

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

In re Applications of)	
)	
Martin W. Hoffman, Trustee-in-Bankruptcy)	MM Docket No. 97-128
for Astroline Communications Company)	
Limited Partnership)	
)	
For Renewal of License of)	File No. BRCT-881201LG
Station WHCT-TV, Hartford, Connecticut)	
)	
and)	
)	
Shurberg Broadcasting of Hartford)	
)	
For Construction Permit for a New)	File No. BPCT-831202KF
Television Station to Operate on)	
Channel 18, Hartford, Connecticut)	

**MEMORANDUM OPINION AND ORDER &
HEARING DESIGNATION ORDER**

Adopted: April 25, 1997

Released: April 28, 1997

By the Commission:

1. The Commission has before it the above-captioned application for the renewal of license of station WHCT-TV, Channel 18, Hartford, Connecticut, filed by Martin W. Hoffman, Trustee-In-Bankruptcy (Trustee). Also before the Commission are: (1) a Petition to Dismiss or Deny Applications for Renewal and Assignment of License of Station WHCT-TV, and Petition for Immediate Grant of Application of Shurberg Broadcasting of Hartford filed by Shurberg Broadcasting of Hartford (Shurberg), which in 1983 had filed a competing application against the then pending WHCT-TV license renewal application; and (2) various responsive and related pleadings.¹ For the reasons discussed below, we believe that the

¹ On September 22, 1993, the Trustee filed an application seeking to assign the license of WHCT-TV to Two If By Sea Broadcasting Corporation (TIBS). In the various pleadings, Shurberg has alleged, *inter alia*, that the assignment involves a bare license and that TIBS lacks the basic qualifications necessary to be a Commission licensee. In light of our action here, we need not address these allegations.

allegations made by Shurberg in its various pleadings raise a substantial and material question of fact warranting exploration in an evidentiary hearing, and that these issues may be grounds for denial of the renewal application.

Background

2. In 1980, in response to the Commission's designation for hearing of the application for renewal of the license of WHCT-TV, Faith Center, licensee of the station at that time, sought and received permission to assign the license pursuant to the Commission's minority distress sale policy. *See Faith Center, Inc.*, 88 FCC 2d 788 (1981). Under this policy, a broadcast licensee whose license had been designated for a hearing could sell its station, after designation for hearing but prior to commencement of the hearing, to a minority-controlled entity at 75% or less of the station's fair market value. *Statement of Policy on Minority Ownership of Broadcasting Facilities*, 68 FCC 2d 979 (1978), as revised, 92 FCC 2d 849 (1982). In December 1983, while Faith Center was attempting to effectuate that transaction, Shurberg filed its competing application against WHCT-TV's deferred renewal application. File No. BPCT-831202KF. The Commission did not accept Shurberg's application for filing at that time, pursuant to its policy of not accepting competing applications for stations in hearing status.

3. In December 1984, the Commission granted the distress sale assignment of WHCT-TV's license to Astroline Communications Company Limited Partnership (Astroline), *see Faith Center, Inc.*, 99 FCC 2d 1164 (1984), and also granted the station's license renewal application. In doing so, the Commission denied Shurberg's petition which had challenged the *bona fides* of Astroline's minority status under the distress sale policy. *Id.* at 1172-73. Specifically, in *Faith Center, Inc.*, the Commission found that Astroline was a limited partnership comprised of two general partners and one limited partner.² One of the general partners, Richard P. Ramirez, is an Hispanic-American, who allegedly had a 21% ownership interest and a seventy percent voting interest in Astroline. The limited partner, Astroline Company, an investment company, purportedly held a 70% ownership interest in Astroline. Finally, the Commission noted that "Astroline explains that its two general partners have complete authority over its affairs and vote in accordance with their respective partnership interests. . . . Astroline and Astroline Company assert that they will structure all transactions

² In that *Order*, the Commission neither accepted for filing, nor dismissed Shurberg's competing application. Rather, in the ordering clauses of that decision, the Commission stated that in the event that Faith Center, Inc. and Astroline fail to effectuate the assignment of WHCT-TV,

applicants which are mutually exclusive with Faith Center, Inc.'s renewal application for Station WHCT-TV, as supplemented, MAY BE FILED during a 90-day period following the filing of the supplemental renewal application for Station WHCT-TV and WILL BE DESIGNATED FOR HEARING with the renewal application for Station WHCT-TV and the mutually exclusive application of Shurberg Broadcasting of Hartford, Inc. (File No. BPCT-831202KF).

Id. at 1175.

to maintain Mr. Ramirez' voting control over the affairs of the company and to insure that minority group persons have at least a 21 percent ownership interest in Astroline." *Id.*³ Subsequently the parties consummated the assignment of WHCT-TV from Faith Center, Inc. to Astroline.

4. In 1988 Astroline filed for bankruptcy, and on May 5, 1989, the Mass Media Bureau approved the assignment of the license of WHCT-TV from Astroline to Astroline Communications Company, Debtor-In-Possession. BALCT-881227KE. Meanwhile, because the regular renewal window for the Connecticut television licenses had opened, Astroline filed a renewal application for WHCT-TV in December 1988. In February 1991, the Mass Media Bureau reinstated Shurberg's 1983 competing application, thus according Shurberg status as a competing applicant against Astroline's 1988 renewal application. *Public Notice*, Report No. 14926, released February 8, 1991. On April 4, 1991 Astroline's bankruptcy proceeding was converted from Chapter 11 to Chapter 7, and shortly thereafter it filed an application to assign the license of WHCT-TV to the Bankruptcy Court approved Trustee, *see* File No. BALCT-910506KH, which the Mass Media Bureau granted on May 24, 1991. Meanwhile, during the pendency of that assignment, the Trustee had submitted a letter to the Commission notifying it that on April 9, 1991, WHCT-TV had ceased operations. In September 1993, the Trustee filed an application to assign the license of WHCT-TV to TIBS. Shurberg timely filed a Petition to Dismiss or Deny both the assignment application and the pending WHCT-TV license renewal application.⁴

5. In its Petition, Shurberg asserted that Astroline's representations that it qualified as a minority-controlled entity for the purpose of the minority distress sale policy were untrue. According to Shurberg, the supposedly non-active, non-minority participants who Astroline had presented to the Commission as limited partners, held themselves out to be general partners in formal documents related to Astroline's relationship with a financing bank, often signed Astroline's checks, and had prior approval rights for the payment of all of WHCT-TV's expenses. Additionally, Shurberg asserts that Richard Ramirez had a less than 1% interest in Astroline. In support of these allegations, Shurberg cites a pleading filed by the Trustee with the Bankruptcy Court in which the Trustee discusses methods used by the non-minority principals "to protect their investment in [Astroline]" such as preparing the check requests, reviewing and approving check requests, signing checks, involving themselves in the daily operations of the company, often acting as general partners would, and co-mingling their business assets with that of Astroline. Therefore, concludes Shurberg, Astroline acquired the license of WHCT-TV "on the basis of blatant and repeated misrepresentation to the Commission and the courts."

³ Shurberg had also filed, and the Commission had rejected, objections to the distress sale policy. *Faith Center, Inc.*, 55 RR 2d 41 (Mass Med. Bur. 1984); *Faith Center, Inc.*, 54 RR 2d 1286 (1983). Ultimately the Supreme Court upheld the constitutionality of this policy. *See Metro Broadcasting, Inc. v. FCC*, 497 U.S. 547 (1990).

⁴ Shurberg also has filed an application for review of a decision of the Office of Managing Director accepting the late payment by the Trustee of the required hearing fee. That issue will be addressed in a separate order.

6. Citing *LaRose v. FCC*, 494 F.2d 1145 (D.C. Cir. 1974), Shurberg asserts that cancellation of the WHCT-TV license and dismissal of the renewal application would be consonant with Federal governmental policies such as those controlling bankruptcy for several reasons. First, because all of the assets in the Astroline estate have been disposed of to satisfy creditors' claims, according to Shurberg, cancellation of the license will not diminish the value of the estate. Second, Shurberg maintains that the estate's creditors are protected because they can seek payment from Astroline's principals, as well as from Astroline. Finally, Shurberg argues that the "interplay of communications and bankruptcy policies does not require -- or even necessarily permit -- the subordination of statutorily mandated communications policies in favor of general equitable considerations of creditors' interest."

7. In response to this argument, TIBS asserts that Shurberg is estopped from raising issues concerning Astroline's status as a minority-controlled entity since the Supreme Court already decided that issue in *Metro Broadcasting, Inc. v. FCC*, 497 U.S. 547. Shurberg counters by arguing in its Reply that estoppel does not apply in this situation because Astroline misrepresented its minority status to the Supreme Court, and not until Astroline's bankruptcy proceeding became Chapter 7 did internal documents become available to demonstrate the fraud and misrepresentation which had occurred.⁵ In its Brief to the Supreme Court, Shurberg notes, Astroline characterized itself as a "minority-controlled limited partnership" whose structure "complied with the FCC's established criteria for limited partnership's [sic] eligible for distress sales." Reply at 6 (citing Astroline Brief in *Astroline Communications Company Limited Partnership v. Shurberg Broadcasting of Hartford*, filed February 9, 1990, at 13). In its March 27, 1997 Opposition to TIBS's Petition for Reconsideration, Shurberg also provides an excerpt from a brief filed by the Trustee on November 8, 1996, in *Hoffman v. WHCT Management, Inc.*, Case No. 96-5112 (2d Cir., brief filed Nov. 8, 1996), in which the Trustee asserts that Astroline's supposed 21 percent minority owner actually only held less than one percent of the licensee "[n]otwithstanding the FCC minority preference guidelines."

8. On December 12, 1996, prompted by a provision of the Telecommunications Act of 1996 requiring that the licenses of stations off the air since February 8, 1996, would expire on February 9, 1997, if the stations had not resumed operation,⁶ TIBS submitted a Request for Emergency Relief seeking immediate grant of its assignment application, and asserting that it would resume operations on WHCT-TV prior to February 9, 1997. The Commission denied TIBS request, noting that precedent did not support an exception to the Commission's general policy of deferring action on the sale of a station during the pendency of that station's renewal where, as in this situation, allegations had been filed against the parties involved in

⁵ Consequently, despite its longstanding position questioning the *bona fides* of Astroline's minority status, Shurberg presented documentation in support of these allegations for the first time in its 1994 Reply to TIBS' Response to its Petition.

⁶ See *Implementation of Section 403(1) of the Telecommunications Act of 1996 (Silent Station Authorizations)*, FCC 96-218 at ¶5, released May 17, 1996; see also 47 U.S.C. §312(g) (1996).

this assignment that raised substantial and material questions of fact which could not be resolved without a hearing. *Two If By Sea Broadcasting Corporation*, FCC 97-25, released January 30, 1997, at p. 4 (petition for reconsideration pending).⁷ To prevent termination of its license, the Trustee obtained approval from the Bankruptcy Court on February 5, 1997 to operate WHCT-TV until June 5, 1997, and prior to expiration of the license on February 9, 1997, WHCT-TV returned to the air. It remains in operation.

9. TIBS, in its Request for Emergency Relief, labeled Shurberg's allegations concerning Astroline as a "premature pre-designation petition to enlarge issues." Shurberg, however, responded by noting that the Trustee holds the license of WHCT-TV only because Astroline successfully acquired the station based on repeated representations that it qualified as a minority-controlled entity. Since Astroline initially acquired the license through fraudulent means, argued Shurberg, the Commission should not ignore that "*ab initio* taint." Additionally, since various principals of Astroline are creditors in the bankruptcy proceeding, with claims exceeding \$7.5 million, maintained Shurberg, any proceeds derived from the sale to TIBS would "presumably" be available to pay off the claims of those principals, thus allowing wrong-doers to derive benefit from the sale of a license in violation of Commission policy as enunciated in *Capital City Communications, Inc.*, 23 RR 2d 845, 851 (1972). Thus, Shurberg concluded, inquiry into this issue is not a premature pre-designation petition to enlarge, but rather, "an absolutely essential prerequisite to the very relief that TIBS is seeking, *i.e.*, grant of its assignment application."

10. In response, TIBS argued that in *LaRose v. FCC* the court urged the Commission to recognize the public interest of promoting policies that protect the rights of creditors. 494 F.2d 1145.⁸ Taking action that denies the innocent Astroline creditors the court-approved proceeds of the Astroline estate, maintained TIBS, would not promote such policies. TIBS also asserted that the claim of Astroline's principals on which Shurberg based its argument is a secured claim that, under federal bankruptcy law, 11 U.S.C. §726, does not receive rights to distribution from the bankruptcy estate. Even if the claim could be converted to an unsecured claim, TIBS submitted a letter from the Trustee to TIBS' counsel, dated January 10, 1997, in which the Trustee notes that he would object to any effort by Astroline to recharacterize its claim as an unsecured claim. In that letter, the Trustee also stated that because the claims already submitted that would have priority over the Astroline-related claim exceed the total value of the Estate, "it is unlikely, at this time" that Astroline-related creditors would benefit from the assignment. Additionally, in a February 28, 1997 letter from the Trustee to TIBS' counsel submitted by TIBS as an exhibit to its Petition for Reconsideration, the Trustee lists all of the administrative and other claims which would have priority over the unsecured

⁷ In light of our action here, we will dismiss TIBS's Petition for Reconsideration of our January 30, 1997, action as moot.

⁸ TIBS also cited *Dale J. Parsons*, 10 FCC Rcd 2718, 2721 (1995), *aff'd*, *Parsons v. FCC*, 1996 U.S.App. LEXIS 24135 (Aug. 8, 1996); *KOZN FM Stereo 99 Ltd.*, 6 FCC Rcd 257 (1991); *Arthur A. Cirilli*, 2 FCC 2d 692, 693 (1966).

claims of Astroline principals. Specifically, the letter stated that while the Trustee has approximately \$355,704.22 on hand, in excess of \$30 million of unsecured claims remains and therefore "it is extremely unlikely, at this time, that Astroline Company, Inc. would receive a distribution or anything more than a *de minimis* distribution if it amends its secured claim to an unsecured one (and if the Trustee's anticipated objection is overruled)."

Discussion

11. We believe that Shurberg has raised a substantial and material question of fact concerning whether Astroline misrepresented to the Commission its status as a minority-controlled entity, and thus whether, to protect the integrity of the Commission's processes and minority ownership policies, we should deny the pending license renewal. In *LaRose v. FCC*, the court noted that the Commission must "constantly be alert" to determine whether its policies might conflict with other Federal policies and whether such conflict can be minimized. See *Roy M. Speer*, FCC 96-258, ¶89, released June 14, 1996 (citing *LaRose v. FCC*, 494 F.2d 1145, 1146 n.2 (D.C. Cir. 1974)). *LaRose v. FCC* does not, however, stand for the proposition that the Commission should subrogate its policies in order to accommodate other Federal policies. Although, as *LaRose* indicates, the Commission is obligated to be alert to minimize conflict between its policies and other federal policies such as the bankruptcy statutes, the D. C. Circuit has made clear recently that the "FCC should approve the most advantageous sale of a bankrupt's assets *if it will not unduly interfere with [the] FCC's mandate to ensure that licenses are used and transferred in accordance with the Communications Act.*" *Metropolitan Council of NAACP Branches v. FCC*, 46 F.3d 1154, 1163 (D.C. Cir. 1995), citing *Telemundo v. FCC*, 802 F.2d 513, 518 (D.C. Cir. 1986) (emphasis added). While the assignment to the trustee was processed as a *pro forma* assignment to accommodate bankruptcy policies, in this case the severity of the misconduct alleged by Shurberg against Astroline is such that our interest in ensuring the integrity of our processes and our minority ownership policies far outweighs our duty to minimize conflict with policies arising from the bankruptcy statutes. In this instance, the allegations and documentation in support thereof suggest that Astroline engaged in ongoing misrepresentations to both the Commission and to the federal courts, including the Supreme Court, concerning whether it qualified as a minority-controlled entity under the distress sale policy. Such conduct, if proven, undermines the integrity of both the administrative and judicial process and should not be countenanced in any manner. While we are sympathetic to the interests of innocent creditors, we believe, on balance, that the preservation of the integrity of our decision making processes and minority ownership policies compels the action we take today.⁹

⁹ In addition to arguing that the decision in *La Rose v. FCC* precludes the Commission from examining the character qualifications of Astroline, in its Petition for Reconsideration of our January 30 action TIBS also cites *Second Thursday Corp.* for this proposition. 22 FCC 2d 515, 516, *recon. granted*, 25 FCC 2d 112 (1970). The *Second Thursday* doctrine stands for essentially the same policy as that expressed in *LaRose v. FCC*. Namely, while the Commission generally tries to accommodate the concerns that underlie the bankruptcy laws, the bankruptcy policy of protecting innocent creditors is not applicable in situations where, as in the instant case, the Commission determines that other public interest considerations outweigh this policy. See also *Board of Governors of the Federal*

Consequently, we believe that a hearing is warranted concerning whether Astroline misrepresented its status as a minority-controlled entity and whether, to protect the integrity of our processes and our minority ownership policies, we should deny the trustee's renewal application.¹⁰

Other Matters

12. Two sets of pleadings in addition to the ones discussed in this *Order* were filed in the Shurberg proceeding. The first involves a 1985 Motion to Dismiss Shurberg's 1983 competing application, filed by Astroline, in which Astroline claimed that Shurberg was financially unqualified to be a Commission licensee. In March 1991, after the Commission reinstated Shurberg's 1983 competing application against Astroline's 1988 license renewal application, Shurberg amended its application to include a financial certification section which meets our requirements, thus rendering moot Astroline's claims.

13. The second set of pleadings concerns the Mass Media Bureau's 1991 action reinstating Shurberg's competing application. Because the federal courts had not yet ruled on Shurberg's appeal in which Shurberg had argued, *inter alia*, that the Commission erred by not accepting for filing the 1983 competing application, Shurberg did not submit a new competing application against the 1988 license renewal application. Rather, it submitted a letter, dated February 28, 1989, in which it stated that because it already had pending before the Commission a competing application for WHCT-TV, Commission rule 73.3520 precluded it from filing another. *See* 47 C.F.R. §73.3520. In 1989 the Court of Appeals rendered a decision in Shurberg's case in which it, *inter alia*, upheld the Commission's decision to not accept for filing Shurberg's 1983 competing application. *Shurberg Broadcasting of Hartford, Inc. v. FCC*, 876 F.2d 902 (1989). Upon review, the Supreme Court did not reverse this part of the court of appeals' holding. *Metro Broadcasting, Inc. v. FCC*, 497 U.S. 547 (1990). In its Petition to Deny, Astroline asserted that because Shurberg took "a gamble" on the outcome of the federal court case concerning the decision to not accept for filing its 1983 competing application, when the Court did not rule in Shurberg's favor it left Shurberg without any application pending before the Commission. Since the filing window for competing applications closed in 1989, Astroline maintained that Shurberg should not be considered a competing applicant in these proceedings because its original application was not actually "pending." In our view, Shurberg continued to assert its interest in prosecuting its 1983 application by its February 28, 1989, letter to the Commission and a July 15, 1991, amendment to its application, certifying to its financial qualifications. Indeed, it appears that

Reserve System v. MCorp Financial, Inc., et al., 502 U.S. 32 (1991). Thus, consideration of the *Second Thursday* doctrine in the context of the facts present in this case does not alter the decision we reach today.

¹⁰ Notwithstanding TIBS' argument to the contrary, *see supra* ¶7, we note that the fact that the case went to the Supreme Court in order to address the constitutionality of the minority distress sale policy, does not prevent the Commission from investigating allegations concerning the veracity of Astroline's representations regarding its compliance with the minority distress sale policy.

Shurberg has endeavored in good faith to comply with all pertinent Commission requirements *vis-a-vis* its construction permit application and, in fact, has done so. Thus, Shurberg's application would be grantable by the staff were it not mutually exclusive with the Trustee's renewal application. Designation of Shurberg's application for comparative hearing, however, is not appropriate at this time.¹¹

Conclusion

14. Having carefully reviewed the pleadings and supporting documentation involving grant of the Trustee's license renewal application, we believe that there are substantial and material questions of fact concerning whether Astroline misrepresented facts to the Commission and the effect of such misrepresentation on whether grant of the trustee's renewal application would serve the public interest. Since this question cannot otherwise be resolved, and inasmuch as this precludes a finding pursuant to Section 309(a) of the Communications Act that the public interest, convenience, and necessity would be served by a grant of the above-captioned renewal application, that application must be designated for hearing pursuant to Section 309(e) of the Act. While our original grant of the assignment to the trustee under *pro forma* procedures accommodated federal bankruptcy policies, we believe that protecting the integrity of our processes and our minority ownership policies requires that we designate the trustee's renewal application for hearing in light of the extraordinary circumstances presented here.¹²

15. Accordingly, IT IS ORDERED, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned application IS DESIGNATED FOR HEARING to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, on the following issues:

(1) To determine whether Astroline misrepresented facts to the Commission and the Federal Courts, in connection with statements it made concerning its status as a minority-controlled entity;

(2) To determine, in light of the evidence adduced under the preceding issue, whether the public interest, convenience and necessity would be served by a grant of the renewal application filed by the Trustee (File No. BRCT-881201LG).

¹¹ Comparative renewal proceedings, such as in the instant proceeding, generally remain frozen in the wake of *Bechtel v. FCC*, 10 F.3d 875 (D.C. Cir. 1993). See *FCC Freezes Comparative Proceedings*, 9 FCC Rcd 1055 (1994); *Modification of FCC Comparative Proceedings Freeze Policy*, 9 FCC Rcd 6689 (1994). Thus, although Shurberg has filed a competing application for Channel 18, we shall not address the merits of the comparative proceeding and the hearing shall not do so either. Rather, we shall hold that application in abeyance pending the outcome of the hearing.

¹² In light of the fact that the licensee is currently in bankruptcy, we will not specify a forfeiture provision in this hearing designation order.

16. IT IS FURTHER ORDERED, That Shurberg Broadcasting of Hartford is made a party to this proceeding and That the Petition to Deny the renewal of WHCT-TV filed by Shurberg Broadcasting of Hartford IS GRANTED to the extent indicated above, and IS DEFERRED, in all other respects AND that the Petition to Deny filed by Astroline Communications Company Limited Partnership against the application of Shurberg Broadcasting of Hartford IS DENIED.

17. IT IS FURTHER ORDERED, That the initial burden of going forward with the introduction of evidence on issue (1) will be on Shurberg Broadcasting of Hartford and that, in accordance with Section 309(e) of the Communications Act of 1934, as amended, the burden of proceeding with the introduction of evidence and the ultimate burden of proof for issues (1) and (2) will be on Astroline Communications Company Limited Partnership and Martin W. Hoffman, Trustee-in-Bankruptcy.

18. IT IS FURTHER ORDERED, That a copy of each document filed in this proceeding subsequent to the date of adoption of this Order SHALL BE SERVED on the counsel of record in the Enforcement Division appearing on behalf of the Chief, Mass Media Bureau. Parties may inquire as to the identity of the counsel of record by calling the Enforcement Division at (202) 418-1430. Such service SHALL BE ADDRESSED to the named counsel of record, Enforcement Division, Mass Media Bureau, Federal Communications Commission, 2025 M Street, N.W., Suite 8210, Washington, D.C. 20554. Additionally, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order SHALL BE SERVED on the Chief, Data Management Staff, Mass Media Bureau, Federal Communications Commission, 1919 M Street, N.W., Room 350, Washington, D.C. 20554.

19. IT IS FURTHER ORDERED, That to avail themselves of the opportunity to be heard, Astroline Communications Company Limited Partnership, Martin W. Hoffman Trustee-in-Bankruptcy and Shurberg Broadcasting of Hartford, pursuant to Section 1.221(c) of the Commission's Rules, in person or by their respective attorneys, within 20 days of the mailing of this Order, SHALL FILE 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.

20. IT IS FURTHER ORDERED, That Astroline and the Trustee-in-Bankruptcy, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, SHALL GIVE NOTICE of the hearing within the time and in the manner prescribed, and SHALL ADVISE the Commission of the publication of such notice as required by Section 73.3594(g) of the Commission's Rules.

21. IT IS FURTHER ORDERED, That Astroline Communications Company Limited Partnership's Motion to Dismiss the construction permit application filed by Shurberg Broadcasting of Hartford (File No. BPCT-831202KF), IS DISMISSED.

22. IT IS FURTHER ORDERED, That Two If By Sea Broadcasting Corporation's Petition for Reconsideration of *Two If By Sea Broadcasting Corporation*, FCC 97-25, released January 30, 1997, IS DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

William F. Caton
Acting Secretary