

Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In re Applications of)
READING BROADCASTING, INC.)
For Renewal of License of Station)
WTVE(TV), Channel 51,)
Reading, Pennsylvania,)
and)
ADAMS COMMUNICATIONS)
CORPORATION)
For Construction Permit for a)
New Television Station on)
Channel 51, Reading,)
Pennsylvania)

MM Docket No. 99-153

File No. BRCT-940407KF

RECEIVED

MAY 21 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

File No. BPCT-940630KG

To: The Commission

PETITION TO INTERVENE AS A PARTY

Micheal L. Parker, by his undersigned counsel, and pursuant to Section 1.223(c) of the Commission's rules, 47 C.F.R. § 1.223(c) (2000), hereby petitions the Commission for leave to intervene as a party in the above captioned proceeding. As the following discussion evidences, such party status is absolutely essential to enable Mr. Parker to defend himself fully against the demonstrably erroneous findings and conclusions advanced by the ALJ in his *Initial Decision* ("*Decision*") relative to Mr. Parker's character and his qualifications to be a Commission licensee.¹

¹ *In re Applications of Reading Broadcasting, Inc. For Renewal of License of Station WTVE(TV), Channel 51, Reading, Pennsylvania, and Adams Communications Corporation, For Construction Permit for a New Television Station on Channel 51, Reading, Pennsylvania, FCC 01D-01, released April 5, 2001 (Initial Decision in MM Docket No. 99-*

List A B C D E

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Most immediately, Mr. Parker requires such party status in order to file exceptions to the *Decision* with the full Commission.

I. Introduction

A. Summary of Relevant Facts

Reading Broadcasting, Inc. ("RBI") sought renewal of its license to operate Station WTVE(TV), Channel 51, in Reading, Pennsylvania. At the time RBI filed its renewal application, and until very recently, Micheal L. Parker served as the President and as a director of RBI.²

Adams Communications Corporation ("Adams") filed a mutually exclusive application for a construction permit for a new facility to operate on Channel 51. The proceeding was designated for hearing by *Hearing Designation Order* ("HDO") released May 6, 1999.³ Initially, only a comparative renewal issue was designated in the *HDO*. Later, however, in response to a Motion to Enlarge Issues filed by Adams, an issue was added as to RBI's basic qualifications.⁴ Specifically, the following issue was added:

To determine whether Micheal L. Parker engaged in a pattern of misrepresentation and/or lack of candor in failing to advise the Commission of the actual nature and scope of his previously adjudicated misconduct and, if so, the effect of such misrepresentation and/or lack of candor on Reading's qualifications to remain a licensee.⁵

Although the designated issue conjoined the interests of RBI and its President, the ultimate

² As discussed *infra* page 3, effective May 18, 2001, Mr. Parker resigned from these posts and relinquished the right to manage, control, or vote shares of RBI.

³ *In re Applications of Reading Broadcasting, Inc., et al.*, 14 FCC Rcd 7176 (Video Serv. Div. 1999) (*Hearing Designation Order* in MM Docket No. 99-153) ("*HDO*").

⁴ *In re Applications of Reading Broadcasting, Inc., et al.*, FCC 99M-32, released May 14, 1999 (*Order* in MM Docket No. 99-153).

⁵ *Id.* (emphasis added).

decision of the ALJ conclusively severed them. Specifically, in contrast to the designated issue, the *Decision* held Mr. Parker, not RBI, to be disqualified. Moreover, the *Decision* found RBI, without Mr. Parker's participation, to be qualified to own or assign its license.⁶ To this end the *Decision* states: "the removal of Mr. Parker would be a *sine qua non* to RBI's qualification to hold a Commission license."⁷

Notwithstanding the fact that the ALJ's ruling remains non-final, it has already driven the intended wedge between RBI and Mr. Parker. Effective May 18, 2001, Mr. Parker has agreed to take numerous steps to ensure that he will not manage, control, or vote shares in RBI. Mr. Parker is resigning as President and as a director of RBI. Moreover, Mr. Parker is both placing RBI shares he previously held (393,680 voting common shares held through his controlled company Partel, Inc.)⁸ in a voting trust for which Mr. Irvin Cohen will serve as the trustee, and is assigning a proxy under his control to Rev. Frank McCracken. The qualifications of Mr. Cohen have been approved previously by the Commission in connection with RBI. Finally, Mr. Parker is terminating the Management Services Agreement ("MSA") which gave Partel, Inc. management responsibilities regarding the operations of RBI.⁹

⁶ *Decision* ¶ 253.

⁷ *Id.* ¶ 235.

⁸ The ALJ recognized Partel, Inc. as a company controlled by Mr. Parker and identified them mutually as Parker/Partel throughout the *Decision*.

⁹ All parties have agreed to take these steps effective May 18, 2001. Mr. Parker has executed the documents necessary to memorialize these actions; countersignatures are being expeditiously obtained. The declaration of Micheal L. Parker attesting to these actions is attached hereto pursuant to Section 1.223(c) of the Commission's rules. 47 C.F.R. § 1.223(c). In addition, Mr. Parker understands that RBI intends to file a showing pursuant to Section 1.65 of the Commission's rules, 47 C.F.R. § 1.65, which details the measures described above. If Mr. Parker is ultimately found to be qualified, the voting trust will expire by its terms. There is, however, no agreement – express or implied – that Mr. Parker will be elected a director or appointed president, or that the Partel MSA will be reinstated.

B. Relevant Law

Section 1.223(c) of the Commission's rules, 47 C.F.R § 1.223(c), states, in relevant part:

Any person desiring to file a petition for leave to intervene later than 30 days after the publication in the Federal Register of the full text or a summary of the order designating an application for hearing or any substantive amendment thereto shall set forth the interest of Petitioner in the proceeding, show how such petitioner's participation will assist the Commission in the determination of the issues in question . . . and must set forth reasons why it was not possible to file a petition within the time prescribed¹⁰

II. The Petitioner Should Be Accorded Party Status

As shown below, Mr. Parker satisfies the requirements of Section 1.223(c) of the Commission's rules. Mr. Parker has a significant interest in the proceeding, his participation will assist the Commission in the determination of the issues in question, and it was not possible for Mr. Parker to seek intervention at an earlier stage of the proceeding. Accordingly, the Commission should permit Mr. Parker to intervene as a party in the instant proceeding.

A. The Petitioner Has a Significant Interest in This Proceeding

Mr. Parker has a significant interest in this proceeding. In earlier stages of the proceeding Mr. Parker and RBI had a unity of interest and Mr. Parker participated in the proceeding at all stages in his capacity as an officer, director, and controlling stockholder of RBI. But now, as a consequence of the *Decision*, that unity has been severed; Mr. Parker has removed himself from "all vestiges of control at RBI."¹¹ In light of this coerced disunion, Mr. Parker cannot rely on RBI's counsel to fully advocate on his behalf as this proceeding moves toward final resolution.

¹⁰ 47 C.F.R. § 1.223(c).

¹¹ *Decision* ¶ 234.

Mr. Parker's request for intervention accords with past Commission precedent. The Commission has, for example, permitted separate intervention, after an initial decision, by an individual stockholder when the initial decision contained findings of fact and conclusions of law which adversely affected that individual's "reputation for truth and veracity, his reputation in the broadcasting community, his standing before the Commission, and his ability to continue to earn a livelihood in the broadcasting industry."¹² Moreover, the individual intervention of a principal of a licensee, like Mr. Parker, has been held proper in a situation where the principal's "personal qualifications for licenseeship" were at stake.¹³

The findings in the *Decision* directly implicate Mr. Parker's future standing with the FCC and his ability to earn a livelihood in the broadcasting industry – an industry in which he has been involved for approximately two decades.¹⁴ Accordingly, Mr. Parker has an interest in the proceeding warranting intervention and party status.

B. The Petitioner's Participation Will Assist the Commission in the Determination of the Issues

Participation in the proceeding at this stage is limited to parties to the proceeding. Only parties to the proceeding may file exceptions to an initial decision.¹⁵

In *Palmetto Communications*, the Review Board recognized that an individual whose personal qualifications were at stake could not "feel confident to have the designated issues

¹² *Quality Broadcasting Corp.*, 4 Rad. Reg. 2d (P & F) 865 (1965).

¹³ *Palmetto Communications Company*, 6 FCC Rcd 5023, ¶ 8 n.4 (Rev. Bd. 1991).

¹⁴ *Decision* ¶ 30.

¹⁵ 47 U.S.C. § 409(b); 47 C.F.R. § 1.276(a)(1) (2000); *see also Boca Broadcasters, Inc.*, 7 F.C.C.2d 198, ¶ 4 (1967) (denying the request of non-party to review an initial decision and stating: "Our rules contemplate review of an initial decision only upon the filing of exceptions by a party or upon the Commission's own motion.").

defended solely by [licensee's] counsel.”¹⁶ Similarly, Mr. Parker, now distanced from RBI by dint of the *Decision*, cannot be required to rely exclusively on exceptions that may be filed by RBI (an entity over which he now has no control) to protect his own reputation and standing with the Commission.

The serious issue of Mr. Parker's qualifications and the associated findings regarding his misrepresentations and/or lack of candor, will be fully addressed from this point forward only if Mr. Parker is granted party status. Accordingly, Mr. Parker's participation as a party will assist the Commission in reaching a full and accurate determination of the issues and is in the public interest.

C. It Was Not Possible for the Petitioner to File a Timely Petition to Intervene

Mr. Parker participated in earlier stages of this proceeding as an officer, director and stockholder with control over RBI. The interests of Mr. Parker and RBI were congruent. Not only was it unnecessary to participate individually, but given the unity of Mr. Parker's interests and those of RBI, it is unlikely that separate intervention would have been permitted.¹⁷

The *Decision*, however, recast the relationship between Mr. Parker and RBI by providing a favorable resolution to RBI only at the expense of Mr. Parker. In conformance with the *Decision*, Mr. Parker has severed his unity with RBI and now, for the first time, is presented with a reason and a legal basis for individual intervention. The Commission has previously allowed intervention after an initial decision when a pre-existing unity of interest is severed, and it should do so here.¹⁸

¹⁶ *Palmetto Communications Company*, 6 FCC Rcd 5023, ¶ 8.

¹⁷ *See AT&T Co.*, 7 Rad. Reg. 2d (P & F) 515, ¶ 6 (1966) (stockholders are not generally separately represented in the absence of an independent interest).

¹⁸ *See Quality Broadcasting Corp.*, 4 Rad. Reg. 2d (P & F) 865.

III. Conclusion

For the foregoing reasons, Micheal L. Parker respectfully requests that the Commission permit his intervention as a party in the above referenced proceeding.

Respectfully submitted,

MICHEAL L. PARKER

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His attorneys

May 21, 2001

CERTIFICATE OF SERVICE

I, Stephanie N. Suerth, of Verner, Liipfert, Bernhard, McPherson, and Hand, Chartered, hereby certify, that I have this twenty-first (21st) day of May, 2001, caused a copy of the foregoing "Petition to Intervene as a Party" to be served via hand delivery upon each of the following:

The Honorable Richard L. Sippel
Administrative Law Judge
Office of Administrative Law Judges
FEDERAL COMMUNICATIONS COMMISSION
445 – 12th Street, S.W.
Washington, D.C. 20554

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May 21, 2001


Stephanie N. Suerth

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

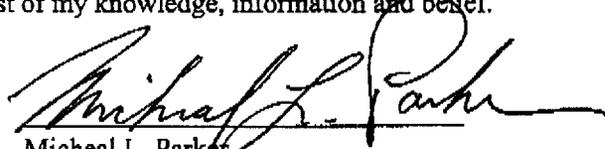
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CORPORATION)	
)	
For Construction Permit for a)	
New Television Station on)	
Channel 51, Reading,)	
Pennsylvania)	

AFFIDAVIT OF MR. MICHEAL L. PARKER

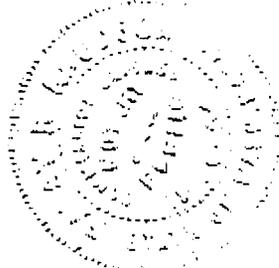
I, Micheal L. Parker, under penalty of perjury, do solemnly swear or affirm that the following statements are true, accurate, and complete to the best of my knowledge and belief.

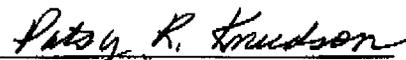
1. I understand that this Affidavit will be submitted to the Federal Communications Commission in support of my Petition to Intervene as a Party ("Petition") in the above-referenced proceeding.

2. I have fully read the Petition, to which this Affidavit is appended. The facts stated therein are true and correct to the best of my knowledge, information and belief.


Micheal L. Parker

SUBSCRIBED AND SWORN to before me, a Notary Public, this 21st day of May, 2001.




Notary Public

My appointment expires: 11/29/2004