



Federal Communications Commission
Washington, D.C. 20554

October 19, 2007

DA 07-4341

In Reply Refer to:

1800B3-JP

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Arthur S. Liu
Multicultural Radio Broadcasting Licensee, LLC
449 Broadway
New York, NY 10013

In re: WNYG(AM), Babylon, New York
Facility ID: 5208
File No. BR-20060131BHJ

Dear Mr. Liu:

We have before us: (1) a license renewal application for Station WNYG(AM), Babylon, New York, filed by Multicultural Radio Broadcasting Licensee, LLC ("MRBL") and (2) three identical Petitions to Deny the license renewal application ("Petitions") filed by Michael Erickson, Gerald John Mehrab, and Ralph Amitrano, Jr. (collectively the "Objectors") on April 20, 2006. For the reasons discussed below, we deny the Petitions and grant the license renewal application.

Background. MRBL timely filed the license renewal application for Station WNYG(AM) on January 31, 2006. On April 20, 2006, the Objectors filed the Petitions contending that the license renewal application should be denied because MRBL has applications pending before the Commission to change the community of license of Station WNYG(AM) from Babylon, New York, to Elizabeth, New Jersey.¹ The Objectors are concerned that renewing MRBL's license will permit it to proceed with its proposal to remove a local transmission service from Babylon, which has already lost two other stations.²

Discussion. Petitions to deny must, pursuant to Section 309(e) of the Communications Act of 1934, as amended (the "Act"),³ provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with Section 309(k) of the Act,⁴ which governs our evaluation of an application for license renewal. Specifically, Section 309(k)(1) provides that we are to grant the renewal application if, upon

¹ File Nos. BMJP-20040129AXY (the "short form" FCC Form 175 filed during the AM Auction No. 84 filing window for new and major change AM applications) and BMJP-20051031AFU (the concomitant "long form" FCC Form 301 application).

² Petitions at 1.

³ 47 U.S.C. § 309(e).

⁴ 47 U.S.C. § 309(k). See, e.g., *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197 n.10 (1990), *aff'd sub nom. Garden State Broadcasting L.P. v. FCC*, 996 F.2d 386 (D.C. Cir. 1993), *rehearing denied* (Sep. 10, 1993); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1986) (informal objection must contain adequate and specific factual allegations sufficient to warrant the relief requested).

consideration of the application and pleadings, we find that during the preceding license term: (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse.⁵ If, however, the licensee fails to meet that standard, the Commission may deny the application – after notice and opportunity for a hearing under Section 309(e) of the Act – or grant the application “on terms and conditions that are appropriate, including a renewal for a term less than the maximum otherwise permitted.”⁶

Initially, we note that the major change applications cited in the Petitions, proposing to change the community of license of Station WNYG(AM) from Babylon, New York, to Elizabeth, New Jersey, were dismissed on June 11, 2007, at MRBL’s request.⁷ Therefore, the Petitions are now moot with respect to that proposal.⁸ Moreover, the license renewal application proceeding is not the proper venue to challenge a proposed community of license change. Such proposals are evaluated independently and have no bearing on our evaluation of the license renewal application under Section 309(k) of the Act. We recognize the Objectors’ concerns about the loss of a local transmission service to Babylon⁹ and note that the Objectors may file an informal objection against any subsequent modification application filed by MRBL with respect to Station WNYG(AM).

Conclusion/Actions. For the foregoing reasons, we deny the Objectors’ Petitions. We have evaluated the above-referenced renewal application pursuant to Section 309(k) of the Act,¹⁰ and we find that Station WNYG(AM), Babylon, New York, has served the public interest, convenience, and necessity during the subject license term. Moreover, we find that there have been no serious violations of the Act or the Rules involving Station WNYG(AM), or other violations of the Act or the Rules which, taken together, would constitute a pattern of abuse. In light of the foregoing, we will grant the renewal application.

⁵ 47 U.S.C. § 309(k)(1). The renewal standard was amended to read as described by Section 204(a) of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). See *Implementation of Sections 204(a) and 204(c) of the Telecommunications Act of 1996 (Broadcast License Renewal Procedures)*, Order, 11 FCC Rcd 6363 (1996).

⁶ 47 U.S.C. §§ 309(k)(2) and 309(k)(3).

⁷ *Broadcast Actions*, Public Notice, Report No. 46507 (Jun. 14, 2007).

⁸ MRBL subsequently filed an application to change Station WNYG(AM)’s community of license from Babylon, New York, to Medford, New York (File No. BP-20070601BDE).

⁹ There are two stations currently licensed to Babylon, WNYG(AM) and WBAB(FM).

¹⁰ 47 U.S.C. § 309(k).

Accordingly, IT IS ORDERED that the Petitions to Deny filed by Michael Erickson, Gerald John Mehrab, and Ralph Amitrano, Jr. ARE DENIED.

IT IS FURTHER ORDERED that the application of Multicultural Radio Broadcasting Licensee, LLC for renewal of its license for Station WNYG(AM) IS GRANTED.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Mark N. Lipp, Esq.
Michael Erickson
Gerald John Mehrab
Ralph Amitrano, Jr.