



Federal Communications Commission
Washington, D.C. 20554
January 22, 2008

DA 08-137

In Reply Refer to:

1800B3-SC

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Mr. Robert Schore
P.O. Box 276
Monsey, NY 10952

In re: WRKL(AM), New City, NY
Facility ID No. 50057
Polnet Communications, Ltd.
File No. BR-20060201ARZ

Application for Renewal of License

Informal Objection

Dear Mr. Schore:

We have before us the above-referenced application (the "Application") of Polnet Communications, Ltd. (the "Licensee") for renewal of the license of broadcast station WRKL(AM), New City, NY (the "Station"), filed on February 1, 2006, and an Informal Objection (the "Objection") to the Application filed by Robert Schore on February 27, 2006. For the reasons set forth below, we dismiss the Objection and grant the Application.

Background. The Objection declares that the Station does not serve its community of license. Specifically, it alleges that the Station airs no programming on current issues or events nor does it announce emergency weather conditions. The Objection argues that the Station's proximity to the Indian Point nuclear power plant heightens the need for "such radio broadcasts." The Objection also notes that the Station broadcasts in Polish "as is its right," but contends that, because "few listeners in [New City] speak this language," there should be some English programming "devoted to the concerns of citizens in its primary coverage area." In support, the Objection cites to the Media Bureau page on the Commission's web site, which states that "[b]roadcasters are expected to be aware of the important local issues in the communities that their stations serve and to offer programming that will inform their audiences about these issues."

Discussion. Pursuant to Section 309(e) of the Communications Act of 1934, as amended (the "Act"), petitions to deny and informal objections must 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, which governs our evaluation of an application for license renewal.¹ Specifically, Section 309(k)(1) provides that we are to grant the renewal application if, upon consideration of the application and pleadings, we find that: (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the

¹ 47 U.S.C. §309(k).

Commission's Rules (the "Rules"); and (3) there have been no other violations which, taken together, constitute a pattern of abuse.² 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.”³

We have examined the Objection and find that it does not raise any substantial or material question of fact calling for further inquiry. Broadcasters must be responsive to the needs and interests of the communities they are licensed to serve.⁴ However, as a general rule, we “grant licensees broad discretion to choose, in good faith, which issues are of concern to the community and to choose the best way to address those issues.”⁵ The Commission “will defer to the broadcaster’s judgment absent a showing that the broadcaster was ‘unreasonable or discriminatory in its selection of issues’ or that the licensee has ‘offered such nominal levels of responsive programming as to have effectively defaulted’ on its obligations to cover community issues.”⁶ Here, the Licensee’s choice to broadcast in Polish falls squarely within the discretion afforded to broadcasters to control the content of their programming. Moreover, as stated above, Section 309(k) of the Act requires the submission of *properly supported* allegations of fact. Objector offers no evidence to substantiate his claim that the station does not broadcast issues-oriented programming. As to the allegation that the Licensee fails to air emergency information, again, we find that Objector did not meet his evidentiary burden. We note that foreign language broadcasters must comply with Emergency Alert System (“EAS”) requirements, and in fact, may do so in the primary language of their broadcast.⁷ In this case, though, Objector provides no specific evidence of any instance of noncompliance with EAS rules by the Station during the relevant license term. Objector’s bare claims concerning the paucity of the Station’s local programming, from his perspective as an English-language listener, fail to present a *prima facie* case of any violation of the Act or Rules or abuse of discretion in providing responsive programming by the Station in the relevant license term.

Conclusion/Actions. For the foregoing reasons, we deny the Objection. We have evaluated the Application and find that the Licensee 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 the Station or violations by Licensee of the Act or the Rules which, taken together, would constitute a pattern of abuse.

² 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).

³ 47 U.S.C. §§ 309(k)(2), 309(k)(3).

⁴ See, e.g., *In the Matter of Broadcast Localism*, Notice of Inquiry, 19 FCC Rcd 12425, 12427 (2004).

⁵ *Applications of Citicasters Licenses, L.P.*, Memorandum Opinion and Order and Notice of Apparent Liability, 22 Rcd 19324, 19329 (MB 2007).

⁶ *Id.* (citing *License Renewal Applications of Certain Commercial Radio Stations Serving Philadelphia, Pennsylvania*, Memorandum Opinion and Order, 8 FCC Rcd 6400, 6401 (MB 1993) (further citations omitted).

⁷ See 47 C.F.R. §11.54(b)(8).

Accordingly, pursuant to Section 309(k) of the Act and Sections 0.61 and 0.283 of the Rules,⁸ the Objection filed by Robert Schore is DENIED and the Application of Polnet Communications, Ltd., for the renewal of license for WRKL(AM), New City, NY, is GRANTED.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Dorann Bunkin, Esq.
Polnet Communications, Ltd.

⁸ 47 U.S.C. § 309(k); 47 C.F.R. §§ 0.61, 0.283.