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Before the  
Federal Communications Commission  
Washington, D.C. 20554

FCC 97 M-110  
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In re Applications of	)	
	)	
Martin W. Hoffman	)	MM Docket No. 97-128
Trustee-in-Bankruptcy for	)	
Astroline Communications Company	)	
Limited Partnership	)	
	)	
For Renewal of License of	)	File No. BRCT-881201LG
Station WHCT-TV,	)	
Hartford, Connecticut	)	
	)	
and	)	
	)	
Shurberg Broadcasting of Hartford	)	
	)	
For Construction Permit for a New	)	File No. BPCT-831202KF
Television Station to Operate on	)	
Channel 18, Hartford, Connecticut	)	
	)	

**MEMORANDUM OPINION AND ORDER**

Issued: June 18, 1997; Released: June 20, 1997

1. Under consideration are the following:

Petition for Leave to Intervene, filed May 29, 1997, by Two If By Sea Broadcasting Corporation ("TIBS");

Opposition of Shurberg Broadcasting of Hartford ("SBH") to Petition for Leave to Intervene As a Matter of Right of Two If By Sea Broadcasting Corporation, filed June 9, 1997; and

Mass Media Bureau's Comments on Petition for Leave to Intervene, filed June 9, 1997.

2. By its Memorandum Opinion and Order and Hearing Designation Order, FCC 97-146, released April 28, 1997 ("HDO"), the Commission designated for hearing the application for renewal of license of television station WHCT-TV, Channel 18, Hartford,

## Federal Communications Commission

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Connecticut. The licensee of WHCT-TV is Martin W. Hoffman, Trustee-in-Bankruptcy for Astroline Communications Company Limited Partnership ("Astroline"). The Commission authorized the involuntary assignment of the WHCT-TV license to the Trustee on May 24, 1991, after the bankruptcy of Astroline, the prior licensee, was converted from Chapter 11 to Chapter 7. TIBS and the Trustee entered into a Purchase and Assignment Agreement. The United States Bankruptcy Court, District of Connecticut (the "Bankruptcy Court"), approved the Purchase Agreement. TIBS and the Trustee filed an application for Commission consent to that assignment which was accepted for filing.

3. The Trustee's application for renewal of license, to which the instant proceeding pertains (File No. BRCT-881201LG), is subject to a competing application filed by Shurberg Broadcasting of Hartford ("SBH"). On November 3, 1993, SBH filed a petition to dismiss or deny the Trustee's applications for renewal and assignment of the license to TIBS. The HDO partially granted SBH's petition and designated the renewal application for hearing on issues pertaining to alleged misconduct by Astroline. If the Trustee's application for renewal of license is denied as a result of this proceeding, the assignment to TIBS would be foreclosed. TIBS argues that it should be allowed to intervene in this proceeding pursuant to either Section 1.223(a) or Section 1.223(b) of the Commission's Rules.

4. Section 1.223(a) of the Commission's Rules permits intervention as a matter of right to any person who qualifies as a party in interest. Case precedent has held that a definite economic interest in a licensee's viability makes an entity a party in interest. See Image Radio, Inc., 12 RR 2d 671 (ALJ 1968), aff'd 13 FCC 2d 59 (Rev. Bd. 1968); Minnesota Microwave, Inc., 1 RR 2d 928, 929 (Rev. Bd. 1964). Cf. also FCC v. Sanders Bros. Radio Station, 309 U.S. 470 (1940).

5. TIBS is the proposed assignee of the WHCT-TV license. It has entered into a Purchase Agreement to acquire the station and has directed extensive efforts towards a successful assignment. TIBS has paid more than \$90,000 for the assignment of the tower site lease and real property taxes due on the land covered by that lease. It has spent other considerable resources on efforts before the Commission and the Court of Appeals to obtain approval of the application for assignment of license. It appears that TIBS has spelled out a sufficient economic interest in the outcome in this proceeding. The fact that the HDO did not name TIBS as a party or invite it intervene is of no consequence.

6. It appears also that TIBS qualifies for intervention under Section 1.223(b). Under that provision the petitioner must show, among other things, how the petitioner's participation will assist the Commission in the determination of the issues in question. TIBS has a vested interest in defending the application for renewal and offers the promise of additional vigilance in the development of the record on which the final determination will be based.

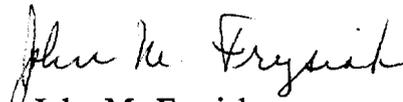
## Federal Communications Commission

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7. Additionally, TIBS notes that the Trustee in bankruptcy for Astroline is not in a position to readily explain the alleged misconduct because he is being called to answer for the alleged misconduct of another. *Cf. LaRose v. FCC*, 494 F.2d 1145 (D.C. Cir. 1974). TIBS notes further that Astroline after having gone into bankruptcy has not participated in the Commission proceedings since the Trustee was appointed in 1991. TIBS states that in the time SBH's allegations have been pending before the Commission and the Court of Appeals, Astroline has not responded to any of SBH's allegations nor has it entered an appearance in this proceeding. TIBS' involvement will help toward a full exploration of the designated renewal issues.

In light of the foregoing, IT IS ORDERED that TIBS' Petition for Leave to Intervene IS GRANTED.

FEDERAL COMMUNICATIONS COMMISSION



John M. Frysiak  
Administrative Law Judge