

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

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In re Applications of	)	MM Docket No. 89-153
READING BROADCASTING, INC.	)	File No. BRCT-940407KI
	)	
For Renewal of License of	)	
Station WTVE (TV), Channel 51	)	
Reading, Pennsylvania	)	
	)	
and	)	
	)	
ADAMS COMMUNICATIONS CORPORATION	)	File No. BPCT-940630KG
	)	
For Construction Permit for a New	)	
Television Station to Operate on	)	
Channel 51, Reading, Pennsylvania	)	

To: Magalie Roman Salas, Secretary  
for direction to  
The Honorable Richard L. Sippel  
Administrative Law Judge

PRETRIAL BRIEF OF  
ADAMS COMMUNICATIONS CORPORATION

I.  
Renewal Expectancy

1. It is anticipated that the overall record will reflect that throughout the license term, Reading Broadcasting, Inc. ("RBI") failed to televise local news for its community of license. E.g., RBI Hearing Exhibit 8 and Appendices A-B for identification; Adams Hearing Exhibit 2, Appendix A, Attachment 2 for identification. While Commission policy allows licensees to take into account the non-entertainment programming of other television broadcast stations, Deregulation of Commercial Television, 56 R.R.2d 1005, 1018-19 (1984), it was neither

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reasonable nor did it constitute substantial service that the only television station licensed to Reading failed -- over the entire five-year license term -- to broadcast local news for its licensed community, in abdicated reliance on the non-localized news provided by Philadelphia television broadcast stations or stations located in Allentown or York.<sup>1</sup>

2. It is anticipated that the overall record will reflect that throughout the license term, RBI did not produce any local public affairs programs for an extended discussion of issues of concern to Reading, i.e., none longer than occasional brief inserts on the breaks of Home Shopping Network or syndicated programs. E.g., RBI Hearing Exhibit 8 for identification; Adams Hearing Exhibit 2, Appendix A, Attachment 1 for identification. Moreover, the only public affairs programs of conventional length aired during the entire license term were "canned" reports produced in Harrisburg by Reading state legislators. Id. Given the Commission's license renewal expectancy focus on "issue-related" programming, Deregulation of Commercial Television, supra, 56 R.R.2d at 1020, this record regarding failure to produce public affairs programs and sole reliance on programs produced by others was neither reasonable nor did it constitute

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<sup>1</sup> In contrast to RBI, the Home Shopping Network group operator, Silver King Broadcasting Company telecast a three to four-and-one-half minute program every hour except Sunday mornings that was qualified as a bona fide news program and also televised local election news. Implementation of Section 4(g) of the Cable Television Consumer Protection and Competition Act of 1992, Home Shopping Issues, 8 FCC Rcd. 5321, 5327 (1993) ("Home Shopping Network Issues"); Silver King Broadcasting Company, 3 FCC Rcd. 2819 (1988).

substantial service to Reading. Committee for Community Access v. FCC, 737 F.2d XX, 76 (D.C.Cir. 1984); Harriscope of Chicago, Inc., 5 FCC Rcd. 6383 (1990); compare, Radio Station WABZ, Inc. 90 F.C.C. 2d 818 (1982), aff'd sub nom. Victor Broadcasting v. FCC, 772 F.2d 756 (D.C.Cir. 1983) (renewal expectancy granted in reliance on daily 30-minute local public affairs radio program).

3. It is anticipated that the overall record will reflect that during the license term, RBI failed to televise any "local live programs" from its studios. This was a deliberate choice (e.g., direct testimony of Mr. Kase in RBI Hearing Exhibit 7 for identification) although the record, including minutes of meetings of the stockholders of RBI, will show that this licensee decision resulted in failures to cover severe weather conditions and emergencies, an important element of substantial service. Home Shopping Network Issues, supra, 8 FCC Rcd. at 31. RBI's record regarding failure to telecast any local live programs over the entire license term was neither reasonable nor did it constitute substantial service to Reading. Committee on Community Access, supra; Harriscope of Chicago, Inc., supra.

4. It is anticipated that the overall record will reflect that during the entire license term, RBI employed "production" facilities to produce only approximately a half-dozen programs of five minutes in length or greater on any subject. E.g., RBI Hearing Exhibit 8 for identification; Adams Hearing Exhibit 2, Appendix A, Attachment 1 for identification. None was issue-related programming for the community of Reading. These

consisted of several gospel music programs featuring an employee of the station aired on Christmas Day, a Christmas parade in West Reading, a documentary regarding the Vietnam Veterans Memorial in Reading, and a publicity piece for a historical attraction, the Switchback Gravity Railroad, for which RBI received commercial considerations. The record regarding RBI's production and telecast of this handful of programs of conventional length during the entire license term was neither reasonable nor did it constitute substantial service to Reading.

5. It is anticipated that the overall record will reflect that RBI relied virtually exclusively on programming received from the Home Shopping Network and from syndicators or other outside sources, and limited its own material to public service announcements and other brief segments that fit into the breaks of the network and syndicated programs. E.g., RBI Hearing Exhibit 8 and Appendices A-B for identification; Adams Exhibit 2, Appendix A, Attachments 1 and 2 for identification. While some credit may be given for such material, broadcast licensees must also make provision for lengthy discussions of issue-related subjects and cannot rely exclusively on such matter, e.g., Public Service Announcements, 48 R.R.2d 563, 581 (1980), and it was neither reasonable nor a substantial service to Reading for RBI to do so.

6. It is anticipated that the overall record will show that the prolix quarterly reports and ascertainment rhetoric (RBI Hearing Exhibit 8, Appendices C-X for identification) cannot

dispel the record facts summarized above and do not afford any presumption of substantial service or, even if they did, that presumption is rebutted. Formulation of Policies and Rules Relating to Broadcast Renewal Applicants, 3 FCC Rcd. 5179 (1988); Normandy Broadcasting Corp., 8 FCC Rcd. 1 (Judge Sippel 1992).

7. It is anticipated that the overall record will show that the bankruptcy of RBI was no excuse for its failure to provide substantial service; that RBI's local program service (including the deliberate shutting down of the studios from live broadcasts) was just as deficient after RBI came out of bankruptcy as it was during bankruptcy.

## II. Comparative Coverage

8. Given the zoning impasse with regard to RBI's long-stalled construction permit for modified facilities (direct testimony of Mr. Parker in RBI Hearing Exhibit 5 for identification at page 3), it is appropriate to compare RBI's licensed facilities with those proposed by Adams.

## III. Other Comparative Factors

9. It is anticipated that the overall record will show that the local residence, civic activity and past broadcast experience of RBI stockholders (RBI Hearing Exhibits 2 and 3 for identification) merits disapproval. The proof of the pudding is in the eating. Said local residence, civic activity and past broadcast experience served to compile the subject broadcast

record that is unworthy of any license renewal expectancy.

Respectfully submitted,



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Gene A. Bechtel



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December 20, 1999

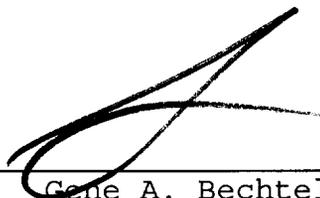
CERTIFICATE OF SERVICE

I certify that I have this 20th day of December 1999 caused copies of the foregoing PRETRIAL BRIEF OF ADAMS COMMUNICATIONS CORPORATION to be hand delivered to the offices of the following:

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