



Federal Communications Commission
Washington, D.C. 20554

July 31, 2006

DA 06-1549

In Reply Refer To:

1800B3-BSH

Released: July 31, 2006

Mr. V. Alex
480 Summer Street
Brockton, MA 02302

In re: WBET(AM), Brockton, MA
Facility ID No. 19631
File No. BR – 20051130ARZ
Application for Renewal of License

Informal Objection

Dear Mr. Alex:

This letter concerns the captioned application filed by the KJI Broadcasting, LLC (“KJI”) to renew the license of station WBET(AM), Brockton, Massachusetts. On December 30, 2005, Mr. V. Alex (“Alex”) filed a pleading styled as a petition to deny the subject renewal application.¹ For the reasons set forth below, we dismiss Alex’s pleading as a petition to deny, deny the pleading as an informal objection, and grant the renewal application.

Background. In support of his objection, Alex states that although WBET(AM) provides regional news coverage, it broadcasts an insufficient amount of local news programming. Dissatisfied with the quantity, quality, and content of the station’s local coverage, Alex asserts that WBET(AM) is not serving the public interest. For example, Alex complains that the station’s “daily talk show from 9AM to 11AM does little to inform of a local nature, the host would rather chat with the same guests regularly than interact with the public.” Additionally, Alex states that WBET(AM) does not cover municipal meetings for Brockton or for the surrounding towns.

Discussion. Procedural Issue. Initially we note that, although the pleading is styled as a petition to deny, Alex has failed to provide an affidavit to support any allegations of fact as required by Section 309(d)(1) of the Communications Act of 1934, as amended, (“Act”).² Additionally, Alex failed to serve a copy of the pleading on the applicant or its counsel, as required by Section 309(d)(1) of the Act and Section 1.47 of the Commission’s Rules.³ Accordingly, Alex’s petition to deny is procedurally defective

¹ KJI filed an opposition on January 26, 2006, and an Erratum to the opposition on February 23, 2006.

² 47 U.S.C. § 309(d)(1).

³ *Id.*; 47 C.F.R. § 1.47. Alex’s failure to serve a copy of the pleading did not violate the Commission’s *ex parte* rules, 47 C.F.R. § 1.1200 *et seq.*, because Alex is exempt as a listener pursuant to 47 C.F.R. § 1.1204(a)(8). The

and must be dismissed. We will, however, treat the petition as an informal objection pursuant to Section 73.3587 of the Commission's Rules.⁴

Substantive Matters. In evaluating an application for license renewal, the Commission's decision is governed by Section 309(k) of the Act. That section 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 Commission's 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

The Commission has long held that radio stations have a bedrock obligation to provide coverage of issues facing their communities.⁷ While the Commission appreciates Alex's interest, given the First Amendment rights of broadcasters and the noncensorship provisions of the Act, each licensee retains the discretion to make programming decisions.⁸ The Commission will not take adverse action on a license renewal application based upon the subjective determination of a listener or group of listeners as to what constitutes appropriate programming, including news programming.⁹ Moreover, the Commission has recognized that a licensee has wide discretion in the area of news programming and, in the absence of extrinsic evidence that a licensee has falsified, distorted or suppressed news, the Commission will not substitute its judgment for that of a licensee in determining what news is of prime interest to its listening audience and the manner in which it should be presented.¹⁰ Further, the Commission will not interfere with the exercise of a licensee's news judgment where there is no showing that the licensee consistently and unreasonably ignored matters of public concern.¹¹ Alex has made no such showing.

opposition states that the applicant obtained a copy of the pleading after learning about the pleading in a public notice.

⁴ 47 C.F.R. § 73.3587.

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), 309(k)(3).

⁷ *Deregulation of Radio, Report and Order*, 84 FCC 2d 968, 977 (1981), *on recon.*, 87 FCC 2d 797 (1981), *remanded on other grounds sub nom., Office of Communication of the United Church of Christ v. FCC*, 707 F.2d 1413 (D.C. Cir. 1983).

⁸ *See* 47 U.S.C. § 326.

⁹ *See WGBH Educational Foundation*, 69 FCC 2d 1250, 1251 (1978) (Commission will not deny renewal application based on the opinion of a viewer, or group of viewers, as to what constitutes “good” programming).

¹⁰ *See, e.g., Columbia Broadcasting System, Inc.*, 51 FCC 2d 273 (1975) (Commission will not place burden on licensee to rebut petitioner's conclusory allegations concerning news coverage).

¹¹ *See id.*

Accordingly, we find neither evidence of serious violations of the Act or the Commission's Rules nor of other violations that, when considered together, evidence a pattern of abuse. Further, we find that station WBET(AM) served the public interest, convenience, and necessity during the subject license term. Thus, there is no need for further inquiry regarding grant of the subject renewal application and we will grant that application.

Conclusion. Accordingly, for the reasons set forth above, the petition to deny filed by Alex IS DISMISSED, and when treated as an informal objection, IS DENIED. Finally, because the subject application is in full compliance with the Commission's Rules and the Act, and finding that the public interest, convenience, and necessity would be served thereby, the application for renewal of license for station WBET(AM), Brockton, Massachusetts (File No. BR-20051130ARZ) IS GRANTED.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

Cc: KJI Broadcasting, LLC
Gary S. Smithwick, Esq.