



Federal Communications Commission  
Washington, D.C. 20554

October 25, 2006

**DA 06-2087**

In Reply Refer To:

1800B3-BSH

Released: October 25, 2006

Mr. James Michael Williams  
P.O. Box 892  
Huntsville, AL 35804

In re: **WJAB(FM), Huntsville, AL**  
**Facility ID No. 697**  
File No. BRED – 20031204AJF  
Application for Renewal of License

**Informal Objection**

Dear Mr. Williams:

This letter concerns the captioned application filed by the Alabama A & M University to renew the license of Station WJAB(FM), Huntsville, Alabama. On March 1, 2004, James Michael Williams (“Williams”) filed a “petition/complaint to deny” the subject renewal application.<sup>1</sup> For the reasons set forth below, we deny the pleading and grant the renewal application.

**Background.** In his pleading, Williams states that he was an employee at WJAB(FM) from December 13, 2001, until his termination on January 15, 2004. Williams argues that he was improperly dismissed from employment at the station because of his efforts to convert the station to commercial operations. Williams also accuses WJAB(FM) of “partiality” of record play and in the production of public service announcements, but does not elaborate further. Additionally, Williams states that he believes that he would better serve the local community as the station licensee.

**Discussion. Procedural Issue.** In the pleading, Williams fails 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 (“Communications Act”).<sup>2</sup> Additionally, Williams failed to serve a copy of the pleading on the applicant or its counsel, as required by Section 309(d)(1). Accordingly, Williams’ petition to deny must be dismissed.<sup>3</sup> We will, however, treat the pleading as an informal objection pursuant to Section 73.3587 of the Commission’s rules.<sup>4</sup>

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<sup>1</sup> WJAB(FM) filed an opposition on November 11, 2004.

<sup>2</sup> 47 U.S.C. § 309(d)(1).

<sup>3</sup> *Id.*; 47 C.F.R. § 1.47. Williams’ 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 Williams is exempt as a listener pursuant to 47 C.F.R. § 1.1204(a)(8). The opposition states that the applicant received a copy of the pleading from Commission staff after inquiring about the status of its renewal application.

<sup>4</sup> 47 C.F.R. § 73.3587.

**Substantive Matters.** In evaluating an application for license renewal, the Commission's decision is governed by Section 309(k) of the Communications 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 Communications Act or the Commission's Rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse.<sup>5</sup> 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.”<sup>6</sup>

Williams does not claim that his employment was terminated for reasons involving discrimination of any recognized form or any other unlawful ground.<sup>7</sup> The issues raised by Williams constitute a private employment controversy. The Commission has consistently held that it is not the proper forum for the resolution of such private disputes, and the parties should seek redress for such matters in courts of competent jurisdiction.<sup>8</sup>

Williams also accuses WJAB(FM) of “partiality” of record play and in the production of public service announcements. He also claims that WJAB(FM) cannot adequately serve the personal and business interests of Huntsville's minority community as a noncommercial educational station. The Commission has long held that radio stations have a bedrock obligation to provide coverage of issues facing their communities.<sup>9</sup> While the Commission appreciates Williams' interest, given the First Amendment rights of broadcasters and the noncensorship provisions of the Communications Act, the Commission rarely interferes with the programming decisions and discretion of a licensee.<sup>10</sup> It 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.<sup>11</sup>

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<sup>5</sup> 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 *Order, Implementation of Sections 204(a) and 204(c) of the Telecommunications Act of 1996 (Broadcast License Renewal Procedures)*, 11 FCC Rcd 6363 (1996).

<sup>6</sup> 47 U.S.C. §§ 309(k)(2), 309(k)(3).

<sup>7</sup> Williams asserts that his termination was based on differences with station management regarding “objectives” for the station.

<sup>8</sup> E.g., *John F. Runner, Receiver (KBIF)*, 36 R.R. 2d 773, 778 (1976); *Decatur Telecasting, Inc.*, 7 FCC Rcd 8622 (1992).

<sup>9</sup> *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).

<sup>10</sup> See 47 U.S.C. § 326.

<sup>11</sup> 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).

Accordingly, we find neither evidence of serious violations of the Communications Act or the Commission's Rules nor of other violations that, when considered together, evidence a pattern of abuse. Further, we find that station WJAB(FM) 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, pursuant to Section 309(k) of the Communications Act of 1934, as amended, and Sections 0.61 and 0.283 of the Commission's Rules,<sup>12</sup> for the reasons set forth above, the petition to deny filed by James Michael Williams 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 Communications Act, and finding that the public interest, convenience, and necessity would be served thereby, the application for renewal of license for station WJAB(FM), Huntsville, Alabama, (File No. BRED-20031204AJF) IS GRANTED.

Sincerely,

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

cc: Alabama A & M University

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<sup>12</sup> 47 U.S.C. § 309(k); 47 C.F.R. §§ 0.61, 0.283.