

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

In the Matter of )  
 )  
Petition for Rule Making )  
filed by H.P. Rowley, III )

**MEMORANDUM OPINION AND ORDER**

**Adopted: September 27, 1996**

**Released: October 4, 1996**

By the Chief, Policy and Rules Division:

1. The Commission has before it the "Appeal from Staff Decision" filed by H.P. Rowley, III ("Rowley") directed to the staff action of June 7, 1996, dismissing his Petition for Rule Making.<sup>1</sup> For the reasons discussed below, we deny this Appeal.

Background

2. The Rowley Petition for Rule Making concerns seven of the nine television stations licensed to New Orleans, Louisiana. These television stations are Stations WWL-TV, WDSU-TV, WVUE-TV, WLAE-TV, WYES-TV, WGNO-TV and WNOL-TV. As noted in the Appeal, New Orleans is located in Orleans Parish. In his Petition for Rule Making, Rowley requested that we institute a rulemaking proceeding looking toward reallocating at least four of these television stations to licensees whose offices and studios will be maintained in one of the surrounding parishes. According to Rowley, only 39% of the viewers of these stations actually reside in Orleans Parish. As such, Rowley concluded that it was not in the public interest to have all of these stations located in a community in Orleans Parish because the surrounding parishes have "materially different" political, economic and social interests.

3. In our earlier action, we dismissed the Petition for Rule Making. In reaching this decision, we noted that Section 1.420(i) of the Commission's Rules already permits a licensee to amend the Table of Allotments and to modify its authorization to specify a new community of license. We emphasized that in adopting this procedure, the Commission did not suggest, in any way, that this procedure could be used by a third party or the Commission to change the community of license of an existing station. See Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870 (1989), recon 5 FCC Rcd 7094 (1990). The earlier action also observed that the basis for reallocating several of the New Orleans

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<sup>1</sup>In a procedural context, this Appeal will be considered as a Petition for Reconsideration filed pursuant to Section 1.106 of the Commission's Rules.

television stations (their alleged lack of responsiveness to the needs of communities located outside of Orleans Parish) is essentially a renewal matter which should be addressed in conjunction with a renewal application.

4. In his Appeal, Rowley argues that this action was "contrary to FCC regulations, the Communications Act, the Administrative Procedure Act, and the U.S. Constitution." Rowley also contends that the earlier dismissal was "contrary to the U.S. Census and to the doctrine of one-man-one-vote" and reflects the "status quo, and protects the interests of the political and media interests" of New Orleans.

5. The Rowley Appeal is without merit. Rowley has not referred to any specific provision in any federal statute or court decision which would suggest that it was an abuse of Commission discretion not to institute his requested rulemaking proceeding. In this situation, we continue to believe that the renewal process is the most efficient means to assure that a television station responds to unmet needs and interests throughout its entire service area. The Commission also encourages interested viewers to bring their concerns to the attention of individual television stations. It has been our experience that such a dialogue has proven to be an effective means of assuring that significant needs and interests are addressed by the television station. We do not see any public interest benefit in adopting a procedure which would enable a third party or the Commission to force a licensee to change its community of license in order to address any perceived unmet needs and interests.

6. In his Appeal, Rowley also alludes to the 1982 action in which the Commission reallocated Channel 9 from New York, New York, to Secaucus, New Jersey, modified the license of Station WOR-TV, Channel 9, New York, to specify Secaucus as the community of license, and renewed the Station WOR-TV license. See 53 RR2d 469 (1982). That action is not germane to the Rowley proposal. In that action, the Commission granted a specific reallocation request from the licensee of Station WOR-TV. Furthermore, since there were no VHF channels allotted to the state of New Jersey, favorable Commission action on that proposal was mandated by a recently adopted Section 331 of the Communications Act, 47 U.S.C. § 331.

7. Accordingly, the aforementioned Appeal from Staff Decision filed by H.P. Rowley, III, IS HEREBY DENIED.

FEDERAL COMMUNICATION COMMISSION

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