

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

In re Applications of)	
)	
Iowa Public Broadcasting Board)	File No. BPET-19960508KE
)	Facility ID No. 81907
)	
Global Educational Development, Inc.)	File No. BPET-19960709KT
)	Facility ID No. 82956
)	
Family Educational Broadcasting)	File No. BPET-19960715KG
)	Facility ID No. 82623
)	
Community Television of Iowa, Inc.)	File No. BPET-19960724KM
)	Facility ID No.82954
)	
For a Construction Permit for a New Noncommercial Educational Television Station on Channel *43, Des Moines, Iowa)	

MEMORANDUM OPINION AND ORDER

Adopted: October 16, 2003

Released: October 23, 2003

By the Commission:

1 The Commission has before it for consideration the above-captioned mutually exclusive applications of the Iowa Public Broadcasting Board (IPBB), Global Educational Development, Inc. (GED), Family Educational Broadcasting, Inc. (FEB), and Community Television of Iowa, Inc. (Community), each seeking a construction permit for a new noncommercial educational television station to operate on Channel *43 at Des Moines, Iowa.¹

MUTUALLY EXCLUSIVE SELECTION PROCESS

2. In cases of mutually exclusive applications for new noncommercial educational (NCE) television stations to operate on reserved channels, each application is reviewed pursuant to our comparative process. This procedure awards a maximum of seven merit points based on four criteria deemed to be most relevant to predicting the applicant best qualified to provide the service for which this spectrum has been reserved.² First, three points are awarded to applicants who have been local and

¹ On March 22, 2001, the Bureau issued a Public Notice announcing a deadline of June 4, 2001, by which applicants in closed groups of noncommercial educational broadcast station applications must file either settlements/minor technical amendments to resolve application conflicts, or supplements to claim points under the newly-adopted NCE comparative standard discussed below. *See Public Notice*, 16 FCC Rcd 6893 (2001). The Public Notice also established June 4, 2001, as the date on which applicants' non-technical comparative qualifications would be generally fixed. The Bureau subsequently extended the deadline for settlements, engineering solutions and point supplements through July 19, 2001. *See Public Notice*, 16 FCC Rcd 10892 (2001). IPBB, GED, FEB and Community filed point supplements by the July 19th deadline.

² *Report and Order, Comparative Standards for Noncommercial Educational Applicants*, 15 FCC Rcd 7386 (2000); *Memorandum Opinion and Order on Reconsideration*, 16 FCC Rcd 10549 (2001); *Memorandum Opinion and* (continued....)

established for at least two years.³ Applicants with a headquarters, campus, or 75% of board member residences within 25 miles of the reference coordinates of the community of license are considered local,⁴ and governmental units are considered local within their areas of jurisdiction. 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, and the applicant's governing documents include a provision to maintain that diversity in the future. Third, two points will be awarded for certain state-wide 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% greater than the next best proposal, or two points if 25% greater than the next best proposal. The tentative selectee is the applicant with the highest score.

3. Under this comparative selection process, the applicants are awarded points based on the following criteria:

Established Local Applicant. IPBB is an Iowa governmental entity established by the State of Iowa to "plan, establish and operate educational radio and television facilities and other telecommunications services including narrowcast and broadcast systems to serve the educational needs of the state." As such, it is local within the State of Iowa, and all of its officers and directors reside in Iowa.⁵ Since December of 1986, IPBB has been the licensee of KDIN-TV, Des Moines, and it is also the licensee of seven other noncommercial educational television stations in Iowa. Thus, IPBB is entitled to three points because it is an established local applicant. FEB, which is headquartered in nearby Hurley, Iowa, certified that at least 75% of the members of its governing board have for the preceding two years maintained their primary residence at a location within 25 miles of Des Moines and that its governing documents require the maintenance of this local characteristic of the board. Thus, FEB is entitled to three points as an established local applicant. GED and Community are nongovernmental entities headquartered in Albuquerque, New Mexico and Greenville, South Carolina, respectively, and do not have governing boards where at least 75% of the members reside within 25 miles of the reference coordinates of Des Moines. Accordingly, each is entitled to no points.

Diversity of Ownership. IPBB, the licensee of KDIN-TV, Des Moines, is not entitled to any points under this criterion. Community, FEB and GED all certify that the principal community contour of their proposed stations do not overlap the principal community contour of any other television station in which any party to the application has an attributable interest, that their governing documents require that such diversity be maintained, and that they have placed documentation of this diversity in a local public inspection file and submitted copies to the Commission. Accordingly, Community, FEB and GED are each entitled to two points.

(...continued from previous page)

Second Order on Reconsideration, 17 FCC Rcd 13132 (2002); *appeal pending*, *American Family Association, Inc., et al. v. FCC & USA*, Nos. 00-1310, et al. (D.C. Circuit); *see also* 47 C.F.R. § 73.7003.

³ NCE organizations involved in pending closed group proceedings, such as the applicants here, are considered "established" if they have operated continuously as local entities since June 4, 1999.

⁴ An applicant relying on local board residence to claim points as an established local applicant must demonstrate that its governing documents, *i.e.*, by-laws, require that such localism be maintained for at least four years of station operations.

⁵ Pursuant to the Code of Iowa, the Board is composed of nine members, four of whom are appointed by the Governor, one member appointed by the state association of private colleges and universities, one member appointed jointly by the superintendents of the state's community colleges, one member appointed jointly by the administrators of the area education agencies, and one member appointed by the state board of regents.

State-wide Networks. IPBB states that it qualifies for state-wide network points under Section 73.7003(b) of the Commission's rules, because it is a public organization, without direct authority over schools, that regularly provides programming to over 50 accredited full-time elementary and secondary schools within Iowa, and to accredited public institutions of higher learning with more than five full-time campuses within Iowa, in furtherance of their curriculum, and intends to use the proposed station to increase IPBB's curricula-based offerings to Iowa schools by allowing its Iowa Public Television Network to broadcast additional course-related programs. IPBB also submits documentation regarding the schools the network serves, as well as detailed telecourse information. Accordingly, IPBB is entitled to two points.

Technical Parameters. IPBB proposes to operate at 5000 kw power at a height of 525 meters above average terrain, with its Grade B contour encompassing 32,694 square kilometers with a population of 886,885. Of the remaining applicants, Community's proposal to operate at 1880 kw power from a height of 315 meters above average terrain, would produce coverage most closely approaching that proposed by IPBB. However, because the area within Community's Grade B contour would only encompass 15,816 square kilometers, with a population of 691,803, IPBB is entitled to one point under this criterion since both the area and population it proposes to serve is 10% greater than Community's.

4. **Total.** IPBB is entitled to three points as an established local entity, two points as a state-wide network, and one point for serving the largest area and population, for a total of six points. FEB is entitled to three points as an established local entity, and two points for diversity of ownership, for a total of five points. Community and GED are each entitled to two points for diversity of ownership. Thus, IPBB is the tentative selectee.

ACCEPTABILITY STUDY

5. Once we select a tentative selectee pursuant to our mutually exclusive selection process, we consider whether the tentative selectee's application has defects. If a tentative selectee's application is found unacceptable, it is returned to the applicant. The applicant is then given one opportunity to submit a curative amendment, provided that the amendment is minor and that the application, as amended, has the same number of qualitative points as originally claimed, or more than the points claimed by the next highest applicant. If found acceptable, the tentative selectee's application is placed on a Broadcast Applications Public Notice, and petitions to deny may be filed within 30 days following release of the public notice.

6. Noncommercial educational broadcast stations will be licensed only to "nonprofit educational organizations upon a showing that the proposed stations 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."⁶ IPBB has certified its compliance with these requirements. We also find the application to be complete and in compliance with the Commission's technical rules.

7. Based upon the record before us, IPBB appears to be fully qualified to become the licensee of a new noncommercial educational television station at Des Moines, Iowa. We conclude that grant of its application would serve the public interest, convenience and necessity. Accordingly, the staff is directed

⁶ See 47 C.F.R. Sec. 73.621(a).

to issue a public notice announcing IPBB's acceptability and establishing a deadline for the filing of petitions to deny.⁷

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁷ In view of the pending appeal of our mutually exclusive selection process, any subsequent grant of IPBB's application will be conditioned on the outcome of *American Family Association, Inc., et al. v. FCC & USA*, Nos. 00-1310, et al. (D.C. Circuit).