

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

In the Matter of)	
)	
ROGER WAHL)	MB Docket No. 21-401
)	
WQZS(FM), Meyersdale, PA)	Facility ID No. 57424
)	

ORDER DENYING MOTION TO INTERVENE

Issued: December 9, 2021

Released: December 9, 2021

1. On October 19, 2021, the FCC's Media Bureau released a Hearing Designation Order, Order to Show Cause, and Notice of Opportunity for Hearing in the above-captioned matter.¹ On November 29, 2021, Wendy Sipple filed a motion to intervene in the hearing proceeding.² Ms. Sipple is the prospective assignee of WQZS(FM); that assignment application is being held in abeyance pending the outcome of this proceeding.³ Ms. Sipple indicates that the application to assign the license from current licensee Roger Wahl to her predates the events on which this hearing proceeding is based, that she is an innocent third party, and that if the assignment application is granted, proceeds from operation of the station will be used to pay the station's creditors.

2. The Enforcement Bureau filed an opposition to Ms. Sipple's motion to intervene on December 3 2021.⁴ The Bureau contends that Ms. Sipple has not shown that she is a party in interest or that she otherwise warrants party status in this proceeding. Rather, the Bureau argues, Ms. Sipple relies on her personal interest in the station as the prospective assignee, which is not sufficient to justify grant of her motion to intervene in this revocation proceeding.

3. Section 1.223 of the Commission's rules, 47 CFR § 1.223, allows for petitions to intervene in hearing proceedings. Section 1.223(a) provides that a person who qualifies as a party in interest in a hearing proceeding but has not been named as a party may seek to intervene by filing a petition showing the basis for his or her interest. Ms. Sipple has not provided information regarding her status as a party in interest to this revocation proceeding beyond being the prospective assignee in a collateral assignment proceeding involving WQZS. As the Enforcement Bureau points out, longstanding Commission policy prohibits a license from being transferred before questions about the existing licensee's basic qualifications are resolved.⁵ The rationale is that to do otherwise would permit a

¹ *In the Matter of Roger Wahl*, Hearing Designation Order, Order to Show Cause, and Notice of Opportunity for Hearing, MB Docket No. 21-401, DA 21-1305 (rel. Oct. 19, 2021) (*Roger Wahl HDO*).

² Wendy Sipple, Motion to Intervene, MB Docket No. 21-401 (filed Nov. 29, 2021).

³ *Roger Wahl HDO* at n.1.

⁴ Enforcement Bureau's Opposition to Motion to Intervene, MB Docket No. 21-401 (filed Dec. 3, 2021).

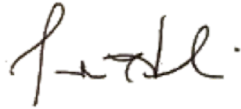
⁵ *Id.* at 3-4 (citing *Jefferson Radio Company v. FCC*, 340 F.2d 781 (D.C. Cir. 1964)).

transgressor licensee to evade sanction by simply transferring the broadcast station in question.⁶ This revocation proceeding is therefore a separate matter from the consideration of the pending application to assign the license for WQZS from Mr. Wahl to Ms. Sipple. It does not follow that being a party to the assignment application, by itself, makes Ms. Sipple a party in interest to this revocation proceeding.

4. Section 1.223(b) permits interested persons who are not parties in interest to seek party status in any hearing proceeding. The petition to intervene must indicate the person's interest in the proceeding and "must show how such petitioner's participation will assist the Commission in the determination of the issues in question." Grant of party status is within the discretion of the presiding officer. As noted, Ms. Sipple's filing submits that her interest in this hearing proceeding is based on her status as prospective assignee of the station, and indicates that she is an innocent third party to the events recounted in the *Roger Wahl HDO* who will use proceeds from operation of the station to pay the station's creditors. Those matters are not relevant to the resolution of the issues designated for hearing in this proceeding, which focus on whether the current licensee of WQZS(FM), Roger Wahl, is qualified to be a Commission licensee in light of his felony conviction and related misdemeanor convictions.⁷ Ms. Sipple has offered no information that will assist the Presiding Judge in making that determination. If in the course of discovery and prosecution of this hearing proceeding, additional evidence is introduced that indicates that Ms. Sipple should be afforded party status, the Presiding Judge is open to considering taking that action upon appropriate motion. But the current record does not warrant her inclusion as a party.

5. Accordingly, **IT IS ORDERED** that the Motion to Intervene in the hearing proceeding in MB Docket No. 21-401, filed by Wendy Sipple on November 29, 2021, **IS DENIED**.

FEDERAL COMMUNICATIONS COMMISSION



Jane Hinckley Halprin
Administrative Law Judge

⁶ *Stereo Broadcasters, Inc. v. FCC*, 652 F.2d 1026, 1027 (D.C. Cir. 1981).

⁷ *Roger Wahl HDO* at para. 28.