



Federal Communications Commission
Washington, D.C. 20554

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DA 24-334

In Reply Refer to:

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Community Media of Union City
c/o Jason McCray, Director
17051 Lincolville Rd
Union City, PA 16438
jason@mccraytechnologies.com

Union City Family Support Center
38 North Main Street
Union City, PA 16438
heather.brooks@ucfsc.org

In re: **Community Media of Union City**
New LPFM, Union City, PA
Facility ID No. 788269
Application File No. 0000232840

Petition to Deny

Dear Applicant and Objector:

We have before us the above-referenced application (Application) for a construction permit for a new low power FM (LPFM) station at Union City, Pennsylvania, filed by Community Media of Union City (Community Media) on December 14, 2023.¹ We also have before us a petition to deny (Petition) the Application, filed by Union City Family Support Center (UCFSC) on January 10, 2024, and a related responsive pleading.² For the reasons set forth below, we dismiss the Petition as a petition to deny, consider and deny it as an informal objection (Objection), and grant the Application.

Background. Community Media filed the Application during the 2023 LPFM filing window.³ In the Application, Community Media listed Brian R. Silvis (Silvis) as its technical consultant.⁴ The Objection alleges that the Application should be denied based on the fact that Silvis “started and operate[s]” two existing LPFM stations, WUUK-LP, Canadohta Lake, Pennsylvania, and WHYP-LP,

¹ Application File No. 0000232840.

² Pleading File No. 0000235097. Community Media filed an opposition to the Petition on February 13, 2024 (Opposition). Pleading File No. 0000238875.

³ *Media Bureau Announces Filing Procedures and Requirements for November 1 – November 8, 2023, Low Power FM Filing Window*, Public Notice, DA 23-642 (MB July 31, 2023). Based on a request from LPFM advocates, the Bureau subsequently delayed the window until December 6, 2023. *Media Bureau Announces Revised Dates for LPFM New Station Application Filing Window*, Public Notice, DA 23-984 (MB Oct. 17, 2023). The Bureau subsequently extended the close of the window until December 15, 2023. *Media Bureau Announces Extension of LPFM New Station Application Filing Window*, Public Notice, DA 23-1150 (MB Dec. 11, 2023).

⁴ Application, Contact Information.

Corry, Pennsylvania, and is also associated with the Application.⁵ In its Opposition, Community Media explains that Silvis acted as a technical consultant to aid Community Media in completing the Application, and asserts that Silvis has no attributable interest in Community Media or the Application.⁶ Community Media subsequently amended its Application on February 12, 2024, to remove Silvis from the Application.⁷

Discussion. Pursuant to section 309(d) of the Communications Act of 1934, as amended (Act),⁸ petitions to deny and informal objections must provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with the public interest.⁹ We find that UCFSC has failed to meet this burden.

Procedural Matters. As an initial matter, we find that the Petition is procedurally defective as a petition to deny. UCFSC does not include a certificate of service, as required by section 309(d)(1) of the Act and section 1.47 of the Commission's rules (Rules).¹⁰ Accordingly, we will dismiss the Petition as procedurally flawed and consider it as an informal objection pursuant to section 73.3587 of the Rules.¹¹

Substantive Matters. We find that UCFSC has failed to demonstrate that Silvis possesses any prohibited attributable interest in Community Media that would merit denial of the Application. The Commission has previously held that the presence of common technical consultants in multiple applications does not, on its own, indicate that common control or attributable interests exist among the applications.¹² The Opposition explains that Silvis merely served as a technical consultant to Community Media during the application process, and that it has since removed Silvis from this role.¹³ Because UCFSC presents no concrete evidence to establish that Silvis' involvement with the Application is attributable,¹⁴ we must reject this argument.

Conclusion/Action. Accordingly, **IT IS ORDERED** that the Petition to Deny filed by Union City Family Support Center on January 10, 2024 (Pleading File No. 0000235097), **IS DISMISSED**, and when treated as an Informal Objection, **IS DENIED**.

⁵ Objection at 1. The facility ID numbers for stations WUUK-LP and WHYP-LP are 193671 and 195580, respectively.

⁶ Opposition at 1 and Attach. 1, "Contact Removal.pdf."

⁷ Application, Amendment (filed Feb. 12, 2024) (Amendment).

⁸ 47 U.S.C. § 309(d).

⁹ See, e.g., *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197 n.10 (1990), *aff'd sub nom. Garden State Broad. L.P. v. FCC*, 996 F.2d 386 (D.C. Cir. 1993), *rehearing denied* (Sep. 10, 1993); *Gencom, Inc. v. FCC*, 832 F.2d 171, 181 (D.C. Cir. 1987); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864, para. 6 (1986) (petitions to deny and informal objections must contain adequate and specific factual allegations sufficient to warrant the relief requested).

¹⁰ 47 U.S.C. § 309(d)(1); 47 CFR § 1.47(d).

¹¹ 47 CFR § 73.3587; see also *Geraldine R. Miller*, Letter Order, 24 FCC Rcd 11814, 11815 (MB 2009) (treating a petition to deny as an informal objection because the objector failed to properly serve the pleading on either the licensee or its counsel and because the objector did not provide an affidavit to support the allegations).

¹² See *Vanguard Association of Sunbelt Colleges Corporation*, Letter Order, DA 24-159, at 7-8 (MB Feb. 22, 2024) (citing *Mt. Zion Educ. Assoc.*, Letter Order, 25 FCC Rcd 15088, 15091-92 (MB 2010)).

¹³ Opposition at 1.

¹⁴ See 47 CFR § 73.858 (attribution of LPFM interests); 47 CFR § 73.855 (ownership limits for LPFM stations).

IT IS FURTHER ORDERED the Application of Community Media of Union City for a construction permit for a new low power FM station at Union City, Pennsylvania (Application File No. 0000232840) **IS GRANTED**.

Sincerely,

Albert Shuldiner
Chief, Audio Division
Media Bureau