



Federal Communications Commission
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Re: Application for Renewal of License
Station KTHV(TV), Little Rock, Arkansas
File No. BRCT-20050131BME
Facility ID No. 2787

Mr. Meli and Counsel:

On August 28, 2005, Chad Meli filed a pleading styled as a formal petition to deny opposing the license renewal of the CBS Television Network affiliate Station KTHV(TV), Little Rock, Arkansas, licensed to Arkansas Television Company ("Arkansas Television"), a subsidiary of the Gannett Co, Inc. ("Gannett").¹ On May 23, 2005, Gannett filed a Response to Petition to Deny. For the reasons set forth below, we deny the petition to deny.

Background. Mr. Meli requests that the above-captioned license renewal application not be granted until certain indecency complaints involving the December 31, 2004, airing of the network program *Without a Trace* have been adjudicated.² Mr. Meli states that "[w]hile KTHV may have engaged in activity which has positively served this community, both sides of the record must be examined thoroughly by the FCC in order to ascertain precisely how well KTHV has served the public interest and upheld community standards."³ Mr. Meli contends that, if the Commission cannot adjudicate the complaints before granting the license renewal, "then KTHV should be issued a temporary license until the FCC is able to determine whether or not KTHV is meeting its public interest requirements."⁴ Mr. Meli further states that, "upon visiting the station

¹ We do not need to reach the issue of standing in this case since we will exercise our discretion pursuant to section 73.3587 of the Commission's rules and address the arguments raised by Mr. Meli. 47 C.F.R. §73.3587.

² *Petition to Deny*, at 1. While Mr. Meli maintains that the renewal application should not be granted until the Commission adjudicates all indecency complaints involving Station KTHV(TV), he does not state whether such complaints involve broadcasts other than the one specifically mentioned in the petition.

³ *Id.* at 2.

on April 28th, I found that KTHV was not compliant with section 73.3526” of the Commission’s rules since the “complaint file in question at the offices of KTHV was empty.”⁵

Gannett responds that, though it had not received any complaints at the time the petition was filed, “[b]ased on the description of the Episode contained in the [p]etition, it does not appear that the network broadcast violated the Commission’s indecency rules.”⁶ With respect to Mr. Meli’s public file allegation, Gannett states that it, at the time, had “received no notice of any FCC investigation or complaint regarding the Episode or any other programming broadcast on KTHV” and, thus, this portion of the public file was properly empty.⁷

Discussion. Section 309(k)(1) of the Communications Act of 1934 (the “Act”) states that the Commission shall grant a license renewal application if it finds, with respect to that station, that (a) the station has served the public interest, convenience, and necessity; (b) there have been no serious violations by the licensee of the Communications Act or Commission rules and regulations; and (c) there have been no other violations by the licensee of this Act or the rules or regulations of the Commission which, taken together, would constitute a pattern of abuse.⁸ With respect to whether grant will serve the public interest, the Commission will designate a hearing pursuant to Section 309(d)(1) of the Act if (a) the petitioner provides specific allegations of fact sufficient to show that such a grant would be prima facie inconsistent with the public interest;⁹ and (b) the allegations, taken together with any opposing evidence before the Commission, raise a substantial and material question of fact as to whether grant would serve the public interest.¹⁰

Mr. Meli does not state specifically that Station KTHV(TV) has failed to serve the public interest during the license period in question. Thus, we find that the limited, general allegations contained in the petition to deny are insufficient to show that grant of the license renewal application would be prima facie inconsistent with the public interest.

Mr. Meli’s allegation concerning the unadjudicated complaints involving the December 31, 2004, episode of *Without a Trace* is mooted by a March 15, 2006, Notice of Apparent Liability for Forfeiture, in which the Commission found certain CBS affiliated and owned-and-operated stations, including Station KTHV(TV),¹¹ apparently liable in the amount of \$32,500 per station for violation of the Commission’s indecency prohibition.¹² While the airing of the material in question justified imposition of an apparent monetary forfeiture, based on the limited

⁴ *Id.*

⁵ *Id.*, at 1.

⁶ *Response to Petition to Deny*, at 2.

⁷ *Id.*

⁸ 47 U.S.C. §309(k)(1).

⁹ 47 U.S.C. §309(d)(1); *Astroline Communications Co. Ltd. Partnership v. FCC*, 857 F.2d 1556 (D.C. Cir. 1988) (“Astroline”).

¹⁰ *Astroline*, 857 F.2d at 1561.

¹¹ *In the Matter of Complaints Against Various Television Licensees Concerning Their December 31, 2004, Broadcast of the Program “Without a Trace,”* 21 FCC Rcd 2732 (2006).

¹² See 18 U.S.C. § 1464; 47 C.F.R. § 73.3999.

showing provided in the petition, we cannot find that the violation was “serious” or evidenced a “pattern of abuse” on the part of Arkansas Television. We thus find that grant of the license renewal application would not violate Section 309(k)(1) of the Act.

Given that Mr. Meli only alleges that the “complaint file” portion of the public inspection file was empty, it appears that the portion of the public inspection file reviewed by Mr. Meli involved pending Commission investigations, not public correspondence. Section 73.3526(e)(10) of the Commission’s rules requires licensees to retain all material “having a substantial bearing on a matter which is the subject of an FCC investigation or complaint to the FCC of which the applicant, permittee, or *licensee has been advised.*”¹³ At the time the petition was filed, neither Arkansas Television nor Gannett had received a letter of inquiry notifying them of the pending investigation of the December 31, 2004, episode of *Without a Trace*. The complaints were filed with the Commission and not the licensee. Thus, based on the allegations contained in the petition and Gannett’s response, we conclude that Station KTHV(TV)’s public inspection file complied with Section 73.3526(e)(10).

Accordingly, it is ordered that the petition to deny filed by Chad Meli **IS DENIED**.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau

¹³ 47 C.F.R. § 73.3526(e)(10) (emphasis added).