



Federal Communications Commission
Washington, D.C. 20554

April 30, 2007

DA 07-1941
In Reply Refer to:
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Mr. Martin L. Hensley
15 Wood Street
Greenfield, Indiana 46140

In re: Metropolitan School District of Washington
Township
Station WJEL(FM), Indianapolis, IN
Facility ID 41316
File No. BRED-20040323ATQ

Petition for Reconsideration

Dear Mr. Hensley:

We have before us a Martin Hensley ("Hensley") "Petition For Reconsideration – Request to Rescind the License Grant – Opposition to MSDWT Petition for Reconsideration – Motion To Enlarge Issues" (the "Petition")¹ Hensley asks the staff to reconsider its renewal of the license of Metropolitan School District of Washington Township's ("Metropolitan") for noncommercial educational ("NCE") Radio Station WJEL(FM)(the "Station"), Indianapolis, Indiana. Also before us is an "Opposition to Petition for Reconsideration of Commission's Grant of WJEL's Application" ("Opposition") filed by Metropolitan on September 24, 2004. For the reasons set forth below, we dismiss the Petition.

Background. Metropolitan filed the license renewal application (the "Application") for the Station on March 23, 2004. The uncontested application was granted on August 10, 2004. Public Notice of the application grant was released on August 13, 2004.² The Petition, which is dated September 14, 2004, raises numerous issues against Metropolitan. Hensley contends that Metropolitan engaged in anti-competitive activities in violation of the anti-trust laws, violated the public inspection file rule³ during the

¹ The Commission has no record of the Petition having been filed with The Secretary's office. The only copy of the Petition that the Commission has is the copy included as an attachment to the Metropolitan Opposition. Also, on September 20, 2004, Hensley, as an individual, and Hoosier Public Radio Corporation filed a "Motion to Join the Parties/Request for Review and Declaratory Ruling – RICO Act and Sherman Antitrust Act – Market Allocation/Request For Review and Declaratory Ruling – Ex Parte Applicant Communications/Motion To Compel - Request For Discovery/Petition To Deny – Request For Moratorium" against WJEL(FM) and other stations. This submission is untimely as to WJEL(FM) and is an unauthorized pleading filed subsequent to the deadline for reconsideration petitions as to WJEL(FM). Accordingly, it will be dismissed.

² Public Notice, *Broadcast Actions*, Report No. 45798 (August 13, 2004).

³ 47 C.F.R. § 73.3527

period 1994 to 1999, is not a properly registered corporation with Indiana's Secretary of State, has violated broadcast indecency restrictions, and has reported inaccurate EEO data.

Discussion. We will dismiss the Petition. A petition for reconsideration is required by statute to be filed within thirty days from the date upon which public notice of an action is given.⁴ Public notice of the grant of the subject Metropolitan Application was made on August 13, 2004. Therefore, petitions for reconsideration were due no later than Monday, September 13, 2004. It is not clear from the record that Hensley ever properly filed the Petition. Even if he did, he could not have filed the Petition prior to the expiration of the statutory filing deadline because it was dated by Hensley September 14, 2004, a day after that filing deadline. Accordingly, the Petition must be treated as late-filed. The Commission lacks authority to waive or extend the statutory 30-day filing period for petitions for reconsideration unless the petitioner shows that its failure to file in a timely manner resulted from "extraordinary circumstances."⁵ Hensley does not present an explanation for the late-filing of his Petition. Because the Petition was not filed within thirty days of the date of public notice announcing the grant of the captioned application, we must dismiss the filing as an untimely petition for reconsideration.⁶

Conclusion/Actions. For the reasons set forth above Martin L. Hensley's "Petition For Reconsideration – Request to Rescind the License Grant – Opposition to MSDWT Petition for Reconsideration – Motion To Enlarge Issues" IS DISMISSED. Additionally, insofar as it pertains to WJEL(FM), Hensley's "Motion to Join the Parties/Request for Review and Declaratory Ruling – RICO Act and Sherman Antitrust Act – Market Allocation/Request For Review and Declaratory Ruling – Ex Parte Applicant Communications/Motion To Compel - Request For Discovery/Petition To Deny – Request For Moratorium" IS DISMISSED.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Kathryn R. Schmeltzer, Esq.
Kimberly A. Lacey, Esq.

⁴ 47 U.S.C. § 405. *See also* 47 C.F.R. § 1.106(f).

⁵ *See, e.g., Gardner v. FCC*, 530 F.2d 1086, 1091-92 (D.C. Cir. 1976).

⁶ In addition, Section 1.106(b)(1) of the Rules requires that a petition for reconsideration filed by a person who is not a party to the proceeding must "state with particularity the manner in which the person's interests are adversely affected by the action taken, and shall show good reason why it was not possible for him to participate in the earlier stages of the proceeding." 47 C.F.R. § 1.106(b)(1). Hensley makes no such showing in his Petition.

