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FCC MAIL SECTION
Before the
FEDERAL COMMUNICATIONS COMMISSION

MAR 19 Washington, D.C. 20554

FCC 94M-148
41103

In re Applications

STEPHEN O. MEREDITH

AL HAZELTON

For Construction Permit for a
New FM Station on Channel 243C1
in Audubon, Iowa

DISPATCHED BY)

MM Docket No. 93-300

File No. BPH-920430MD

File No. BPH-920430ME

MEMORANDUM OPINION AND ORDER

Issued: March 9, 1994

Released: March 11, 1994

1. Under consideration are the following:

Motion to Enlarge Issues Against Al Hazelton, filed
January 13, 1994, by Stephen O. Meredith ("Meredith");

Opposition to Motion to Enlarge the Issues, filed February 4,
1994, by Al Hazelton ("Hazelton") and

Reply to Opposition to Motion to Enlarge Issues,
filed February 17, 1994, by Meredith.

2. Meredith seeks false certification and misrepresentation issues
against Hazelton. In support Meredith alleges that Hazelton filed on April
30, 1992 his application which he signed on April 28, 1992. However, Meredith
notes, the engineering portion of the application was not signed until April
29, 1992. The inference is that Hazelton signed an incomplete application.

3. Hazelton admits that, after he signed his Audubon application,
changes were made to the engineering portion of the application. Hazelton
contends that he reviewed a previous version of the engineering prior to
signing and that an error was discovered only after he had signed the
application and forwarded it to his FCC attorney for filing.

4. It is undisputed that Hazelton reviewed some version of the
engineering portion of his application prior to signing. However, it appears
that Hazelton did not review the final version of his engineering, the version
that he later submitted to the Commission and that is currently a part of his
application.

5. The fact that, at the time he was signing, Hazelton believed his
application was complete, is unavailing. Hazelton relies on Edward W.
St. John, 67 RR 2d 774 (1990) where engineering material was corrected
subsequent to signing but it was ruled that the change made was minor and did
not involve the material provisions of the engineering portion. However, the
problem contained in the Hazelton application was a short-spacing defect.
This was a serious problem that would have prevented Hazelton's application
from proceeding through the FM processing line and lead to the return of the
Hazelton application. Hazelton admits that the changes that were made to his
application were done to ensure that the Commission's engineering standards,
including the "hard look" standards, were fully met. The requested issues are
warranted.

FCC MAIL SECTION

Accordingly, IT IS ORDERED that the Motion to Enlarge Issues Against Al Hazelton, filed January 13, 1994 IS GRANTED, and the following issues ARE ADDED:

To determine whether the application of Hazelton was properly certified and executed in accordance with FCC requirements;

To determine whether Hazelton made a misrepresentation to the Commission with respect to the certification contained in his application; and

To determine in light of the evidence adduced with respect to the foregoing issues whether Hazelton possesses the requisite character qualifications to be a Commission licensee.

IT IS FURTHER ORDERED that Hazelton SHALL PROVIDE documents requested in the Motion to Enlarge Issues and in manner there indicated.

IT IS FURTHER ORDERED that the comparative aspects of this proceeding ARE FROZEN and the hearing scheduled for April 28, 1994 IS CANCELED.

IT IS FURTHER ORDERED that the procedural dates for the added issues are as follow:

| | | |
|---------------|---|---|
| June 13, 1994 | - | Completion of discovery. |
| June 27, 1994 | - | Exchange of applicant's exhibits. ¹ * |
| July 5, 1994 | - | Notification of witnesses desired for cross-examination.* |
| July 11, 1994 | - | Objections to witness notification.* |
| July 18, 1994 | - | Commencement of hearing at 10:00 a.m. in the offices of the Commission. |

FEDERAL COMMUNICATIONS COMMISSION

John M. Frysiak
John M. Frysiak
Administrative Law Judge

¹ All exhibits will be assembled in a binder with each exhibit bearing a number with a tab on each document. An index containing a descriptive title of each exhibit shall be submitted. A prefix will be used to indicate the party sponsoring the exhibits. Each exhibit shall be separately and consecutively paginated, including attachments. If stipulations are entered into, they are to be executed by counsel, prepared as joint exhibits, suitably bound, tabbed and paginated.

* These documents shall be hand served.