

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

In re Applications of

Omaha Great Empire Broadcasting, Inc. File Nos. BR-900125UV
BRH-900125UW

**For Renewal of License of
Stations WOW(AM)/WOW-FM
Omaha, Nebraska**

Stauffer Topeka Radio Trust File Nos. BR-900201F6
BRH-900201UG

**For Renewal of License of
Stations WIBW(AM)/WIBW-FM
Topeka, Kansas**

MEMORANDUM OPINION AND ORDER

Adopted: August 9, 1995;

Released: October 4, 1995

By the Commission:

1. The Commission has before it for consideration: (1) its decision in *Midland Broadcasters, Inc.*, 9 FCC Rcd 2091 (1994) (*Midland*); (2) a Petition for Reconsideration of *Midland* filed by the Kansas State Conference of Branches of the NAACP, including its Topeka Branch, and the Iowa-Nebraska State Conferences of Branches of the NAACP, including its Omaha Branch (hereinafter "Petitioners" or "NAACP"); and (3) an opposition to the NAACP's petition filed by Omaha Great Empire Broadcasting, Inc., licensee of Stations WOW(AM)/WOW-FM. For the reasons that follow, we dismiss the NAACP's petition with regard to Stations WIBW(AM)/WIBW-FM, and we deny the NAACP's petition with regard to Stations WOW(AM)/WOW-FM.

Stations WIBW(AM)/WIBW-FM

2. On November 28, 1994, the NAACP and the licensee of Stations WIBW(AM)/WIBW-FM filed a joint request for approval of settlement agreement. The joint request seeks approval of the agreement and dismissal of the NAACP's petition for reconsideration. We have reviewed the settlement agreement pursuant to 47 C.F.R. § 73.3588 and *Prevention of Abuses of the Renewal Process*, 4 FCC Rcd 4780 (1989). We find that the settlement agreement complies with the Commission's rules and policies. Accordingly, we grant the joint request, approve the agreement, and dismiss the NAACP's petition for reconsideration insofar as it relates to the renewal applications for Stations WIBW(AM)/WIBW-FM.

Stations WOW(AM)/WOW-FM

3. With regard to stations WOW(AM)/WOW-FM, in *Midland* the NAACP was granted standing as a petitioner to deny. We concluded that there was no evidence that the

licensee had engaged in discrimination. We found that the licensee had received some minority referrals and applicants and had interviewed and hired minorities during the license term. Accordingly, we granted the renewal applications for a short term. However, because the licensee did not consistently engage in efforts to attract minorities or otherwise conduct meaningful self-assessment of its program, we imposed a forfeiture of \$25,000 as well as reporting conditions.

4. Reconsideration is appropriate only where the petitioner shows either a material error or omission in the original order or raises additional facts not known or not existing until after the petitioner's last opportunity to present such matters. See *WWIZ, Inc.*, 37 FCC 685, 686 (1964), *aff'd sub nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 383 U.S. 967 (1966) (*WWIZ*); 47 C.F.R. § 1.106(c). Applying this standard, we conclude that reconsideration is not warranted with respect to our disposition of the license renewal applications for WOW(AM)/WOW-FM.

5. In seeking reconsideration, the NAACP does not dispute any specific factual finding concerning Stations WOW(AM)/WOW-FM. Rather, the NAACP faults the decision for not ordering a hearing based on the licensee's hiring record with respect to minorities, particularly for on-air positions. However, we fully considered the licensee's record and efforts in reaching our decision. As we have repeatedly stated, reconsideration will not be granted for the purpose of debating matters on which we have already deliberated and spoken. See, e.g., *Isis Broadcast Group*, 8 FCC Rcd 24 (Rev. Bd. 1992), *citing WWIZ*.

6. The NAACP also maintains that the Commission should have inquired further about "errors" made by the licensee in reporting the number of hiring opportunities on its renewal applications and about the licensee's claim that EEO records were "inadvertently destroyed." However, the NAACP has alleged no facts to suggest that the licensee misrepresented facts with respect to hiring data or loss of records. As the NAACP has not demonstrated that our original decision contained a material error or omission, its petition is denied.

7. Accordingly, IT IS ORDERED, that the joint request for approval of settlement agreement filed by the NAACP and the licensee of Stations WIBW(AM)/WIBW-FM IS GRANTED, and the settlement agreement insofar as it relates to those stations IS APPROVED.

8. IT IS FURTHER ORDERED, that the petition for reconsideration filed by the NAACP concerning the license renewal applications for Stations WIBW(AM)/WIBW-FM IS DISMISSED.

9. IT IS FURTHER ORDERED, that the petition for reconsideration filed by the NAACP concerning the license renewal applications for Stations WOW(AM)/WOW-FM IS DENIED.

10. IT IS FURTHER ORDERED, that the Mass Media Bureau send by Certified Mail--Return Receipt Requested, copies of this Memorandum Opinion and Order to the NAACP and the licensees of Stations WIBW(AM)/WIBW-FM, and WOW(AM)/WOW-FM.

FEDERAL COMMUNICATIONS COMMISSION

William F. Caton
Acting Secretary