

of the public such questions as "Are blacks discriminated against in baseball management;" and "Arizona voters rejected a Martin Luther King holiday in the state. Now the N.F.L. wants to move the Superbowl from Sun Devil Stadium in 1993. How do you feel about that" (EZ Exhibit No. 2, p. 504).⁶

31. In the area of problems related to women, EZ Exhibit Number 2 summarizes 17 comments made by community leaders (EZ Exhibit No. 2, pp. 761 -762). In response, WBZZ presented 27 DIALOGUE segments (EZ Exhibit No. 2, pp. 764 - 769), 14 NEWS INTERVIEWS (EZ Exhibit No. 2, pp. 773 - 774) and 12 PITTSBURGH OPINION questions (EZ Exhibit No. 2, p. 772). Dialogue included interviews with an attorney who specializes in sexual harassment (EZ Exhibit No. 2, p. 764), Ms. Shirley Darby-Cutruzzula, from a shelter for battered women (EZ Exhibit No. 2, p. 765), Ms. Christine Crist of the Commission for Women (EZ Exhibit No. 2, p. 766), Dr. Rikki Robbins Jones, author of "Empowered Woman" (EZ Exhibit No. 2, p. 768) and others (EZ Exhibit No. 2, pp. 764 - 769). There were NEWS INTERVIEWS with representatives of the National Organization for Women (EZ Exhibit No. 2, p. 773), Ms. Carol McCallister of the Women's Studies program at the University of Pittsburgh (EZ Exhibit No. 2, p. 773), and others (EZ Exhibit No. 2, pp. 773 - 774). PITTSBURGH OPINION asked such questions as "Should women be allowed access to exclusive, all male social clubs," "Would you like to see a woman in the White House," "Do you think

⁶ In Allegheny Exhibit No. 13, Lois McDonald, Chairperson of the Pittsburgh Chapter of the NAACP, claims that "WBZZ's programming has demonstrated a lack of concern for the Pittsburgh community. The station has not offered programming of interest to the local African-American community, and its programming does not cover issues of importance to the local African-American community." These broad conclusions, which are very much at odds with the detailed and specific evidence of issue coverage adduced by WBZZ, are of no probative value.

Judge Hubert Titlebaum should resign for threatening to jail an attorney who didn't use her married name," "How do you feel about women in combat" (EZ Exhibit No. 2, p. 772).

32. Youth problems were also frequently mentioned during WBZZ's ascertainment interviews; 23 comments are summarized in EZ Exhibit Number 2 at pp. 781 - 783. In response, WBZZ broadcast 30 DIALOGUE segments (EZ Exhibit No. 2, pp. 785 - 791), 13 NEWS INTERVIEWS, and 29 PITTSBURGH OPINION questions (EZ Exhibit No. 2, pp 799 - 800). The DIALOGUE interviews included representatives of Pittsburgh Youth at Risk (EZ Exhibit No. 2, p. 786), Dr. Barbara School of the "Just Say No" Campaign (EZ Exhibit No. 2, p. 786), Mr. Bob DeMoss of Teen Vision Magazine (EZ Exhibit No. 2, p. 787), Ms. Iris Nahemo and Mr. David Sutton of Big Brothers/Big Sisters (EZ Exhibit No. 2, p. 787), Mr. Vincent Doran of the Pittsburgh Job Corps (EZ Exhibit No. 2, p. 788), Mr. Jerry Potts and Mr. Charles Williams of The Whale's Tale (EZ Exhibit No. 2, p. 789), Ms. Kathy McCoy of *Seventeen Magazine* (EZ Exhibit No. 2, p. 789), and Mr. Bob Keeshan, Captain Kangaroo (EZ Exhibit No. 2, p. 790). There were News Interviews with Mr. Dorn Checkney, of the Pennsylvania Coalition Against Pornography (EZ Exhibit No. 2, p. 801), Mr. Mike Glabecki, organization of Youth Cry (EZ Exhibit No. 2, p. 801), Mr. Peter Gultch of Kids Day 1987 (EZ Exhibit No. 2, p. 801), Ms. Kay Sauter of Cult Awareness Network of Pittsburgh (EZ Exhibit No. 2, p. 801), Ms. Cecile Hecker of the Coalition to Protect Children (EZ Exhibit No. 2, p. 801), and others (EZ Exhibit No. 2, pp. 801 - 802). Pittsburgh Opinion asked questions about such things as efforts to locate missing children, the impact of music videos, under age drinking, curfews, TV viewing,

toys, teenage abortions, and the influence of Bart Simpson (EZ Exhibit No. 2, pp. 799 - 800).⁷

33. Altogether, WBZZ's regularly scheduled, **local** non entertainment programming -- one hour of Dialogue, one hour and 8 minutes of Pittsburgh Opinion (EZ Exhibit No. 2, p. iii), and four hours and 12 minutes of news and weather each week (EZ Exhibit No. 2, p. iii), for a total of six hours and twenty minutes per week -- accounts for 3.77 percent of its total broadcast hours.

WBZZ Public Service Announcements

34. During the past license renewal period, WBZZ broadcast well in excess of 40,000 public service announcements,⁸ including more than 13,000 related to health concerns, more than 3,000 related to youth concerns, more than 2,800 related to education, more than 1,500 related to drug and alcohol abuse, and more than 1,000 related to public safety (EZ Exhibit No. 2, p. iv). WBZZ's PSAs, running at least once each hour (EZ Exhibit No. 2, p. ii), add another twelve

⁷ In Allegheny Exhibit No. 9, Mr. Robert L. Pitts, the Mayor of Wilkesburg, Pennsylvania claimed that "there are a variety of youth related problems (such as the need to complete school, teen-age pregnancy, need for positive image of minority youth, drug abuse, and job opportunities) which are particularly acute in our community. I know of no effort or outreach by Pittsburgh Radio Station WBZZ(FM) to address such issues." Mayor Pitts' witness statement also said that "I have never been contacted by WBZZ with regard to news, public affairs or any type of programming." (Allegheny Exhibit No. 9). However, the Mayor was interviewed by WBZZ during its ascertainment efforts as recetyly as May 17, 1990 (EZ Exhibit No. 2, p. 310).

⁸ WBZZ General Manager, Mr. Tex Meyer, testified,

"We actually broadcast substantially more than that, since we broadcast at least one PSA each hour, 24 hours each day. However, in some cases, our logs recorded insufficient information to identify with certainty the organizations on behalf of which the PSAs were broadcast." (EZ Exhibit No. 2, p. ii).

minutes per day (eighty-four minutes per week) to WBZZ's local non entertainment programming, for a total of seven hours and forty-four minutes per week, or 4.60 percent of WBZZ's total broadcast hours.

WBZZ Recorded Non Entertainment Programming

35. In addition to its local issue-responsive programming, WBZZ presents a wide variety of recorded programming responsive to the problems, needs and interests of the Pittsburgh area . These include the following:

36. AMERICAN FOCUS, a 30 minute program produced by the Focus on Youth Radio Network. EZ's hearing exhibits describe 231 segments of this program broadcast during the past license renewal period, dealing with such issues as aging, business and labor, child abuse, civil rights, crime, culture and recreation, drug and alcohol abuse, the economy, education, the environment, government, the handicapped, health, homelessness, housing, international issues, minority issues, politics, and youth. Guests ranged from Senator George McGovern to Lucille Ball (EZ Exhibit No. 2, p. vi).

37. HEALTHCARE, a 30 minute program produced by Public Interest Affiliates, Inc., which features a different health related subject each week, ranging from drugs in the schools and on the job to new resources and educational tools for the deaf. WBZZ's hearing exhibits describe 139 segments of this program broadcast during the past license renewal period, dealing with such issues as drug and alcohol abuse, the environment, poverty, crime, and child abuse (EZ Exhibit No. 2, p. vii).

38. POWERLINE, a 30 minute production of the Southern Baptist Radio and TV Commission, focuses on topics of concern to young people and blends discussion with contemporary music. WBZZ's hearing exhibits describe 270 segments of this program broadcast during the past license renewal period, which dealt with such problems as drug and alcohol abuse, the family, government, personal relationships, religion, and business and labor (EZ Exhibit No. 2, p. viii).

39. ON TRACK, also a 30 minute production of the Southern Baptist Radio and TV Commission, provides religious guidance and light music, with different topics featured each week. WBZZ's hearing exhibits describe 237 segments of this program broadcast during the past license renewal period, dealing with such topics as religion, the family, drug and alcohol abuse, and youth (EZ Exhibit No. 2, pp. vii - viii).

40. SCAN, a 30 minute presentation of the Lutheran Church, also blends the discussion of issues of religious significance with the presentation of contemporary and religious music. WBZZ's hearing exhibits describe 261 segments of this program broadcast during the past license renewal period dealing with such topics as aging, child abuse, civil rights, drug and alcohol abuse, education, the environment, minority issues, and youth (EZ Exhibit No. 2, pp. viii - ix).

41. During the past license renewal period, WBZZ also broadcast the following additional recorded non-entertainment programming:

NAME	DURATION	SEGMENTS BCAST	ILLUSTRATIVE TOPICS
Agriculture USA	15 min	21	Aging, consumerism, agriculture, the environment, and health
Larry Black Show	60 min	2	Family and religion
Master Control	30 min	14	Religion
Mental Health Matters	15 min	16	Aging, drug and alcohol abuse, and health
Open Door	30 min	61	Family, personal relationships, religion and youth
Prime Time	15 min	11	Aging, consumerism, the economy, and housing

Streams in the Desert	30 min	204	Aging, education, family, personal relationships, and youth
The Reviewing Stand	30 min	24	Education, government, international issues, minority issues, personal relationships, and poverty
Views of the News	15 min	13	Aging, drug and alcohol abuse, education, family, religion and youth

42. WBZZ's recorded non-entertainment programs generally amounted to three hours per week (EZ Exhibit No. 2, p iii).

43. Taken together, WBZZ's regularly scheduled local non-entertainment programming (six hours and 20 minutes per week), plus its PSAs (one hour and 24 minutes per week) and its regularly scheduled recorded non-entertainment programming (three hours per week) amounted to 6.39 percent of its weekly hours of operation during the past license renewal period.

WBZZ Civic Involvement

44. WBZZ also contributes to the Pittsburgh community by direct involvement in many facets of its life. The following are examples:

45. Through the participation of WBZZ personnel in the fund raising activities of the Western Pennsylvania Chapter of the Leukemia Society of America, and public service announcements promoting those events, WBZZ has helped generate more than \$100,000 annually in contributions for the society. These events have included a Celebrity Waiters Luncheon, at which WBZZ personalities have waited on tables and served as Master of Ceremony; Pittsburgh Bachelor Bids, at which WBZZ personnel have been "auctioned off" for contributions; and an annual Gelatin Slide, during which WBZZ personalities have slid into vats of jello in response to contribution pledges (EZ Exhibit No. 1-M).

46. The Special Advisory Council on Alcohol and Other Drugs Youth Strike Force conducts an annual awareness campaign in all of the schools in western Pennsylvania. Youth compete by submitting original works designed to create awareness of drug and alcohol related problems and to encourage early intervention. In addition to providing prizes for the winners, WBZZ personalities have made the awards and socialized with the young people present. WBZZ has also broadcast some of the essays and other awareness materials submitted by contestants (EZ Exhibit No. 1-N).

47. WBZZ's support for the Designated Driver Program in 1991 was recognized by the National Commission Against Drunk Driving which, in 1992, presented the station its National Media Awareness Award. WBZZ was the only station in the United States to receive this award in 1992 (EZ Exhibit No. 1-B). Arlene Baxter, Ph.D., the Executive Director of the Allegheny/Westmoreland Chapter of Mothers Against Drunk Driving (MAAD) testified:

"WBZZ's work in support of the Designated Driver Program is consistent with its other efforts, and the efforts of various of its on-air personalities, to promote drug and alcohol abuse awareness in Pittsburgh. For example, from 1984 to 1991, Jim Quinn, a WBZZ morning personality, was a member of the Abraxas Board. He was obviously very interested in our rehabilitation programs and supportive of our efforts on behalf of youth. He was also sensitive to the importance of fostering an awareness among youth about drug and alcohol abuse and drunk driving." (EZ Exhibit No. 1-B)⁹

48. Since 1985, WBZZ has been involved with the Annual Stair Climb put on by the Western Pennsylvania Chapter of the Cystic Fibrosis Foundation. During this event, contributors sponsor contestants who walk (or run) up the stairs at some of Pittsburgh's tallest buildings, such as the 45 story One Oxford Center.

⁹ The Abraxas Foundation is a drug and alcohol rehabilitation program for court referred youth aged 14 - 18. (EZ Exhibit No. 1-B).

WBZZ personalities have participated as "celebrity climbers" and have served as master of ceremony at the event (EZ Exhibit No. 1-O).

49. WBZZ personality Jeff Tyson served as Master of Ceremonies at the March of Dimes 1987 - 1990 Best Pizza in Town fund raising events, which WBZZ had also promoted extensively on the air. In 1987, WBZZ also sponsored the March of Dimes volleyball tournament (EZ Exhibit No. 1-Q).

50. In 1989, WBZZ was asked to help with the kick off of a Feet First First Time program, which was designed to reduce the incidence of spinal injury by encouraging people not to dive into unknown waters. WBZZ

"responded generously with public service announcements and by sending Jeff Tyson, one of its personalities, to the picnic. He provided entertainment and gave away prizes. The kick-off picnic was very important to the success of the program, and WBZZ's access to our target audience -- youth 15 to 24 years of age -- was instrumental in generating the high level of interest in diving safety needed for success." (EZ Exhibit No. 1-A)

It is noteworthy that during the summer of 1988, before the Feet First program was initiated in the Pittsburgh area, seventeen residents suffered broken necks and were paralyzed through diving accidents. In 1989, there were only three such incidents, and in 1990, there were none (EZ Exhibit No. 1-A).

51. WBZZ has also helped with Project Bundle Up, one of the charities sponsored by the Pittsburgh Steelers to make warm clothing available to needy children during the winter months. "WBZZ's on-air personalities have actively participated with us in this project each year, not only by giving it extensive on-air promotion, but also by going with Steelers team members to help children select the clothes which the contributions pay for." (EZ Exhibit No. 1-E).

52. Each year for the past ten years, WBZZ has helped with the Steelers annual Children's Hospital collection at the Pittsburgh Stadium. "WBZZ's

participation includes extensive on-air promotion of the event, a remote broadcast from the stadium, and encouraging spectators at the stadium to contribute." (EZ Exhibit No. 1-E). According to the Steelers' Director of Communications and Marketing, who oversees the team's community outreach program,

"By promoting these and other charity events extensively, and by having its on-air talent participate in them personally, WBZZ raises the level of community awareness of the underlying problems which our charities seek to ameliorate. WBZZ's participation also contributes to the solutions to those same problems. I have found over the years that WBZZ's support for the community projects in which we are involved has always been enthusiastic and effective." (EZ Exhibit No. 1-E).

53. WBZZ has also been extensively involved with the Pittsburgh Three Rivers Regatta since 1984. The Regatta is the largest event held in Pittsburgh, drawing approximately 750,000 people annually. It brings approximately \$25,000,000 in revenues to the city each year and is the largest inland water-air-land event in the world. WBZZ's involvement has included sponsorship of the official Regatta parade (1988 - 1991); broadcasting live removes from the Regatta at Point State Park (1985 - 1991); sponsorship of the Grand Decorated Boat Parade (1985 - 1990) and fund raising for charities involved with the regatta (1991 - present). Since 1992, WBZZ has been one of the four official radio sponsors of the Regatta. Mr. Richard Maloney, the Vice President of the Regatta, testified:

"In that leadership role, WBZZ has primary promotional responsibilities for the land parade in Pittsburgh, the 'anything that floats' race, the 'rubber duck' race for the American Cancer Society, and for one of the three evenings of entertainment. WBZZ provides extensive promotion for these events, starting more than a month before the actual Regatta, with intensive promotion shortly before and during the Regatta. Beyond providing the promotion, WBZZ plays an important role in the actual conduct of the four events. Its evening of entertainment, obviously, involves most intensive WBZZ involvement. Our partnership with WBZZ, as with the other three radio stations, is essential to the success of the Regatta." (EZ Exhibit No. 1-H)

54. The American Cancer Society Rubber Duck Race, part of the Regatta for which WBZZ has been responsible, raises approximately \$50,000 each year.

WBZZ Compliance with FCC Rules and Policies

55. Consistently with EZ policy, WBZZ makes substantial efforts to comply with the Commission's rules and policies. General Manager Tex Meyer testified,

"I personally perform a daily check of the WBZZ program logs, as do all of our department heads. I receive and review monthly reports from our engineering department on EBS messages, tower light monitoring, modulation readings, etc. I discuss programming matters daily with our program director and receive monthly programming reports from him. These discuss our programming, community and civic activities. During the period 1984 - 1991, monthly reports were forwarded to EZ headquarters about all aspects of station operation, including technical performance, programming, sales, accounting and the like. . . .

Our program director performs a quarterly audit of our non-entertainment programming. This includes a count of the number of minutes devoted to non-entertainment programming and a verification that "payola" forms have been filled out by any new programming employees. This report is forwarded to EZ headquarters. . . .

I personally do a comprehensive six-month audit each January and July. It includes a review of the public inspection file to ensure that it is complete and up to date. I verify that EBS tests have been sent and received, and provide the times. I analyze our "trade" report for compliance with company policies. I prepare an EEO checklist which analyzes the station's compliance with FCC and EZ EEO requirements. I submit this report to EZ headquarters. . . .

I participate in ascertainment efforts on a regular basis, as do all department heads. I review all of the ascertainment reports. I hold quarterly meetings with department heads to review the ascertainment reports and to ensure that WBZZ is presenting responsive programming.

I monitor WBZZ on a daily basis by listening to the station in my office, in my car, and at home.

I receive and review updates from our attorneys on new FCC rules and policies and distribute them to the appropriate department heads. . . .

An annual audit of the station is performed by the accounting firm of Murray, Tolmas and White firm. These detailed audits analyze every aspect of station operations. . . .

The EZ regional program director oversees our programming operations, including compliance with FCC rules and policies, by visiting WBZZ every two or three months and by monitoring tapes of our programming on a weekly basis as well as our logger tape if needed.

Alan Box, the EZ president, makes regular visits to WBZZ to monitor our performance." (EZ Exhibit No. 5, pp. 1 - 3).

During the entire past license renewal period, WBZZ received not even one FCC notice of violation (EZ Exhibit No. 5, p. 3). Nor does the record of this proceeding contain any evidence of rule or policy violation by WBZZ.

56. WBZZ exceeded 100% of parity in the employment of minority group members during each year of the past license renewal period, with the exception of one year, 1989, when it achieved 91.32% of parity. In 1990, the station achieved 142% of parity, and in 1991, it achieved 177% of parity. During four of the seven years (1985, 1986, 1987, and 1991), WBZZ also exceeded 100% of parity in "upper four" job categories. In no year did the station fall below 50% of parity in the "upper four" job category (EZ Exhibit No. 3, p. 2).

57. The WBZZ record of equal opportunity employment reflects that of its parent company, EZ. The EZ stations as a group exceeded 70% of parity over all during the years 1982-1984, 1986, and 1989 - 1991. Only in 1987 did the stations as a group fall to less than 60% of parity, and that was caused by the December 1986 acquisition of nine stations from Affiliated Broadcasting. By 1989 the stations as a whole exceeded 70% of parity, and by 1991 they exceeded 90% of parity (EZ Exhibit No. 4). There was a similar trend in the "upper four" job categories and, again, by 1989 the stations exceeded 60% of parity; by 1990 they

approached 70% of parity, and by 1991 they exceeded 70% of parity (EZ Exhibit No. 4).

Auxiliary Power

58. At all times during the past license renewal period, WBZZ had fully functional auxiliary power facilities to permit the station to remain on the air during periods of commercial power outage. The WBZZ auxiliary power generator serves both the studio and transmitter, which are co-located, and kicks in immediately when there is a power outage. It is tested at least weekly and is serviced as needed. It has never failed. WBZZ also has an auxiliary transmitter, for use when the main transmitter is down for maintenance or malfunctions (EZ Exhibit No. 7).

WQKB, New Kensington, Pennsylvania

59. Since January 1, 1993, EZ has had a Local Marketing Agreement (LMA) with the licensee of WQKB(FM), in New Kensington, Pennsylvania, part of the Pittsburgh radio market. EZ also proposes to acquire the license of that station, and an application seeking Commission consent is pending (BALH-930901GI). For now, EZ sells time on the station and provides entertainment and news programming to it (EZ Exhibit No. 11; Tr. 168-171). WQKB does not have as good a signal as the other Class B FM stations serving the Pittsburgh market, has had difficulty competing on its own there, and the current licensee had not been able to operate the station profitably. Joint operation of WBZZ and WQKB will allow operating efficiencies which will permit WQKB to continue to serve both as New Kensington's only local FM station and as a competitive additional voice in the Pittsburgh market (EZ Exhibit No. 11).

Allegheny Communications Group, Inc.

60. Allegheny is a Delaware corporation with eleven stockholders, none of whom reside in or near the Pittsburgh area (Allegheny Exhibit No. 1). Neither Allegheny nor its stockholders have any media interests (Allegheny Exhibit No. 1). Nor do any claim to have prior broadcast experience. Five percent stockholder and vice president Herbert E. Long, III, with no media experience, proposes to move to Pittsburgh and become the full time business manager of Allegheny's proposed station. He is an Afro-American. (Allegheny Exhibit No. 2).

61. Allegheny proposes to have auxiliary power sources at its studios and transmitter site (Allegheny Exhibit No. 2).

Proposed Conclusions

62. The mutually exclusive applications of EZ and Allegheny were set for hearing to determine which should be granted. Since there are no qualifying issues against either applicant, only their comparative features need be considered, EZ's in light of its entitlement to a renewal expectancy.

Comparative Qualifications

63. While Allegheny proposes the integration of its 5 percent Black shareholder as business manager of its proposed station (Proposed Finding 60), the Court of Appeals for the District of Columbia Circuit recently held that the integration policy, as applied by the Commission, is "arbitrary and capricious" and that "the integration preference is peculiarly without foundation." *Susan M. Bechtel v. Federal Communications Commission*, D. C. Cir. No. 92-1378 (Slip Opinion, December 17, 1993). In these circumstances, it seems clear that no comparative consideration whatever may now be given to any applicant's proposed integration. The only other comparative features of the Allegheny application which are

cognizable under current Commission policy are its lack of other media interests and its proposal to have auxiliary power at its studio and transmitter site (Proposed Finding No. 61).

64. EZ also proposes integration, which it has actually performed throughout the entire past license period (Proposed Findings No. 4 - 8; 55) EZ also proposes -- and has for years had -- auxiliary power at its co-located studio and transmitter site. EZ also has an auxiliary transmitter (Proposed Finding No. 58).

65. EZ is a group licensee and, in addition to WBZZ has an LMA for station WQKB in nearby New Kensington, Pennsylvania, which station it proposes to acquire upon grant of Commission consent. In view of WQKB's past financial problems and poor signal (Proposed Finding 59), the proposed purchase by EZ clearly fits the Commission's findings in MM Docket Number 91-140 (7 FCC Rcd 2755 (1992)) that its former limitations on ownership of more than one station in the same service in the same market:

"may actually hamper competition and diversity by making it unnecessarily difficult for station to compete in today's thriving marketplace. By artificially denying stations efficiencies that could be realized through consolidation of facilities, managerial and clerical staffs, sales, bookkeeping, promotion, production, news and other aspects of station operation, the local ownership restrictions increase the costs of doing business at a time when cost-savings may well be critical to survival." 7 FCC Rcd at 2774

EZ's proposed acquisition of WQKB thus appears to be in furtherance of the Commission's new policies.

66. Beyond these comparative features, EZ is entitled to a clear, strong and dispositive renewal expectancy, based on its exemplary service to the Pittsburgh community during the past license renewal period. During that seven year period, WBZZ has been guided by a general manager with more than thirty years of substantial broadcast experience (Proposed Finding No. *), subject to overall

supervision by EZ's president and Chairman of the Board, both of whom also have long been broadcast professionals -- Mr. Kellar for more than forty-six years and Mr. Box for more than twenty-five (Proposed Findings No. 4 - 7). Their stewardship has been exceptionally good.

67. In *Seattle Public Schools*, 65 RR 2d 1621 (Rev. Bd. 1989), in *Metroplex Communications, Inc.* 67 RR 2d 185 (Rev. Bd. 1989), and later in *Fox Television Stations, Inc.*, 7 FCC Rcd 2361 (Rev. Bd. 1993), the Review Board listed five criteria "against which we have measured the potential of a meritorious service record, thereby to calibrate the strength of any resultant renewal expectancy to the incumbent licensee." (67 RR 2d at 190). The criteria listed by the Board are:

1. The licensee's efforts to ascertain the needs, problems and interests of its community;
2. The licensee's programmatic response to those ascertained needs;
3. The licensee's reputation in the community for serving the needs, problems and interests of the community;
4. The licensee's record of compliance with the Communications Act and FCC Rules and policies; and
5. The presence or absence of any special effort at community outreach or towards providing a forum for local self-expression.

68. WBZZ's formal and informal efforts to ascertain the needs and interests of the Pittsburgh community have been more than ample, including representatives of a broad and diverse spectrum from the community. More than one thousand interviews were conducted during the past license renewal period; 325 of them are chronicled in the WBZZ hearing exhibits (Proposed Findings No. 18 -20).

69. WBZZ has also been successful in translating its perceptions of community needs and interests into substantial and thoughtful, local non-entertainment programming, consistently, during its entire seven year license period (See Proposed Findings No. 21 - 33). According to several witnesses who appeared on DIALOGUE, that program is presented effectively and with great sensitivity. For example:

"Shelly Duffy, the Dialogue host, was very well informed and had obviously done a lot of preparatory research on both occasions. Her questions were intelligent, and she handled the interview with great sensitivity. At no time did I feel that she was attempting to sensationalize the subject matter or to emphasize its shock value -- something which has frequently happened on other interview programs I have been involved in. At all times, the emphasis of the program was on the seriousness of the problem, and prevention. We have also been able to get across our message on the help which is available." (EZ Exhibit No. 1-P).

The representative of another group testified "I have participated in talk shows on many stations, and WBZZ's treatment of the issue was far better than I have experienced on any other Pittsburgh station." (EZ Exhibit No. 1-I)

70. WBZZ also responded to community needs by broadcasting large numbers of public service announcements, generally one each hour throughout the entire broadcast day. More than 40,000 such PSAs are chronicled in WBZZ's hearing exhibits (Proposed Finding No. 34).

71. WBZZ has an excellent reputation in the community (See Proposed Findings No. 10 - 17). The Mayor of Pittsburgh testified that "WBZZ is one of the stations we call on most frequently for help, and it has always more than justified the reliance we place upon it." (EZ Exhibit No. 1-J). She has "consistently been very favorably impressed with WBZZ's efforts to serve the needs of our local community." (*Ibid*). A member of the City Council testified that "WBZZ has always been generous with its help." (EZ Exhibit No. 1-L). The

representative of an organization which helps abused and homeless children testified that "The help it has provided has been unique in our experience, because WBZZ to a greater extent than any other Pittsburgh radio station has been willing to make and keep long term commitments and then to follow up by asking what more we need, and providing it." (EZ Exhibit No.1-C). A representative of the Leukemia Society agreed: "[W]hen WBZZ makes a commitment, it exceeds its promises and then follows through. In my experience, WBZZ stands out in this respect amongst all of the radio stations in Pittsburgh." (EZ Exhibit No. 1-M). The director of a youth program testified that WBZZ "has provided more help with our youth programs than all of the other radio and television stations in Pittsburgh combined." (EZ Exhibit No. 1-N). Others testified to similar effect.

72. The record of this proceeding further documents WBZZ's attentiveness to the needs of its community. WBZZ has also been an active participant in the affairs of the community through its non-broadcast activities (Proposed Findings No. 44 - 54). Indeed, in the view of several significant community witnesses, it outpaces all other Pittsburgh radio stations in this regard as well as in the sensitivity of its local non-entertainment programming (Proposed Findings No. 10 - 17).

73. Finally, but far from least, WBZZ has an exemplary record of compliance with the Commission's rules and policies (Proposed Findings No. 55 - 57). Credit must be given to EZ for establishing thoughtful and effective procedures for monitoring WBZZ's performance.

74. WBZZ's ascertainment activities, its programmatic responses, its reputation in the community, and its non-broadcast "outreach" to the community compare very favorably to those found in *Fox Television Stations, Inc., supra.*, see 8 FCC Red at 2418 - 1419. In *Fox*, several important rule violations had to be balanced

against other factors, and as a result an otherwise "strong" renewal expectancy preference for "highly meritorious" public service had to be diminished to a "substantial" preference, 8 FCC Rcd at 2418 and n. 143. That is not the case here, and there is nothing whatever warranting any diminution of WBZZ's strong renewal expectancy.

75. In *Fox, supra* the incumbent's merely "substantial" renewal expectancy was deemed sufficient to overcome a challenger's substantial preferences under the diversification criterion¹⁰, and moderate preference under the integration criterion¹¹ (8 FCC Rcd at n. 143).

76. WBZZ's very strong renewal expectancy is more than adequate, by a large order of magnitude, to overcome whatever minor comparative advantage Allegheny might otherwise have based on its lack of other media interests and EZ's status as a group owner.

¹⁰ Fox and related companies had six television stations and two daily newspapers (*Fox Television, Inc.* 7 FCC Rcd 3801 (ID, 1992).

¹¹ Fox proposed no integration; the challenger proposed 50% integration, enhanced by a minority preference (8 FCC Rcd at 2419, n. 143).

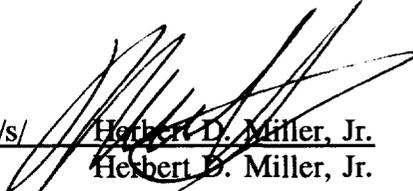
Ultimate Conclusions

77. Based on the foregoing, EZ's application for renewal of WBZZ's license should be granted, and the mutually exclusive application of Allegheny should be denied.

Respectfully submitted,

EZ Communications, Inc.

By  /s/ Rainer K. Kraus 
Rainer K. Kraus

By  /s/ Herbert D. Miller, Jr.
Herbert D. Miller, Jr.

KOTEN & NAFTALIN
SUITE 1000
1150 CONNECTICUT AVENUE, N. W.
WASHINGTON, D. C. 20036

Its attorneys

January 14, 1994

A
T
T
A
C
H
M
E
N
T
A

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

In re Application of

EZ Communications, Inc.

For Renewal of the License of FM Radio Station
WBZZ (FM) on Channel 229B at Pittsburgh,
Pennsylvania

Allegheny Communications Group, Inc.

For a Construction Permit for a New FM Broadcast
Station on Channel 229B at Pittsburgh, Pennsylvania

MM Docket Number
93-88

To: Honorable Edward Luton
Administrative Law Judge

ATTACHMENT A

Representative WBZZ Ascertainment, August 1, 1984 - July 31, 1991

Attach A, Page

1

A.R. Chambers & Son, Associates	
Beth Chanbers	3/21/91
Action Housing	
Jerri Gould	12/13/89
Allegheny Conference on Community Development	
Richard Stafford	11/7/91
Allegheny County	
Ray Hack	12/13/89
Senator Leonard Bodack	10/2/87
Sub. for Eugene Coon	12/14/89
Allegheny County Area Agency on Aging	
Katherine Butchko	1/26/87
Allegheny County Area on Adult Services	
Kathryn Butchko	10/9/86
Allegheny County Child and Youth Services	
Victor Papale	10/9/86
Allegheny County Commissioner	
Tom Forester	7/4/85
Allegheny County Controller	
Frank Lucchino	1/28/87
Allegheny County Coroner	
Dr. Joshua Perper	12/13/89
Allegheny County Department of Airport Area Development	
Steve George	11/2/90
Allegheny County Department of Maintenance and Safe Projects	
Joe Moses	3/21/91
Allegheny County Dept. of Aging	
Charles Stowell	12/13/89
Allegheny County District Attorney	
Bob Colville	7/4/85
Allegheny County Government	
William C. Long	11/2/90
Allegheny County Health Department	
Al Brynwasser	11/7/91
Allegheny County Sheriff's Office	
Mr. Plowski	2/13/86
Allegheny Health Services	
Sherif Abdelhak	12/14/89
Allegheny Intermediate Unit	
Jan Crudden	12/13/89
Allegheny Media	
James Roddey	5/17/90
Alleghney County Commissioner	
Tom Foerster	3/2/87
Alzheimer Disease & Related Disorders	
Charles Bell	12/13/89
Alzheimer Disease and Related Disorders of Western Pennsylvania	

Representative WBZZ Ascertainment, August 1, 1984 - July 31, 1991

Attach A, Page

2

Alzheimer Disease and Related Disorders of Western Pennsylvania	
Mr. Chuck Bell	2/13/86
American Civil Liberties Union	
Marie Damick	3/21/91
American Diabetes Association	
Victoria Hersen	5/17/90
American Red Cross	
Ida Matthews	9/27/85
Karen Ibanson & Sandy Zinzing	12/14/89
Agency on Aging	
Kathryn Butchko	10/9/86
Attorney	
James Schulebert	3/21/91
Baldwin-Whitehall School District	
Dr. Charles Faust	2/13/86
Beaver Township	
Gregg Smith	10/9/86
Bell of Pennsylvania	
Russell Kemerer	11/2/90
William Colbert	5/17/90
Benedum Center	
Carlinda Dickey	5/17/90
Better Business Bureau	
Christina O'Donnell	12/14/89
Nancy Gold	6/8/88
Big Brothers & Sisters of Greater Pittsburgh	
Judith Aiken	12/13/89
Big Brothers/Sisters of Pittsburgh	
Iris Nakemo	6/19/88
Blue Cross of Western Pennsylvania	
Dolores S. Wilden	5/17/90
Dolores S. Wilder	11/7/91
Neal Hollander	3/21/91
Borough of Wilkinsburg	
Robert Pitts	5/17/90
Boy Scouts of America	
J. Bruce McDowell	3/21/91
Boys and Girls Clubs	
Mike Hepler	12/14/89
Brashear Association	
Lola O'Dea	10/9/86
Business Resource Center	
John Adams	11/7/91
Careers Incorporated Operation Dig	
Mr. Nate Smith	2/13/86
Carnegie Mellon University's Software Institute	
John Henley	7/11/85

Representative WBZZ Ascertainment, August 1, 1984 - July 31, 1991

Attach A, Page

3

Carnegie Science Center	
Alphonse DeSenna	11/7/91
Carpenters Union	
Jim Klingen Smith	9/4/88
Catholic Diocese in Pittsburgh	
Father Doug Nowicki	3/6/88
Center for Victims of Violent Crime	
Carol Campbell Swinston	12/14/89
Center for Victims of Violent Crimes	
Mary Alice Babusci	2/13/86
Central Blood Bank	
Ed Traicesar	5/10/88
Terry Gloeck	3/21/91
Central Blood Bank of Pittsburgh	
Bill Portman	7/20/88
Children's Home	
Marlene West	2/12/86
Children's Home of Pittsburgh	
Priscilla Ebert	12/13/89
Children's Hospital/Child Life Department	
Stephanie Stein	10/9/86
Children's Museum	
Maggie Forbes	11/2/90
Christian	
Dr. Lee Hicks	2/12/86
Christian Association	
Rev. Jack Wagner, Sr.	12/14/89
City Controller	
Tom Fhaherty	12/29/88
Civic Light Opera	
Charles Gray	5/7/90
Richard Knight	5/17/90
Coalition for Addictive Diseases	
David Else	1/20/88
Common Pleas Court	
Cynthia Baldwin	3/20/88
Community Human Services Corporation	
Francis Vitti	12/13/89
Community Women's Conference	
Dr. Blithe Rundscent	12/13/89
Community of Government Affairs	
Mary Zubrow	5/17/90
Councilwoman	
Michelle Madoff	5/6/87
County Coroner	
Joshua Perper, M.D.	10/9/86
David L. Lawrence Convention Center	