

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

MM Docket No. 90-374

In re Application of

RAWLINS File No. BRCT-880818KF
BROADCASTING
CORP.

For Renewal of License of Station
KFNR(TV), Rawlins, Wyoming

and

FIRST NATIONAL
BROADCASTING
CORP. File No. BPCT-880901KF

For Construction Permit
Rawlins, Wyoming

HEARING DESIGNATION ORDER

Adopted: August 3, 1990; Released: August 22, 1990

By the Chief, Video Services Division:

1. The Commission, by the Chief, Video Services Division, acting pursuant to delegated authority, has before it the above-captioned application for the renewal of license of station KFNR(TV), channel 11, Rawlins, Wyoming, filed by Rawlins Broadcasting Corp., (Rawlins) and the mutually exclusive application of First National Broadcasting Corp. (First National) for a new commercial television station to operate on channel 11, Rawlins, Wyoming.

2. From our review of the First National's application, we cannot determine whether the applicant is in compliance with our environmental rules. Likewise, Rawlins has not submitted the required environmental filing. Under the rules, an applicant must determine whether the radiation from its antenna would have a significant environmental effect under the criteria set out in Section 1.1307 of the Commission's Rules. If the application is subject to environmental processing under the Section 1.1307 criteria, the licensee must then submit an environmental assessment (EA) containing the information delineated in Section 1.1311 of the Commission Rules. Section 1.1307(b) states that an EA must be prepared if the station operation would cause exposure of workers or the general public to levels of radio frequency radiation exceeding specific standards. An examination of First National's application suggests that it has not followed the procedures outlined above. Rawlins, as required of renewal applicants, did not submit a RF radiation statement. The applicants will be required to file, within 30 days of the release of this Order, a statement or showing

with respect to radiation hazards that might have adverse effect on the quality of the environment with the presiding Administrative Law Judge. In addition, a copy shall be filed with the Chief, Television Branch, Mass Media Bureau, who will then proceed regarding this matter in accordance with the provision of Section 1.1308. A copy of the statement must also be filed with the Chief, Hearing Branch, Mass Media Bureau. Accordingly, the comparative phase of the case will be allowed to begin before the environmental phase is completed. *See Golden State Broadcasting*, 71 FCC 2d 229 (1979). *recon. denied sub nom. Old Pueblo Broadcasting Corp.*, 83 FCC 2d 337 (1980).

3. First National submitted a facsimile copy of page 23, Section VI and VII, FCC Form 301. Its responses to the questions of Equal Employment Opportunity and certification of public notice are not legible. First National will be required to submit an appropriate amendment to the presiding Administrative Law Judge within 30 days after this Order is released.

4. Except as indicated by the issues specified below, the applicants are qualified. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant would serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, IT IS ORDERED, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.
2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

6. IT IS FURTHER ORDERED, That First National Broadcasting Corp. and Rawlins Broadcast Corp. shall submit an amendment which contains an environmental statement as explained in paragraph 2. above, to the presiding Administrative Law Judge and a copy each to the Chief, Television Branch and the Chief, Hearing Branch, Mass Media Bureau, within 30 days after this Order is released.

7. IT IS FURTHER ORDERED, That First National Broadcasting Corp. shall submit a legible amendment for its response to page 23, Section VI and VII, FCC Form 301 to the presiding Administrative Law Judge within 30 days after this Order is released.

8. IT IS FURTHER ORDERED, That to avail themselves of the opportunity to be heard, the applications herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order. Each applicant shall attach to its notice of appearance a remittance of \$6,760 as a hearing fee as required by Section 1.1104 of the Commission's Rules.

9. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION

Barbara Kreisman, Chief
Video Services Division
Mass Media Bureau