

FCC MAIL SECTION

AUG 7 4 25 PM '92

Before the

FCC 92M-850

03796

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In re Application of) MM DOCKET NO. 92-6 ✓
)
 NORMANDY BROADCASTING CORP.) File No. BRH-910129UR
)
 For Renewal of License of)
 Station WYLR(FM))
 Glens Falls, New York)
)
 and)
)
 LAWRENCE N. BRANDT) File No. BPH-910430MB
)
 For a Construction Permit)
 for a New FM Station on 95.9 MHz)
 at Glens Falls, New York)

O R D E R

Issued: August 5, 1992;

Released: August 7, 1992

This is a ruling to formalize several bench rulings that were made during the evidentiary admissions session conducted on August 4, 1992.

Normandy's Testimonial Letters

The Presiding Judge adopted an alternative to an item by item consideration of voluminous testimonial letters in Normandy's proposed Exh. 10 which was marked for identification and which consists of 118 pages. All parties agreed that Normandy should select its 25 best letters which would be received in evidence without objection. Mr. Lynch, Normandy's principal, will submit a new bound exhibit of the selected 25 letters, with an appropriate cover-sheet and table of contents which identifies each letter. The exhibit will be taken up as a first item of business at the testimonial hearing to commence on September 1, 1992. That new exhibit must be tabbed or marked as **Exhibit 11** and each page must be consecutively numbered 11/1, etc.

Cross-Examination of Non-Party Witnesses

There were four potential non-party witnesses from Glens Falls who have submitted affidavits and who may be cross-examined by Brandt via telephone. ¹ These are:

1 The Commission's rules authorize testimony by telephone where all parties agree and where the procedure is authorized the Presiding Judge. 47 C.F.R. §1.364(a). All parties acknowledge that these are peripheral witnesses who have no personal stake in the outcome of this proceeding. It was found by the Presiding Judge that a "field hearing" for such limited peripheral witnesses would be wholly inefficient and therefore would not be an option to conducting

Thomas J. Wade	(Exh. 9/2)	(County Supervisor)
Marilyn R. Cohen	(Exh. 9/9)	(United Cerebral Palsy Assoc.)
Richard M. Lawless	(Exh. 9/10)	(Council on Alcoholism & Drug Abuse)
Hon. Francis X. O'Keefe	(Exh. 10/113)	(Mayor, Glens Falls)

Counsel for Brandt has taken under advisement a final assessment of his need to cross-examine each of the four. Counsel for Brandt and Mr. Lynch are to coordinate with Bureau counsel on date(s) and times and Normandy and Brandt are required to file a Status Report on **August 21, 1992**, identifying each of the four witnesses (if any) that will be cross-examined, specifying the day of the week of September 1, 1992, and the time of day that each witness will call into the courtroom telephone. The Status Report also shall include a representation that each witness has acknowledged a willingness to be cross-examined by telephone in accord with that schedule. ²

Revised Hearing Exhibit

Counsel for Brandt submitted a revised hearing exhibit that was received in evidence over Normandy's objection. There was a second Brandt exhibit received in evidence which was in addition to the one-page exchanged exhibit. The second exhibit included a Facility/Application Information Report that reflected, inter alia, data on Normandy's AM Station WWSC. Counsel for Brandt was instructed to substitute a redacted copy of that page which would reflect only the page number, heading of the report, and the data on Normandy. Counsel must contact the reporter as soon as practicable and arrange for the substitute. Counsel is to report on the status of the substitution in the aforementioned Status Report of August 21, 1992.

Ruling

Accordingly, IT IS ORDERED that Normandy Broadcasting Corp. and Lawrence N. Brandt, and their respective principal and counsel, SHALL COMPLY with the above rulings and directions of the Presiding Judge.

FEDERAL COMMUNICATIONS COMMISSION



Richard L. Sippel
Administrative Law Judge

their cross-examination via telephone. Mr. Lynch will diligently seek the cooperation of the witnesses selected by Brandt's counsel to obtain agreeable dates for their cross-examination during the week of September 1. Mr. Lynch was reminded that the telephone call must be initiated by himself and/or the witness at no expense to the Commission. See e.g. Order 92M-582.

² Alternatively, Mr. Lynch may independently make that representation in a letter to the Presiding Judge, copies of which must be simultaneously mailed to all counsel.