. The record evidence, however, provides

scant reference to the public interest. Hispanic requests the Presiding Officer to impose a share-time and asserts that a share-time would be in the public interest because it would provide for a Hispanic station in the market (Fdgs. ¶ 9). BBN stated that a share-time simply would not work among all the applicants (Id.). The Commission should not impose a share-time here, however, because there is not sufficient evidence concerning the public interest benefits to force other applicants, like CFEF, to accede to a proposal which they reject, and because there are substantial public interest benefits in terms of increased service to areas now receiving little service, and other comparative strengths, which an imposed share time will minimize or sacrifice. Moreover, as noted by BBN, except as a solution to the FCC's reluctance to adopt firm guidelines for the award of noncommercial construction permits, share-time arrangements in the field very rarely work. Applicants very rarely voluntarily enter into a share-time, and very few share-time arrangements ever last for any length of time. In fact, the Commission's policies in this regard are at least contradictory. In many instances, such as its Memorandum Opinion and Order In MM Docket No. 86-406, 3 FCC Rcd 5024, 5025, 65 R.R.2d 119 (1988), the Commission stated that: "[w]e have recognized the benefits of centralized operations for noncommercial educational stations, given the limited funding available to these stations ..." (waiving main studio rule). Mandating share-time arrangements which almost certainly create redundant facilities flies in the face of the Commission's well-documented experience with respect to noncommercial stations. The additional expense imposed on

licensees for redundant equipment, the fewer prime hours within which to solicit for funds or provide sponsors with recognitions, the confusion which split licenses create for the listening public, and the concomitant difficulty experienced in building station loyalty, would tax a radio service more financially robust than the Commission recognizes is the case with noncommercial stations. These factors render the supposed "public interest benefits" of an imposed share-time illusory, at best.

VII. CONCLUSIONS ON CONTINGENT COMPARATIVE ISSUE

32. The Commission has, traditionally, had difficulty providing an intellectual framework for evaluating applicants under the rubric of issue number three, the applicant's "integration" of its cultural and educational objectives into station operation. Commission cases have established a few benchmarks, however, in comparing applicants. The applicant's objectives must be outward looking, not inward looking. Seattle Public Schools, 4 FCC Rcd 625, 65 R.R.2d 1621, 1644 (Rev. Bd. 1989). The applicant's objectives should be geared to meeting the public's needs. Id., 65 R.R.2d at 1635. Similarly, while the Commission has been vague about what "integration" means, it means, at least, that the applicant has a plan or mechanism to ensure that the applicant's objectives are somehow effectuated in the operation of the station. As the Commission stated in New York University, 19 F.C.C.2d 358, 17 R.R.2d 104, 116 (Rev. Bd. 1969), the issue "... pertains to the manner in which control of the station will be maintained and the assurances this will give of the continued operation of the station in a manner consonant with the operation and objectives of the