

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Northwest Television, Inc.)	File No. BPCDT-19951215KK
)	Facility ID No 81946
)	
For a Construction Permit for a New Television)	
Station, For New Digital Television Station,)	
Channel 53, Galesburg, Illinois)	

ORDER ON RECONSIDERATION

Adopted: February 16, 2010

Released: February 17, 2010

By the Chief, Video Division, Media Bureau:

I. Introduction

1. In this Order on Reconsideration, we consider a petition for reconsideration filed by Quad Cities Television Acquisition Licensing, LLC (Quad Cities) of a letter decision by the Chief of the Video Division of the Media Bureau, DA 07-3333, released July 20, 2007 (*Order*), granting the above-captioned application of Northwest Television, Inc. (Northwest) for a construction permit for a new digital television station on Channel 53 at Galesburg, Illinois. For the reasons set forth below, we deny Quad Cities' petition for reconsideration.

II. Background

2. Northwest was one of four mutually exclusive applicants for a new television station on analog Channel 67 at Galesburg, Illinois. The other applicants were Donald Bae and Melissa Bae d/b/a DM Partners (DM), Highland Broadcasting, Inc. (Highland) and Galesburg 67, LLC (Galesburg 67). In 2000, the parties entered into a universal settlement that called for the applications of DM, Highland and Galesburg 67 to be dismissed for individual monetary consideration and for the application of Northwest to be granted. Subsequently, Northwest was able to change the channel assignment for Galesburg and amended its application to propose operation of a DTV-only station on Channel 53.

3. In a petition to deny Northwest's application, Quad Cities argued (1) that a Loan and Option Agreement between Northwest and a third party, Second Generation of Iowa, Ltd. (Second Generation) contravened Commission policy; and (2) prior to a grant of its construction permit, Northwest engaged in premature construction of its new television station.

4. In the *Order*, we found that the option portion of the Loan and Option Agreement between Northwest and Second Generation was not permitted under the Commission's prohibition of "white knight" settlements. Nevertheless, the staff concluded that the option was not essential to the overall settlement of the proceeding and it therefore approved the settlement, conditioned on removal of the option.

5. We also agreed with Quad Cities that Northwest's installation of a transmitter and mounting of an antenna for the new Galesburg station stepped over the line of permitted activities and constituted premature construction. Although we admonished Northwest for premature construction, we concluded that such action did not prevent a grant of its application for the new Galesburg station.

III. Discussion

6. Quad Cities' petition for reconsideration is a rehash of the same facts and allegations in its petition to deny. Quad Cities maintains that the staff should not have approved the settlement agreement with Second Generation of Iowa because it "was the linchpin of the settlement and, but for that Option Agreement, one can only reasonably conclude that the settlement, structured as it was, never would have occurred." We previously considered that argument and rejected it. We found that the option was not essential to the overall settlement because Northwest represented that it is able to fund the settlement independent of a loan from Second Generation. Northwest notes that it was "not required to borrow the funds from Second Generation and that only if it did borrow the funds would Second Generation have been given an option to purchase the station." Nothing that Quad Cities offers in its petition for reconsideration convinces us that we should reverse our earlier conclusion.

7. Quad Cities maintains that our imposition of an admonishment was not a sufficient penalty for our finding that Northwest engaged in premature construction. Quad Cities argues that the staff should have denied Northwest's settlement and application. We disagree. Despite the fact that we admonished Northwest for premature construction of the Galesburg station, we concluded that such action should not prevent a grant of its application. The facts of this case show that a third party – Second Generation – was responsible for the actions that constituted premature construction. Northwest maintained that these actions were taken without its knowledge or consent. Although we found that Northwest was responsible for the acts and omissions of its employees and independent contractors,¹ we continue to believe that admonishment was the appropriate penalty for this case. Northwest's actions in this regard did not rise to the level of a pattern of misconduct so as to warrant exploration of its conduct in an evidentiary hearing or outright denial of its application. In this regard, we find that a substantial and material question of fact has not been raised with respect to Northwest's qualifications to be a Commission licensee.

8. The above facts considered, the petition for reconsideration of Quad Cities Television Acquisition Licensing, LLC IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

¹ See *Netcom Technologies, Inc.*, 16 FCC Rcd 9524, 9526 (Enf. Bur. 2001); *MTD, Inc.*, 6 FCC Rcd 34, 35 (1991); *Wagenvoord Broadcasting Co.*, 35 FCC 2d 361 (1972).