



Federal Communications Commission  
Washington, D.C. 20554

June 30, 2010

**DA 10-1230**

*In Reply Refer to:*

1800B3-JWR/KES

Released: June 30, 2010

Dr. D. Rouson  
P.O. Drawer 25216  
Raleigh, North Carolina 27611

In re: WGTI(FM), Duck, NC  
Facility ID No. 173  
Lifeline Ministries, Inc.  
File No. BPH-20070119ACU

**Petition for Reconsideration**

Dear Dr. Rouson:

This letter refers to the Petition for Reconsideration (“Petition”)<sup>1</sup> filed on December 26, 2007, by Reverend David Rouson, Sr. (“Rouson”), in response to the December 17, 2007, action of the Audio Division (the “*Staff Decision*”) dismissing his February 15, 2007, informal objection (“Objection”) and granting the minor modification application (the “Application”) filed by Lifeline Ministries, Inc. (“Lifeline”), licensee of commercial FM Station WGTI(FM), Duck, North Carolina (the “Station”).<sup>2</sup> For the reasons set forth below, we deny the Petition.

*Background.* On January 19, 2007, Lifeline filed the Application, proposing to change the Station’s effective radiated power, antenna height, transmitter site, and class, and to change the Station’s community of license from Windsor, North Carolina, to Duck, North Carolina.<sup>3</sup> The Objection asked the Commission to defer its action on the Application until a local court resolves a contractual dispute between Rouson and Lifeline regarding the lease of its currently licensed transmitter site. Rouson argued that this would avoid “further confusion which could lead to more or unnecessary litigation.”<sup>4</sup> In denying the Objection, the *Staff Decision* noted the Commission has long held that it is not the proper forum for the resolution of private contractual disputes, and that its action on the Application would not impede the parties from seeking redress in a local court of competent jurisdiction.<sup>5</sup>

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<sup>1</sup> The pleading is styled a “Request for Recinsion (sic) and Informal Objection and Reconsideration on Amendment to BPH-20070119ACU.” We will treat the pleading as a timely petition for reconsideration under 47 C.F.R. § 1.106.

<sup>2</sup> *Staff Decision* at 1. The Petition was unopposed.

<sup>3</sup> The Application was amended on June 18, 2007, to propose a new transmitter site due to a Federal Aviation Administration (“FAA”) determination that the originally proposed site would constitute a hazard to air navigation, and again on August 28, 2007, to provide a copy of the FAA’s “No Hazard” determination for the new site.

<sup>4</sup> Rev. David Rouson, Sr., Comment and Informal Objection and Request, Feb. 15, 2007, at 1.

<sup>5</sup> *Staff Decision* at 1.

In his Petition, Rouson requests that we rescind and stay the *Staff Decision* and withhold further action on the Application during the pendency of the local litigation.<sup>6</sup> Rouson states that grant of his Petition will prevent further confusion and/or unnecessary litigation; enable the Commission to determine if Lifeline has the requisite character to remain a Commission licensee in light of Lifeline’s conduct leading to the contractual litigation; and prevent a possible unfair advantage to Lifeline in local court.

*Discussion.* Reconsideration is warranted only if the Petitioner sets forth an error of fact or law, or presents new facts or changed circumstances which raise substantial or material questions of fact that otherwise warrant reconsideration of the prior action.<sup>7</sup> Rouson has not presented any of the above, but effectively reiterates the arguments presented in his Objection. We therefore deny the Petition.

Rouson essentially asks that we stay the effectiveness of our grant in order to avoid prejudice or complications to his civil law suit. A party seeking a stay must: (1) demonstrate that it is likely to prevail on the merits of its appeal; (2) show it will be “irreparably injured” without stay; (3) show that the issuance of stay would substantially harm other interested parties; and (4) demonstrate that granting a stay is in the public interest.<sup>8</sup> Rouson has not satisfied any of the four necessary elements in this case.

Additionally, the Commission’s approval of an application merely recognizes that the applicants are qualified under, and that their proposals do not violate, the Communications Act of 1934, as amended.<sup>9</sup> In private disputes, “absent a final court judgment raising issues within the Commission’s jurisdiction, we would not ordinarily act on matters stemming from private contracts, and, absent a prior court injunction specifically directed against the filing or processing of the application, we would not ordinarily withhold consent to an otherwise acceptable application.”<sup>10</sup> Here, Rouson has failed to obtain an injunction from the local court. Therefore, Rouson has shown neither that withholding action on the Application is appropriate, nor that he would be prejudiced in his civil litigation by grant of the Application.

Furthermore, with respect to Rouson’s argument that Lifeline’s conduct resulting in the court proceeding calls into question Lifeline’s fitness to be a Commission licensee, “the Commission normally will not act on mere allegations of non-FCC misconduct prior to adjudication by a tribunal of competent jurisdiction.”<sup>11</sup> Thus, we decline to consider further these character allegations.

*Action.* Accordingly, Dr. D. Rouson’s petition for reconsideration IS DENIED.

Sincerely,

Peter H. Doyle, Chief  
Audio Division  
Media Bureau

cc: Lifetime Ministries, Inc.

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<sup>6</sup> *Lifeline Ministries, Inc. v. Echols*, 06 CVS 202 (Martin County, N.C., 2006).

<sup>7</sup> See 47 C.F.R. § 1.106.

<sup>8</sup> *Virginia Petroleum Jobbers Ass’n v. FPC*, 259 F.2d 291 (D.C. Cir. 1958).

<sup>9</sup> *Kathleen Victory, Esq.*, 23 FCC Rcd at 11912 (citing *Kidd Communications*, 20 FCC Rcd at 13724–25).

<sup>10</sup> See *Wireless U.S.*, Order, 22 FCC Rcd 8643, 8646 (WTB 2007) (footnotes omitted).

<sup>11</sup> *Mayor Maurice A. Brown*, Letter, 24 FCC Rcd. 7632, 7636 (MB 2009).