

MM 87-268

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 92-1597

September Term, 1993

Polar Broadcasting, Inc., Petitioner

United States Court of Appeals
For the District of Columbia Circuit

v.

FILED MAR 24 1994

Federal Communications Commission; United States of America,
Respondents **RON GARWIN**
CLERK

Association for Maximum Service Television, Inc.,;
Association of America's Public Television Stations;
Corporation for Public Broadcasting; Public Broadcasting
Service; National Association of Broadcasters; Paging
Associates, Inc.; International Television Broadcasting, Inc.;
Sandra Engle; TV 58 St. Louis, Inc.; Morningstar
Communications; Zantech, Inc.; International Broadcasting
Network; Sherjan Broadcasting Co., Inc., Intervenors

On Petition for Review of Orders of the
Federal Communications Commission

Before: Williams, Ginsburg and Sentelle, Circuit Judges

J U D G M E N T

This petition for review was heard on the record from the Federal Communications Commission and on the briefs by the parties and arguments of counsel. The court has accorded the arguments full consideration and determined the issues presented occasion no need for a published opinion. See D.C. Cir. Rule 36(b).

We have jurisdiction over the petition for review filed by and naming Polar Broadcasting, Inc., "et al.", as petitioner, but not over any claim by any party associated with Polar in the proceedings before the Commission. See Torres v. Oakland Scavenger Co., 487 U.S. 312 (1988); Rule 15, Federal Rules of Appellate Procedure. Petitioner has identified no final decision of the Commission that treats low-power television arbitrarily or capriciously, given the Commission's prior determination of the secondary status of such television:

First and foremost, we intend to maintain the secondary spectrum priority of low power stations, a policy that assures protection from interference to full service stations. Secondary spectrum priority has two aspects: low power stations may not cause objectionable interference to existing full service stations, and low

power stations must yield to facilities increases of existing full service stations or to new full service stations where interference occurs.

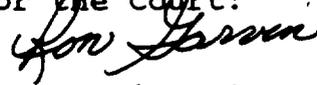
Low Power Television, 51 Radio Reg.2d (P&F) 476, 486 (1982) (emphasis added), on reconsid., 53 Radio Reg.2d (P&F) 1267, 1269, reconsid. denied, 95 F.C.C.2d 657 aff'd, Neighborhood Television Co., Inc. v. FCC, 742 F.2d 629 (1984). Therefore, it is

ORDERED that the petition for review is denied.

The Clerk is directed to withhold issuance of the mandate herein until seven days after disposition of any timely petition for rehearing. See D.C. Cir. Rule 41(a)(1).

Per Curiam

For the Court:



Ron Garvin, Clerk