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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Applications of)	MM Docket No. 93-75
)	
TRINITY BROADCASTING OF)	
FLORIDA, INC.)	BRCT-911001LY
)	
For Renewal of License of)	
Television Station WHFT(TV))	
Miami, Florida)	
)	
GLENDALE BROADCASTING)	
COMPANY)	BPCT-911227KE
)	
For Construction Permit for)	
New Television Station in)	
Miami, Florida)	

To: Magalie Roman Salas, Secretary
for direct to
The Commission

CONTINGENT PETITION OF GLENDALE BROADCASTING COMPANY
FOR LIMITED RECONSIDERATION

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Broadcasting Company

May 17, 1999

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1. Glendale Broadcasting Company ("Glendale") petitions the Commission to reconsider its Decision released April 15, 1999 in the captioned proceeding denying Glendale's application. Contemporaneously with the filing of this petition, Glendale has entered into a settlement agreement under which the parties jointly request that the subject application of Glendale, among others, be dismissed with prejudice. Upon approval of that request and resulting dismissal of the subject application by final action, the instant petition will become moot. Glendale stipulates that the time for filing responsive pleadings to the instant petition may be extended to an appropriate date following action on the joint request that will be operable only if the final dismissal of the subject application does not occur.

SUMMARY

2. The facts of record show that Glendale was accurate and responsible in preparing and filing two sets of LPTV extension requests. Legal precedent cited in disqualifying Glendale for misrepresentation/lack of candor does not support the Commission's decision.

GROUND FOR RECONSIDERATION

I.

Statement of the Case

A.

3. The sole principal of Glendale is George F. Gardner, whose residence and company headquarters are located in Carlisle, Pennsylvania. With a background in engineering, Mr. Gardner is a veteran broadcaster. One of his companies, Raystay Company, was founded in 1968 to apply for a construction permit to build a new AM radio station in Waynesboro, Pennsylvania, WEEO. Raystay Company constructed the station, and owned and operated it from 1971 to 1980, also during the 1983-1984 time period. Raystay Company or Mr. Gardner also owned or had ownership interests in WTTO(AM) in Toledo, Ohio, from 1973 to 1976, and WQBE(FM), Mechanicsburg, Pennsylvania, from 1978 to 1982. Mr. Gardner was the general manager or was otherwise active in the management of WEEO, WTTO and WQBE. Initial Decision, ¶¶210, 212; Tr. 5201-02.

4. Mr. Gardner's companies have also engaged in the cable television business, primarily in central Pennsylvania, but in other areas as well. Those companies have held FCC licenses for CARS systems, business radio stations and earth stations. Cable

television systems are subject to a range of FCC, copyright and other local, state and national government regulations and oversight. Mr. Gardner is a cable industry figure, having served on the board of directors of the venerable Pennsylvania Cable Television Association. ID ¶¶210-211, 215.

5. For more than 25 years dating back to 1968, Mr. Gardner and his companies have been represented in communications matters before the Commission by the firm, Cohen & Berfield, Esquires, principally by Mr. Cohen, until their retirement in 1996. ID ¶272, n. 37.

6. In this hard-fought proceeding, it is fair to say that Mr. Gardner's communications interests and activities have been investigated thoroughly; certainly, that is reflected in the cross examination of Mr. Gardner by Mr. Emmons on behalf of Trinity and by Mr. Shook on behalf of the Mass Media Bureau. Tr. 5195-5310, 5310-5338. And yet, the entire sum and substance of that investigation covering a period of ownership and operation of highly regulated telecommunications businesses for more than two decades, through motions, discovery and hearing proofs, has led to a single matter of any decisional concern. This consists of two six-month extensions of time to complete LPTV construction, followed by turning the CP's in for cancellation when construction plans did not pan out. And when the record in that single matter is fairly evaluated, Mr. Gardner and his companies deserve the clean bill of health adjudicated by Chief Judge Chachkin.

B.

7. Indeed, in our view, the record of Mr. Gardner and Raystay Company in the LPTV television field could well merit a commendation from the Low Power Television Branch and anyone else who is interested in the success of the agency's low power television program. In 1984, Raystay Company filed an application for construction permit to build a new, single, stand-alone low power television station to operate on channel 40, licensed to the small community of Dillsburg, Pennsylvania. The LPTV station commenced operation in 1988. The station has not operated at a profit, to say the least. As of 1992, nearly \$800,000 had been invested in the station for construction and subsidizing losing operations. ID ¶231; TBF Exh. 256. The dollar figure may still be mounting, as the Dillsburg LPTV station remains on the air, more than a decade after it commenced operation.

8. Mr. Gardner conceived the idea of developing a regional cluster of low power television stations that could be operated in conjunction with channel 40. In March 1989, applications were filed for five LPTV construction permits in south central Pennsylvania, two at Lancaster (to operate from the same tower while serving different areas), two at Lebanon (also to operate from the same tower while serving different areas) and one at Red Lion, Pennsylvania.¹ ID ¶216. In approving the applications,

¹ The Red Lion facility was not essential to the plan, and the construction permit ultimately was assigned to another party for reimbursement of expenses. A hearing issue regarding the

the Commission reviewed a showing regarding Mr. Gardner's qualifications that was submitted in light of a Review Board decision in the RKO Fort Lauderdale FM comparative proceeding. TBF Exhs. 258-260.

9. Mr. Gardner had proposed "integration" of ownership and management of the Fort Lauderdale FM station under the comparative criteria then in vogue. Mr. Gardner also proposed to divest his cable holdings and interest in the Mechanicsburg FM station in order to avoid a "diversity" demerit, often a corollary to proposing "integration" in comparative proceedings. Mr. Gardner's intention was, and the legal documents prepared by local counsel were to the effect, that his investments would be placed in a trust, in which he and his wife reserved extensive benefits and powers, and he would continue as a director and President of the companies in question. A majority of the Review Board disqualified the applicant (Adwave Company) relative to this divestiture proposal under a misrepresentation/lack of candor issue. RKO General, Inc. (WAXY-FM), 4 FCC Rcd. 4679 (1989). Board Member Blumenthal dissented with considerable emphasis, stating: "On Adwave's disqualification, which unjustly stigmatizes its president, George F. Gardner, a thoroughly forthright man, I respectfully dissent." 4 FCC Rcd. at 4697. Board Member Blumenthal found that Mr. Gardner had candidly disclosed the full terms of the trust arrangements in his

accuracy of the amount of those expenses (\$10,498) was resolved in Glendale's favor by Judge Chachkin and no party filed exceptions to that ruling.

deposition and hearing testimony and concluded: "I hope the majority's error, so long as it remains uncorrected, does not encourage evasiveness and paltering by other applicants, who might perceive this injudicious disqualification as the exorbitant wages of simple truth." 4 FCC Rcd. 4698.

10. In subsequently approving a settlement of the Fort Lauderdale FM proceeding, the Commission stated:

...we will afford Gardner and Reardon the opportunity to submit a showing of good character in connection with any application for a new station. If, in their showing, the applicants make an affirmative demonstration of rehabilitation and establish that they then possess good character, we would regard such a showing as favorably resolving our concerns about the alleged misconduct. At minimum, the submission should demonstrate that: (1) the applicant has not been involved in any significant wrongdoing since the alleged broadcast-related misconduct occurred; (2) the applicant enjoys a reputation of good character; and (3) the applicant intends to undertake meaningful measures to prevent the future occurrence of FCC-related misconduct. ...[case citations]...Of course, there should be no occurrence of misconduct in connection with the new application. The applicants' submissions will be subject to scrutiny by the Mass Media Bureau, which may make further inquiries if deemed necessary. Moreover, any persons with adverse information about the applicants may submit this to the Commission.

5 FCC Rcd. 642, 644 (1990).

11. The Commission's grant of the five LPTV construction permits, following review and acceptance by the Mass Media Bureau of the applicant's showing as required in the passage quoted above, was made in July 1990 for a period ending in January 1992. The ensuing time line is this. The first set of extension applications was filed in December 1991 and was granted for a six-month period expiring in July 1992. The second set of extension applications was filed in June 1992 and was granted

for a six-month period expiring in March 1993. By that time, the plans for construction still had not materialized and the CP's were submitted to the Commission for cancellation. The overall time the construction permits were outstanding (July 1990-March 1993) was less than three years.

C.

12. Raystay's applications for the LPTV stations were serious applications. Mr. Etsell, an executive in the organization, prepared a business plan. This plan projected coverage of the Lancaster, Lebanon and York areas, covering 340,000 homes including 240,000 cable subscribers. It identified prospective cable systems for carriage of the stations including the Lenfest Group, Susquehanna Broadcasting, Sammons and Warner, as well as Raystay. The stations could be operated individually, simultaneously as a network, or a combination thereof. The programming would include an alternative to the current movies then available on cable, such as Nostalgia and American Movie Classics, as well as local originations. The plan, prepared in February 1991, projected commencement of operations by the end of the year. TBF Exh. 210.

13. There were detailed budgets aggregating \$250,000 for the two facilities to be built in Lancaster, \$215,000 for the two facilities to be built in Lebanon, \$135,000 for the facility to be built in Red Lion, and \$75,000 for a studio, serving the system, to be located at the Lancaster facilities. The total projected cost was \$675,000. TBF Exh. 211.

14. With regard to the transmitter sites, the initial contacts and arrangements for the proposed use of the sites were made by Greg Daly of Telesat Company, a specialist in that field, retained by Raystay Company. ID ¶217. Subsequently, Mr. Gardner's son, David Gardner, employed by Raystay Company, spoke briefly with representatives of the site owners, verifying their continued availability. ID ¶¶236-237. David Gardner also visited the Lebanon and Lancaster site locations on two occasions, in the latter part of 1990 and again in the latter part of 1991. In Lebanon, this was to be a rooftop tower on one of the highest buildings in the community. He examined the quarters to be used to house the two transmitters and STL receiver, and the electrical supply facilities available to that location. In Lancaster, the site was an industrial area and his visits were to observe possible locations on that site for the tower. He first inspected the site on his own, and then for a second time, after a contract engineer (retained by Trinity who was considering acquiring the CP) expressed concern about the dust level and the strength of existing structures to support a rooftop antenna. The Red Lion site was already owned by Raystay Company. Glendale Exh. 209, pages 5-6; Tr. 4770-4807, 4889-4896.

15. With respect to the acquisition of equipment, George Gardner and his son, David, had contacts with Jaymar, a company that made solid state transmitters of particular interest to George, two other transmitter manufacturers, suppliers of studio and origination equipment, suppliers of remote control equipment,

an antenna manufacturer (Bogner), tower suppliers and wire suppliers (Andrew). Both attended LPTV conventions and reviewed the latest equipment offerings there, in addition to their individual contacts. ID ¶¶233-235.

16. With respect to enlisting carriage of the LPTV stations by cable systems, Messrs. George Gardner, David Gardner and Etsell had contacts with the board of directors of Cable Adnet, consisting of the major cable companies in the area; Doug Keppler, the President of Cable Adnet; John Scott of ATC, which operated cable systems in Lebanon, Reading and other small systems in the area; Harry Brooks of Suburban Cable, which operated systems in Lancaster and Chester County; Jim Munchel of Susquehanna Broadcasting; Hank Lockheart of Sammons Communications; and Ron Amick of the Elizabethtown/Marietta cable system in the Lancaster area. ID ¶¶-221, 243-246.

17. With respect to variations in the programming concepts for LPTV operation, Messrs. George Gardner, David Gardner and Etsell had contacts regarding and considered the Video Jukebox Network (found to involve the purchase of equipment that was not affordable), home shopping, news services and forming a joint venture with cable operators to purchase programming and package it to other LPTV stations as well as Raystay's regional LPTV group operation. ID ¶¶-241-242.

18. In addition to the regional LPTV group operation, Raystay Company gave consideration to the lease or sale of channel 40 and the related LPTV group package. At one point, an

LMA-style agreement was reached with Quality Family Companies, but was never activated because the prospective lessee/programmer did not fulfill its initial obligations and the agreement was terminated by Raystay Company. Raystay did not actively seek out prospective purchasers of channel 40 and the permits, but considered offers or expressions of interest initiated by others. This included Trinity, although the price for channel 40 could not be agreed upon, and Raystay broke off negotiations in light of its plans to challenge Trinity's license renewal applications. As indicated earlier, the Red Lion permit was sold for expenses. ID ¶¶246, 256-261.

D.

19. The system for preparation, review, signature and filing FCC applications to provide for accurate and responsible filings was this. George Gardner's son, David, was the liaison with communications counsel for all such filings. The applications were prepared by counsel working in concert with David Gardner. David's work was reviewed by Lee Sandifer, the Chief Operating Officer of Raystay Company. As Chief Operating Officer, Mr. Sandifer was David's supervisor and reported directly to George Gardner. And, George Gardner read the applications thus presented to him for signature, in reliance on the advance preparatory work but also for consistency with his own knowledge. ID ¶¶212, 214, 227-228.

20. Although one wouldn't know it from reading the Commission's Decision to which this petition is addressed, the

system worked. The text of the exhibit, identically filed with each of the two sets of extension applications, is reproduced in the Initial Decision at ¶230. With due allowance for brevity and human imprecision, that exhibit is a reasonable and accurate statement reflecting the facts and circumstances summarized above as relevant to the Commission's interests in processing extension requests. Judge Chachkin, who had the opportunity to observe George Gardner, David Gardner and Mr. Sandifer as they gave testimony about the matter, so determined in detailed findings of fact, ID ¶¶210-263, with reasoned analysis in detailed conclusions of law, ID ¶¶335-350. These findings and conclusions stand in marked contrast with the highly selective bits and pieces of the cold record relied on in the Commission's Decision, to which we now turn our attention.

II.

The Decision's Conversion of Good Faith Responsible Behavior into Disqualifying Misconduct is Contrary to the Record, Irrational, Arbitrary and Capricious

A.

21. The Commission's regulation then in effect, the former 47 C.F.R. §73.3534(b), provided three grounds for extending a construction permit. One was to complete construction and be in the posture of testing the facility preparatory for filing the application for license. The second was to demonstrate substantial progress in construction, such as, that equipment had been ordered or was on hand, the site had been acquired, the site was being cleared and construction was proceeding toward completion. The third was to show that progress had been delayed

due to circumstances beyond the control of the permittee, such as a zoning problem, as to which the permittee had taken all steps to expeditiously resolve the problem.

22. The subject exhibit filed with both sets of applications did not purport to comply with any of these grounds for extension, yet the Commission granted them. The Decision, at ¶¶117-118, makes clear that the agency doesn't know why this happened nor does it accept responsibility for that action; rather, it attacks the applicant for the Commission's perception of inaccuracy of the information that was provided in the exhibit. As will be shown, that perception is in error. However, the Decision misses the point.

23. If Mr. Gardner and Raystay intended to deceive the Commission in these applications, they would have contrived some ground for the extension. Lord knows, the Commission has had experience with that, e.g., an illusory order for the purchase of equipment that is not binding or supported by any earnest money, a statement that the equipment has been shipped or promised by a given date, when a subsequent extension application shows that no such delivery took place, etc. etc. etc., leading to folklore that some extension applications must be subjected to the "smell test." Recently, the rule itself was abolished in favor of an automatic forfeiture of the permit if the license application is not filed within a period of three years. 1998 Biennial Regulatory Review - Streamlining of Mass Media Applications, Rules, and Processes, slip opinion FCC 98-281, released November

25, 1998.

24. Mr. Gardner and Raystay Company were in the "preparation and planning" stage of their proposed use of the construction permits, and that's what they told the Commission in the application exhibits, nothing less and nothing more. If the Commission had enforced its regulation, the extension applications would have been denied. As Board Member Blumenthal said in the Adwave decision, this would have been the "wages of simple truth." Mr. Gardner, communications counsel and Raystay executives responsible for drafting and reviewing the exhibits, were willing to tell that truth and be prepared for the consequences, rather than phoney up an exhibit in order to purport to show a recognized ground for grant.

B.

25. The Decision's focus, at ¶119, on the phrase "entered into lease negotiations" as applied to brief telephone calls to verify the continued availability of the proposed transmitter sites, is a quibble. It was crystal clear that this choice of language did not denote any claim that the transmitter sites had "been acquired" within the meaning of the Commission's regulation. These words were developed and/or approved by David Gardner, communications counsel and Mr. Sandifer, Raystay's Chief Operating Officer. From George Gardner's perspective, this subject fell doubly within the knowledge and purview of his son, David, who not only was the liaison with communications counsel but also was Raystay Company's contracting officer.

C.

26. The Decision, at ¶119, finds that coupling - in a single tersely worded sentence - David Gardner's visits to the transmitter sites and a visit by a contract engineer hired by Trinity in conjunction with negotiations for the acquisition of channel 40 and the permits, to be deceiving. Who is the Commission kidding? The reference to David Gardner was "a representative of Raystay" and the sentence pointedly did not refer to the engineer as "a representative of Raystay." The sentence does not denote that they traveled there together. Besides, what difference does it make who hired the contract engineer? The information gained by the engineer was imparted to David Gardner and was important to the applicant's preparation and planning, i.e., the opinion of the engineer confirmed that one of the sites was suitable and alerted David Gardner that the other site posed potential problems regarding dust and the availability of a structure strong enough for a rooftop installation, causing him to return for a second inspection.

D.

27. The Decision's criticism, at ¶121, of the reference in the extension exhibits - to the absence of mutually exclusive applications as evidence of a lack of interest by others in "providing this service" - also is a quibble. When Raystay set about to file the applications, there was unused spectrum from which five channels could be found in a relatively small area. In fact, no competing applications had been filed. Although

Trinity and others expressed interest in acquiring channel 40 and the permits, none offered acceptable consideration for channel 40 and no transactions materialized. Raystay's belief that its proposed service using the five channels was unique and not available from any other party was a reasonable belief. That belief has since been proven accurate in practice. The Commission's records show that, while the Red Lion LPTV facility was activated as a York station by Raystay's assignee, none of the other channels has ever been activated in the region for which Raystay filed its applications. Official notice requested; research memorandum attached as the Appendix.²

E.

28. The Decision's holding, at ¶¶120, 122-125, that efforts to achieve cable carriage ended nine months before the first extension applications were filed and from that point on, George Gardner knew he wasn't ever going to build the LPTV stations, is dead wrong. The Commission relies on deposition testimony of Mr. Etsell that his role in talks with cable companies ended nine months before the first extension application and parenthetically dismisses as not worthy of belief the hearing testimony of George and David Gardner regarding their continuing activities talking with cable operators regarding the plan. The Commission relies

² As reflected in the Appendix, Raystay assigned channel 56 and the York station was initially licensed as W56CJ. Subsequently, the York station changed to another of the channels that Raystay had applied for, i.e., channel 23, and has since been licensed to York as W23AY; however, an application was thereafter filed to use channel 56 at Chambersburg, outside the area.

on testimony by George Gardner that he would not build the LPTV stations without a viable business plan, but disregards the essential companion testimony by George Gardner that he never gave up on developing a viable business plan. Judge Chachkin, who had the opportunity to observe the hearing testimony of George (and David) Gardner and measure their demeanor, gave their testimony full credit, ID ¶¶244-245, and concluded: "It is...clear that prior to turning in the permits, Raystay and George Garner never abandoned the intent to build the stations. Raystay was still developing a plan to put the stations on the air in October 1992." ID ¶ 344.

29. Whatever conceivable motive did George Gardner have to seek extensions of the permits if he had given up on his plan? He wasn't "warehousing" valuable frequencies for future reference in order to keep them from competitors. Frequencies were available for the asking. He couldn't sell the frequencies for a profit, and his Chief Operating Officer testified that reimbursement of expenses wasn't worth the administrative effort and cost.

30. George Gardner is a businessman who has built and operated new radio stations and has developed a substantial cable television operation. He was willing to invest upwards of one million dollars in the operation of a single low power television station in Dillsburg. He had a vision of expanding that to a six LPTV station network, with cable carriage, that might also package programming for other LPTV stations as well. He was

committed to invest \$650,000 to construct the five additional LPTV stations and a program origination center. While he was frustrated in his efforts to develop a program structure that would enlist cable carriage, he didn't give up on the plan.

31. And, he never misled the Commission. He never depicted the project as going beyond the "preparation and planning" stage. When two extensions were granted on that basis, he continued with efforts to bring the project about. When the Commission told him there would be no more extensions, and the project still had not developed, he returned the permits.

III.

Legal Precedent Relied on in the Decision Does Not Remotely Support its Disqualification Ruling Based on the Facts and Circumstances Here

32. None of the cases relied on by the Commission remotely supports disqualification for this good faith and responsible conduct:

33. In KOED, Inc. 3 FCC Rcd. 2821 (Rev.Bd. 1988), 5 FCC Rcd. 1784 (1990), 6 FCC Rcd. 625 (1991), Decision at ¶117, the licensee of two public television stations in the San Francisco market operated one of the stations, while the second station was off the air for a period of years. Another noncommercial party sought to obtain the license of the silent station as an independent public television voice in the market. The incumbent licensee fought this, repeatedly telling the Commission over an extended period of time that the problem was with the station's equipment, when, in truth, the problem was lack of funds for operation. For this, it was disqualified and lost the second

station license.

34. In WHW Enterprises, Inc., 753 F.2d 1132 (D.C.Cir. 1985), Decision at ¶127, the Court of Appeals reversed the Commission for condoning the testimony of a party who claimed that he owned property which he clearly didn't, and whose explanations of the claim were patently false. The court cited a number of FCC cases establishing misrepresentation and lack of candor case law pertaining to licensees and applicants for broadcast licenses.

35. RKO General, Inc. v. FCC, 670 215 (D.C.Cir. 1981, cert. denied, 456 U.S. 927 (1982)), cited in the WHW opinion, was the quintessential holding that - the systematic failure to report that allegations against the licensee's parent company were supported by substantial evidence, failure to report that the Securities and Exchange Commission had initiated an investigation of the parent company and failure to concede that it had inaccurately reported trade and barter revenues - warranted disqualification proceedings that ultimately led to loss of an entire chain of radio licenses.

36. In Nick J. Chaconas, 228 FCC2d 231 (1971), cited in the WHW opinion, there were misrepresentations and uncandid statements regarding many, many technical violations over extended periods of time, resulting in denial of renewal of license.

37. In FCC v. WOKO, 329 U.S. 223 (1946), cited in the WHW opinion, a license was denied for deliberate failure to report a 25% ownership interest over a period of ten years.

38. In WMOZ, Inc., 36 FCC 202 (1964), cited in the WHW opinion, a broadcast license was denied for, among other reasons, deliberately falsifying composite week program logs filed with a license renewal application.

39. In Coastal Bend Family Television, Inc., 94 FCC2d 648 (Rev.Bd. 1982), cited in the WHW opinion, as in the WHW case, a party was disqualified for claiming ownership of land which it didn't own.

40. In Fox River Broadcasting, Inc., 88 FCC2d 1143 (Rev.Bd. 1982), in the WHW opinion the citation is to a Review Board holding that, on the facts (whether parties were prospective employees legitimizing their ascertainment activities), a misstatement in the hearing was found not deliberate and accordingly not disqualifying. Subsequently, the full Commission affirmed on the facts, although modifying the Board's discussion of the nature of "lack of candor." 53 R.R.2d 45 (1983).

41. Character Qualifications, 102 FCC2d 1179, 1211 (¶61), 1227-28 (¶102), Decision at ¶127, states Commission policy regarding concern over misrepresentation and lack of candor by broadcast licensees in general terms that are not specifically useful here.

42. In Mid-Ohio Communications, Inc., 5 FCC Rcd. 940 (1990), Decision at ¶127, a license renewal was denied for a long standing course of conduct of falsehoods and concealments claiming full time employment at a radio station while spending extensive time at a family-owned automobile dealership located

120 miles distant.

CONCLUSION

43. For the foregoing reasons, the Decision's disqualificaton of Glendale should be reconsidered and reversed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gene A. Bechtel", is written over a horizontal line.

Gene A. Bechtel

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Counsel for Glendale
Broadcasting Company

May 17, 1999

APPENDIX

Declaration of Martin Tansey

Martin Tansey declares under penalty of perjury that the following statements are true and correct to his best knowledge and belief:

1. I am a legal assistant at Bechtel & Cole, Chartered, Washington, D.C.

2. On May 14, 1999, I inspected the FCC public files for low power television stations, television translator stations and pending applications for such stations in the State of Pennsylvania on channels 23, 31, 38, 55 and 56.

3. Attached as Item A a license for W23AY, York, Pennsylvania, issued to Grosat Broadcasting, Inc. and an assignment to Wireless Cable TV of Pennsylvania, Inc. A previous call sign, W56CJ, reflects the use of channel 56 in or about 1990. York is close to Red Lion, Pennsylvania.

4. Attached as Item B is a letter filing an application for a new station on channel 56 at Chambersburg, Pennsylvania. This application was filed in 1994 (BPTTL-940415E1) and is still pending. Chambersburg is located approximately 45 miles west of York and a further distance west of Lancaster and Lebanon, Pennsylvania.

5. There is pending before the Commission an application by W63CO, Philadelphia, Pennsylvania, to use channel 38 as a "replacement" for channel 63, which is to be displaced in the digital table of allotments; the records also reflect that channel 38 was licensed to this station previously as well, using the call sign W38BR.

6. Channel 55 is licensed to W55AG, Williamsport, Pennsylvania, in the northwest part of the state, and has been licensed there since at least the 1970's.

7. Channel 56 is licensed to W56AQ, Waymart, Pennsylvania, northeast of Scranton, W56CG, Greensburg, Pennsylvania, near Pittsburgh, and W56CL, New Castle, Pennsylvania, along the Ohio border.

8. I found no Pennsylvania listings for channel 31.

9. Accordingly, channel 56 was licensed to York, then changed to channel 23, and an application is pending for the use of channel 56 at Chambersburg. All other uses of the channels are some distances away from the south central Pennsylvania area.

May 14, 1999



Martin Tansey

ITEM A

FEDERAL COMMUNICATIONS COMMISSION



LOW POWER TELEVISION / TELEVISION TRANSLATOR
BROADCAST STATION LICENSE

Official Mailing Address:

GROSAT BROADCASTING, INC.
1902 WOODLAND ROAD
YORK, PA 17403

Authorizing Official:

KAL

Keith A. Larson
Chief, LPTV Branch
Video Services Division
Mass Media Bureau

Grant Date: *9-28-92*

Call sign: W23AY

This license expires 3:00 am.
local time: June 01, 1993

License File No.: BLTTL-920803JO

This license covers Permit No.: 920113JC

Subject to the provisions of the Communications Act of 1934, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions set forth in this license, the licensee is hereby authorized to use and operate the radio transmitting apparatus herein described.

This license is issued on the licensee's representation that the statements contained in licensee's application are true and that the undertakings therein contained so far as they are consistent herewith, will be carried out in good faith. The licensee shall, during the term of this license, render such broadcasting service as will serve the public interest, convenience, or necessity to the full extent of the privileges herein conferred.

This license shall not vest in the licensee any right to operate the station nor any right in the use of the frequency designated in the license beyond the term hereof, nor in any other manner than authorized herein. Neither the license nor the right granted hereunder shall be assigned or otherwise transferred in violation of the Communications Act of 1934. This license is subject to the right of use or control by the Government of the United States conferred by Section 606 of the Communications Act of 1934.

Name of Licensee:

GROSAT BROADCASTING, INC.

Station Location:

PA-YORK

*R38
9-25-92*

Frequency (MHz): 524.0 - 530.0 Offset: Plus

Channel: 23

Hours of Operation: Unlimited

Transmitter location (address or description):

NORTH SIDE OF SR 74, 0.38 KILOMETERS WEST OF HOLLYWOOD
DRIVE, YORK, PA

Transmitter: Type accepted. See Section 74.750 of the Commission's Rules.

Antenna type: (directional or non-directional): Directional

Desc: ANDREW, ALP4L1-HSMR SIDE-MOUNTED ON 55 METER TOWER

Major lobe directions (degrees true): 270.0

Antenna coordinates: North Latitude: 39 56 30.0
West Longitude: 76 41 55.0

Transmitter output power (Visual) : 1.000 kW

Maximum effective radiated power (Visual) : 8.57 kW

Height of radiation center above ground : 54.0 Meters

Height of radiation center above mean sea level : 261.0 Meters

Overall height of antenna structure above ground (including obstruction
lighting, if any) : 55.0 meters

Obstruction marking and lighting specifications for antenna
structure:

It is to be expressly understood that the issuance of these specifications
is in no way to be considered as precluding additional or modified marking
or lighting as may hereafter be required under the provisions of Section
303(q) of the Communications Act of 1934, as amended.

None Required

UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

File No.(s): BALTTL-950510IC

Class of station(s): LPTV

<input checked="" type="checkbox"/> CONSENT TO ASSIGNMENT: <input type="checkbox"/> CONSENT TO TRANSFER CONTROL: <input type="checkbox"/> CONSENT TO TRANSFER STOCK: Whereby of Control by is affected.	FROM GROSAT BROADCASTING, INC.
	TO WIRELESS CABLE TV OF PENNSYLVANIA, INC.
Licensee/Permittee: (for transfer only)	

CALL SIGN(s)

W23AY

STATION LOCATION(s)

YORK, PA

AUXILIARY STATION(s) (for assignments only)

Under authority of the Communications Act of 1934, as amended, the consent of the Federal Communications Commission is hereby granted to the transaction indicated above.

The Commission's consent to the above is based on the representations made by the applicants that the statements contained in, or made in connection with, the application are true and that the undertakings of the parties upon which this transaction is authorized will be carried out in good faith.

The actual consummation of voluntary transactions shall be completed within 60 days from the date hereof, and notice in letter form thereof shall promptly be furnished the Commission by the buyer showing the date the acts necessary to effect the transaction were completed. Upon furnishing the Commission with such written notice, this transaction will be considered completed for all purposes related to the above described station(s).

ADDITIONAL REQUIREMENTS FOR ASSIGNMENTS ONLY:

Upon consummation the assignor must deliver the permit/license, including any modifications thereof to the assignee.

It is hereby directed that, upon consummation, a copy of this consent be posted with the station authorization(s) as required by the Commission's Rules and Regulations.

The assignee is not authorized to construct nor operate said station(s) unless and until notification of consummation in letter form has been forwarded to the Commission.

Dated: JULY 21, 1995

bdj

JUL 21 1995

FEDERAL
COMMUNICATIONS
COMMISSION



FCC 732
March 1983

ITEM B

LAW OFFICES

MULLIN, RHYNE, EMMONS AND TOPEL
PROFESSIONAL CORPORATION

1000 CONNECTICUT AVENUE - SUITE 500
WASHINGTON, D. C. 20036-5383

(202) 659-4700 TELECOPIER (202) 872-0604

DUPLICATE

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CHRISTOPHER A. HOLT
ANDREW H. WEISSMAN
LATRICE KIRKLAND**

J. PARKER CONNOR
OF COUNSEL
**IL BAR ONLY

April 14, 1994

HAND DELIVERED

Mr. William F. Caton, Acting Secretary
Federal Communications Commission
Low Power Television Window Filing
c/o Mellon Bank
Three Mellon Bank Center
525 William Penn Way
Pittsburgh, PA 15259

Attn: Wholesale Lockbox Shift Supervisor

Re: Technocable and Management, Inc.
LPTV Application
Channel 56, Chambersburg, Pennsylvania

Dear Mr. Caton:

Enclosed herewith for filing with the Commission are the original and two copies of a Form 346 application of Technocable and Management, Inc., for a new LPTV station to operate on Channel 56 in Chambersburg, Pennsylvania.

Also enclosed is a check in the amount of \$425.00, payable to the Federal Communications Commission, to cover the filing fee for this application.

Please date stamp the extra copy of the application and return it in the enclosed self-addressed, stamped envelope.

If there are any questions concerning this application, please contact the undersigned counsel for Technocable and Management, Inc.

Sincerely,



Robert E. Levine

REL/jt
Enclosures

CERTIFICATE OF SERVICE

I that on this 17th day of May, 1999, copies of the foregoing CONTINGENT PETITION OF GLENDALE BROADCASTING COMPANY FOR LIMITED RECONSIDERATION were hand delivered to the offices of the following at the Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554:

John I. Riffer, Esq.
Assistant General Counsel - Administrative Law

Norman Goldstein, Chief
Complaints/Political Programming Branch
Mass Media Bureau

James Shook, Esq.
Mass Media Bureau

I further certify that on the same date, copies were sent to the offices of the following by prepaid, first class, United States mail:

David E. Honig, Esq.
3636 16th Street, N.W., Suite B-366
Washington, D.C. 20010

Kathryn R. Schmeltzer, Esq.
Fisher, Wayland, Cooper,
Leader and Zaragoza, L.L.P.
2001 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Colby M. May, Esq.
1000 Thomas Jefferson Street, N.W.
Washington, D.C. 20007



Gene A. Bechtel