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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554
FCC 96M-31
60891

In re Applications of)	GC Docket No. 95-172
)	
RAINBOW BROADCASTING COMPANY)	File No. BMPCT-910625KP
)	File No. BMPCT-910125KE
)	File No. BTCCT-911129KT
)	
For an Extension of Time to Construct)	
)	
and)	
)	
For an Assignment of its Construction)	
Permit for Station WRBW(TV),)	
Orlando, Florida)	

MEMORANDUM OPINION AND ORDER

Issued: March 6, 1996 Released: March 8, 1996

1. Under consideration is "Request For Certification Of Issue" filed February 26, 1996 by Rainbow Broadcasting Limited (RBL).

2. At a prehearing conference held January 30, 1996, the Presiding Judge directed Rainbow Broadcasting Company (RBC) to provide to counsel for Press Broadcasting Company, Inc. (Press) the names and addresses of all of its principals including limited partners (Tr. 127-129). On February 6, 1996, RBL filed a petition for reconsideration of the oral ruling. RBL's petition was dismissed since Section 1.106(a)(1) of the Rules precludes reconsideration of interlocutory actions. See FCC 96M-21, released February 23, 1996. RBL's petition should have also been dismissed on a separate ground. The designation order does not name RBL¹ as a party to the hearing and RBL has not sought intervention pursuant to Section 1.223 of the Rules.²

3. Now pending is a request by RBL for permission to appeal, pursuant to Section 1.301(b) of the Rules, the Presiding Judge's Order requiring RBC to disclose the names and addresses of its principals including limited partners. RBL requests, in the alternative, that the Presiding Judge modify his oral ruling.

4. RBL's request, will be dismissed. As noted, supra, RBL is not a party to this proceeding. In this connection, the Judge's directive was made to RBC which is a party. RBC has not sought to appeal the Judge's ruling.

5. Further, the matter which RBL seeks to appeal concerns the Presiding Judge's ruling that RBC divulge the names and addresses of its principals. Press requested this information in order to begin its discovery efforts. No valid reason has been shown why this preliminary information should not be supplied. Press is not required, as contended by RBL, to seek to depose RBC's principals under Section 1.315 of the Rules in order to obtain this

¹ RBL is the successor to RBC and the proposed assignee of the construction permit for TV station WRBW-TV and current operator of the station.

² At the prehearing conference on January 30, 1996, the Presiding Judge stated that counsel could enter an appearance on behalf of both RBC and RBL (Tr. 14, 17). The Presiding Judge was in error since he is without authority to confer party status unless a petitioner seeks intervention pursuant to Rule 1.223.

preliminary information. On the contrary, Rule 1.315 comes into play only where it is demonstrated that a deponent has, in fact, relevant information. Press can not initiate its discovery efforts to determine whether RBC's principals have relevant information until it is informed as to their identities. In this connection, if and when Press seeks to depose an RBC principal, RBC's rights to object to such deposition is fully protected under Section 1.315(b) of the Rules.³ Clearly, RBL has failed to justify an interlocutory appeal under Section 1.301(b) of the Rules.⁴

Accordingly, IT IS ORDERED, That the "Request For Certification Of Issue" filed February 26, 1996 by Rainbow Broadcasting Limited IS DISMISSED.⁵

FEDERAL COMMUNICATIONS COMMISSION


Joseph Chachkin
Administrative Law Judge

³ The issues include, inter alia, to determine whether RBC made misrepresentations of fact or was lacking in candor with respect to its financial qualifications (issue (2)). In opposing RBL's petition for reconsideration, Press asserts that the limited partners are relevant to this issue since RBC's claims concerning its financial qualifications were based on the assumed existence of limited partners. Press cites, in this regard, Exhibit 1 of RBC's application for assignment of its permit to RBL. RBC states therein that the reorganization "will permit the permittee to reduce its reliance on debt to commence construction and commence operation of a UHF television station on Channel 65, Orlando, Florida by December 1992, by restructuring to admit nonvoting equity participants." A determination of the relevance of the testimony of RBC's principals including its limited partners will be made at the appropriate time.

⁴ RBL also asserts as a basis of non-disclosure that Press has "sought to interfere with the operation of Station WRBW and the business of affairs of RBL." (RBC request p. 3). Press has denied these charges. See Opposition to petition for reconsideration filed February 12, 1996, pages 4-8. This hearing is not the proper forum to litigate these matters. In any event, all parties may be assured that any abuse of information concerning the identity of the limited partners or any other information required to be produced will not be tolerated.

⁵ On January 30, 1996, the Presiding Judge directed then counsel for RBC to supply Press with the names and addresses of all principals. (Tr. 128-129). Counsel stated she would provide such information expeditiously (Tr. 133). No further delay will be countenanced. Such information will be turned over no later than March 8, 1996.