

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

In re Applications of)	
)	
Maumee Valley Broadcasting, Inc.)	File Nos. BR-960524WM
)	BRH-960524WL
For Renewal of Licenses for)	
Stations WONW(AM)/WZOM-FM,)	
Defiance, Ohio)	

MEMORANDUM OPINION AND ORDER

Adopted: December 20, 1999

Released: December 22, 1999

By the Commission:

1. The Commission has before it for consideration: (i) its decision in *Maumee Valley Broadcasting, Inc.*, 12 FCC Rcd 3487 (1997) (“*Maumee Valley*”), which granted the license renewal applications for WONW(AM)/WZOM-FM, Defiance, Ohio; (ii) a Petition for Reconsideration filed on April 21, 1997, by the Rainbow-PUSH Coalition (“Rainbow”); and (iii) various other pleadings. For the reasons that follow, we dismiss Rainbow’s petition for reconsideration as moot.

2. In its petition for reconsideration, Rainbow argues that the decision in *Maumee Valley* should be reconsidered because the record contains insufficient facts regarding the licensee’s compliance with the Equal Employment Opportunity (“EEO”) Rule to justify the affirmative finding of renewability required by Section 309 of the Communications Act of 1934, as amended, 47 U.S.C. § 309. However, the United States Court of Appeals for the District of Columbia Circuit has found the EEO program requirements of the EEO Rule to be unconstitutional. *Lutheran Church - Missouri Synod v. FCC*, 141 F.3d 344 (D.C. Cir. 1998), *petition for reh’g denied*, 154 F.3d 487, *petition for reh’g en banc denied*, 154 F.3d 494 (D.C. Cir. 1998) (“*Lutheran Church*”). Rainbow’s arguments relate to violations of the EEO program requirements that were held unconstitutional in *Lutheran Church*. Accordingly, we conclude that Rainbow’s petition for reconsideration is moot and we therefore dismiss it.

3. Although Rainbow also challenges the standard for listener/viewer standing enunciated in *Maumee Valley*, which requires a party to demonstrate both that he/she resides in the station’s service area and that he/she listens to or views the station in order to establish standing as a petitioner to deny, that issue is moot because even assuming, *arguendo*, that Rainbow had standing, its petition to deny would be dismissed for the reasons stated above. However, we note that the Commission recently modified the standard for listener/viewer standing set forth in *Maumee Valley*. In *CHET-5 Broadcasting, L.P.*, FCC 99-4 (released June 17, 1999), we stated that we would accord party-in-interest status to a petitioner who demonstrates either that he/she resides in the station’s service area or that he/she listens to or views the station regularly and that such listening or viewing is not the result of transient contacts with the station.

4. Accordingly, **IT IS ORDERED** that the Petition for Reconsideration filed by the Rainbow-PUSH Coalition **IS DISMISSED** as moot.

5. **IT IS FURTHER ORDERED** that copies of this *Memorandum Opinion and Order* be sent by Certified Mail -- Return Receipt Requested -- to the Rainbow-PUSH Coalition and Maumee Valley Broadcasting, Inc.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas
Secretary