

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FCC 92M-381
02350

In re Application of)
)
NORMANDY BROADCASTING CORP.)
)
For Renewal of License of)
Station WYLR(FM))
Glens Falls, New York)
)
and)
)
LAWRENCE N. BRANDT)
)
For a Construction Permit)
for a New FM Station on 95.9 MHz)
at Glens Falls, New York)

MM DOCKET NO. 92-6
File No. BRH-910129UR
File No. BPH-910430MB

O R D E R

Issued: March 25, 1992;

Released: March 26, 1992

Based on discussions held on-the-record at the Prehearing Conference of March 24, 1992, the following rulings were made.

IT IS ORDERED that the Petition To Modify And Enlarge Issues filed by Lawrence N. Brandt on February 24, 1992¹ IS GRANTED in part and the following issue modification² IS GRANTED:

To determine whether findings and conclusions about the character and qualifications of Normandy Broadcasting Corp. in Barry Skidelsky, 6 F.C.C. Rcd 2221 (Admin. L.J. 1991), should disqualify Normandy in the Glens Falls renewal proceeding.

1 Mass Media Bureau ("Bureau") filed Comments on March 10, 1992, supporting only the issue modification. Normandy Broadcasting Corp. ("Normandy") had not filed any pleading by March 24, 1992.

2 The Hearing Designation Order (DA 92-11) is modified under this ruling in Paragraph 6(b) in accord with the Review Board's Memorandum Opinion and Order 92R-16, released February 19, 1992. The HDO had provided that if a final decision is rendered in the Queensbury, NY proceeding and Normandy is found to lack basic qualifications, Normandy's qualifications to hold the license for Station WYLR(FM) in Glens Falls, NY should be determined. After release of the HDO, the Review Board ordered that an issue be framed in this case to determine whether the findings and conclusions of the Judge presiding in the Queensbury proceeding that were made with respect to Normandy should disqualify Normandy in the Glens Falls proceeding. Id. at Para. 10. Cf. Ocean Pines, 4 F.C.C. Rcd 3490 (Review Bd 1989) (collateral estoppel applied).

See also Barry Skidelsky, 7 F.C.C. Rcd 1392, released February 19, 1992; and Barry Skidelsky, 7 F.C.C. Rcd 1, released January 2, 1992.

IT IS FURTHER ORDERED that the following pleadings cycle IS SET with respect to the modified issue:

- Brandt SHALL FILE AND SERVE a motion for summary decision on **April 20, 1992**.
- Normandy SHALL FILE AND SERVE an Opposition on **May 5, 1992**.
- The Bureau SHALL FILE AND SERVE a Comment on **May 5, 1992**.

II

The following dates that were set at the Prehearing Conference ARE IN ABEYANCE pending the Presiding Judge's ruling on the above modified issue:

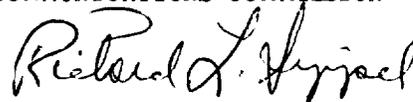
- March 30, 1992** - Brandt to file Supplement to petition to modify and enlarge issues relating to proposed issue on alleged misrepresentations by Normandy in its renewal application.
- April 13, 1992** - Normandy to file Opposition and Bureau may supplement its Comment opposing the addition of the misrepresentation issue.
- April 13, 1992** - Normandy to file motions to depose Brandt and others and to file related motions to enlarge issues.
- April 24, 1992** - Normandy to file its Proffer of its past FM broadcasting to be relied on for its renewal expectancy which is limited to WYLR(FM) programming during the renewal period.
- June 22, 1992** - Complete discovery and submit Status Report on Stipulations.
- July 9, 1992** - Exchange and receipt by hand or telecopier transmission by 4:00 p.m. (Washington, D.C. time) of all documentary exhibits and signed frozen sworn written testimony.³

³ Exchanged written testimony shall include testimony of public witnesses who will testify in person on behalf of or against the claimed renewal preference.

- July 21, 1992** - Notification of witnesses for cross-examination (4:00 p.m. Washington, D.C. Time) by hand or fax transmission.⁴
- August 4, 1992** - Admissions session to convene in a Commission courtroom in Washington, D.C. at 9:30 a.m. to include rulings on requests for rebuttal witnesses.
- September 8, 1992** - Commencement of hearing at 10:00 a.m. in a Commission courtroom in Washington, D.C.

SO ORDERED.

FEDERAL COMMUNICATIONS COMMISSION



Richard L. Sippel
Administrative Law Judge

⁴ Oppositions must be filed and served by **July 27, 1992 at 12 noon**. Copies of Notifications and Objections must be delivered to the Presiding Judge's office by hand.