

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

In re Applications of:
DRAKE UNIVERSITY
For a Construction Permit for a New LPFM
Station at Des Moines, IA
GRAND VIEW COLLEGE
For a Construction Permit for a New LPFM
Station at Des Moines IA
JOHNSTON EVANGELICAL FREE
CHURCH
For a Construction Permit for a New LPFM
Station at Johnston, IA
UNITED COMMUNITY BROADCASTING
For a Construction Permit for a New LPFM
Station at Des Moines, IA
TORCHLIGHT FOUNDATION
For a Construction Permit for a New LPFM
Station at Des Moines, IA
HOPE RADIO
For a Construction Permit for a New LPFM
Station at Des Moines, IA
HEARTLAND CHRISTIAN FELLOWSHIP
For a Construction Permit for a New LPFM
Station at Des Moines, IA
HOLY CROSS EDUCATIONAL
ASSOCIATION
For a Construction Permit for a New LPFM
Station at Ankeny, IA

MEMORANDUM OPINION AND ORDER

Adopted: May 17, 2005

Released: May 27, 2005

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

I. INTRODUCTION

1. The Commission has before it the captioned, mutually exclusive applications of Drake University (“Drake”); Grand View College (“Grand”); Johnston Evangelical Free Church (“Johnston”); United Community Broadcasting (“UCB”); Torchlight Foundation (“Torchlight”); Hope Radio (“Hope”); Heartland Christian Fellowship (“Heartland”); and Holy Cross Educational Association (“Holy Cross”) seeking construction permits in the Low Power FM (“LPFM”) Broadcast Service in the Des Moines, Iowa, area. In accordance with our procedures,¹ the Commission published notice of the applications’ tentative selectee status.² No parties filed petitions to deny or informal objections in response to these applications.

II. DISCUSSION

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

3. Mutually exclusive LPFM applications are subject to the comparative selection procedures set forth in Section 73.872 of the Commission’s rules.³ This procedure awards a maximum of three points based on three criteria deemed to be most relevant to predicting the applicant best qualified to provide the service for which LPFM spectrum has been allocated.⁴ Each applicant that certified that it has had an *established community presence of at least two years’ duration* is awarded one point. An applicant is deemed to have an established community presence if, for a period of at least two years prior to application, the *applicant* has been physically headquartered, has had a campus, or has had 75 percent of its board members residing within 10 miles of the reference coordinates of the proposed transmitting antenna. Second, an applicant that has *pledged to operate at least 12 hours per day* is awarded one point. Third, an applicant that has *pledged to originate locally at least eight hours of programming per day* is awarded one point. For purposes of this criterion, local origination is defined as the production of programming within 10 miles of the reference coordinates of the proposed transmitting antenna.⁵ The tentative selectee is the applicant with the highest score.

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

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

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

³ 47 C.F.R. § 73.872.

⁴ *Id.*

⁵ See *id.*

Established Community Presence. Drake; Grand; Johnston; UCB; Torchlight; Hope; and Heartland are each entitled to one point because they certify that for a period of at least two years prior to the filing date of its application, they have existed as an educational institution or organization and have been physically headquartered, have had a campus, or have had 75 percent of their board members residing within 10 miles of the coordinates of the proposed transmitting antenna⁶ Holy Cross is not entitled to a point because it certifies that it does not meet the requirements of being physically headquartered, having a campus, or having 75 percent of its board members residing within 10 miles of the reference coordinates of the proposed transmitting antenna for a period of at least two years prior to the filing date of its application.⁷

Proposed Operating Hours. Each applicant is entitled to one point because it pledges to operate at least 12 hours per day.⁸

Local Program Origination. Drake; Grand; Johnston; UCB; Torchlight; Hope; and Heartland are each entitled to one point because they pledge to originate at least eight hours of local programming per day.⁹ Holy Cross is not entitled to one point because it does not pledge to originate at least eight hours of local programming per day.¹⁰

Total. Accordingly, Drake; Grand; Johnston; UCB; Torchlight; Hope; and Heartland are entitled to three points, and Holy Cross is entitled to one point. A time-share agreement has been submitted by Drake and Grand. Under the terms of the agreement, Grand will broadcast on weekdays from 4:00 am to 3:59:50 pm (all times local), and from 4:00 am on Sundays until Monday mornings at 4:00 am. Drake will broadcast on weekdays from 4:00 pm to 3:59:50 am and from 3:59:50 am on Saturdays until 3:59:50 am on Sundays. We conclude that the acceptance of Drake's and Grand's voluntary time-share agreement, which also aggregates their points, and fully complies with the requirements of Section 73.872,¹¹ would serve the public interest, convenience and necessity. The terms of this time-share agreement will also be made part of the authorization issued to each of these applicants. Thus, Drake and Grand are the prevailing tentative selectees in LPFM Mutually Exclusive Group No. 36.

III. ORDERING CLAUSES

5. Accordingly, IT IS ORDERED, that the applications of Johnston Evangelical Free Church (File No. BNPL-20010614ADS); United Community Broadcasting (File No. BNPL-20010615ABY); Torchlight Foundation (File No. BNPL-20010615ACS); Hope Radio (File No. BNPL-20010615ASG);

⁶ See File No. BNPL-20010611ACU ("Drake Application") at Section III, Question 1(a); *see also* Exhibit 7; File No. BNPL-20010613ADR ("Grand Application") at Section III, Question 1(a); *see also* Exhibit 7; File No. BNPL-20010614ADS ("Johnston Application") at Section III, Question 1(a); *see also* Exhibit 7; File No. BNPL-20010615ABY ("UCB Application") at Section III, Question 1(a); *see also* Exhibit 7; File No. BNPL-20010615ACS ("Torchlight Application") at Section III, Question 1(a); *see also* Exhibit 7; File No. BNPL-20010615ASG ("Hope Application") at Section III, Question 1(a); *see also* Exhibit 7; File No. BNPL-20010615BDM ("Heartland Application") at Section III, Question 1(a); *see also* Exhibit 7.

⁷ See File No. BNPL-20010615ALF ("Holy Cross Application") at Section III, Question 1(a); *see also* Exhibit 7.

⁸ See Drake; Grand; Johnston; UCB; Torchlight; Hope; Heartland; and Holy Cross Applications at Question 2.

⁹ See Drake; Grand; Johnston; UCB; Torchlight; Hope; and Heartland Applications at Question 3.

¹⁰ See Holy Cross Application at Question 3.

¹¹ See 47 C.F.R. § 73.872.

Heartland Christian Fellowship (File No. BNPL-20010615BDM); and Holy Cross Educational Association (File No. BNPL-20010615ALF) ARE DISMISSED.

6. IT IS FURTHER ORDERED, that the applications of Drake University (File No. BNPL-20010611ACU) and Grand View College (File No. BNPL-2001 06 13 ADR) ARE GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

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

Re: Applications for Construction Permits for New LPFM Stations

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