



Federal Communications Commission  
Washington, D.C. 20554

September 10, 2009

**DA 09-2033**

*In Reply Refer to:*

1800B3-BSH

Released: September 10, 2009

Geraldine R. Miller  
13 Atkins Road  
Roulette, PA 16746

George R. Borsari, Jr., Esq.  
Borsari & Paxson  
4000 Albemarle Street, N.W., Suite 240  
Washington, D.C. 20016

In re: **WFRM(AM), Coudersport,  
Pennsylvania**  
Facility ID No. 21196  
File No. BAL-20081126AKE

**Application for Assignment of License  
Informal Objection**

Dear Ms. Miller and Counsel:

We have before us the above-referenced application (the "Assignment Application") seeking approval for the proposed assignment of license of Station WFRM(AM), Coudersport, Pennsylvania, from Farm and Home Broadcasting Company ("Farm and Home") to L-Com, Inc. ("L-Com"). On December 29, 2008, Geraldine R. Miller ("Miller") filed a pleading in opposition to grant of the Assignment Application captioned as a Petition to Deny and Request for Hearing<sup>1</sup> For the reasons stated below, we dismiss Miller's pleading as a petition to deny, deny the pleading as an informal objection and grant the Assignment Application.

**Background.** Miller's pleading states that it is filed on behalf of Jayne James, Robert Schauer, and herself, all of whom are minority stockholders in Farm and Home. Miller argues that the Commission should deny the Assignment Application "on the basis that Cary H. Simpson, President of Farm and Home Broadcasting has breached his fiduciary and legal obligations to the corporation by agreeing to sell WFRM-AM's [sic] assets without prior approval of the board of directors."<sup>2</sup> Commission ownership records indicate that Cary H. Simpson ("Simpson") is President and majority shareholder of Farm and Home, with a 78 percent voting and equity interest.

**Discussion. Procedural Issues.** Miller's pleading is procedurally defective. Miller fails to provide an affidavit to support the allegations raised within her pleading, as required by Section 309(d)(1)

---

<sup>1</sup> On January 23, 2009, Farm and Home filed a Motion to Dismiss Miller's pleading.

<sup>2</sup> Informal Objection at 1.

of the Communications Act of 1934, as amended (the “Act”).<sup>3</sup> Additionally, Miller’s failure to properly serve the pleading on either the licensee or its counsel violates Section 309(d)(1) of the Act, and Section 1.47 of the Commission’s Rules (the “Rules”).<sup>4</sup> Accordingly, we will dismiss Miller’s pleading as a petition to deny. We will, however, treat the pleading as an informal objection pursuant to Section 73.3587 of the Rules.<sup>5</sup>

*Substantive Issues.* As noted, Simpson is President and majority shareholder of Farm and Home. Miller has failed to provide documentation demonstrating that Simpson lacks authority to enter into an agreement on behalf of Farm and Home for the sale of certain Farm and Home assets. Moreover, the issues raised by Miller constitute a private controversy. The Commission has consistently held that it is not the proper forum for the resolution of such private disputes, and that parties should seek redress for such matters in local courts of competent jurisdiction.<sup>6</sup>

Miller has not provided evidence of an injunction or a stay issued by a local court against the proposed sale. In the absence of such an order from a local court, the Commission has routinely acted favorably on license assignment applications. We note, however, that Commission grant of an assignment or transfer of control application merely finds that the parties are qualified under, and the proposed transaction does not violate, the Act, or the Commission's rules and policies. As such, it is permissive only and does not prejudice any relief to which the parties may ultimately be entitled.

**Conclusion/Actions.** Based on the above, we find that Miller has not raised a substantial and material question of fact warranting further inquiry. We further find that L-Com is qualified to hold the Station WFRM(AM) license and that grant of the Assignment Application is consistent with the public interest, convenience and necessity. Accordingly, IT IS ORDERED, that Geraldine R. Miller’s December 29, 2008, petition to deny IS DISMISSED, and when treated as an informal objection, IS DENIED, and that the application for approval to assign the license for Station WFRM(AM), Coudersport, Pennsylvania (File No. BAL-20081126AKE) from Farm and Home Broadcasting Company to L-Com, Inc. IS GRANTED.

Sincerely,

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

---

<sup>3</sup> 47 U.S.C. § 309(d)(1).

<sup>4</sup> 47 C.F.R. § 1.47.

<sup>5</sup> 47 C.F.R. § 73.3587.

<sup>6</sup> See *John F. Runner, Receiver (KBIF)*, Memorandum Opinion and Order, 36 RR 2d 773, 778 (1976); *Decatur Telecasting, Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 8622 (1992).