

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

FCC MAIL ROOM

In the Matter of)	MM Docket No. <u>99-153</u>
)	
READING BROADCASTING, INC.)	File No. BRCT-940407KF
)	
For Renewal of license of Station)	
WTVE(TV), Channel 51,)	
Reading, Pennsylvania)	
)	
And)	
)	
ADAMS COMMUNICATIONS)	File No. BPCT-940630KG
CORPORATION)	
)	
For Construction Permit for a)	
New Television Station on)	
Channel 51, Reading, Pennsylvania)	

2001 SEP 24 P 3: 38

REIVED

ORDER

Adopted: September 4, 2001

Released: September 13, 2001

By the Commission:

1. This order denies a Petition to Intervene as a Party, filed May 21, 2001, by Micheal L. Parker (Parker).¹

2. Parker seeks leave to intervene in this comparative renewal proceeding, which involves the application of Reading Broadcasting, Inc. (RBI) for renewal of license for station WTVE(TV), Reading, Pennsylvania, and the mutually exclusive application of Adams Communications Corporation (Adams) for a construction permit. In an initial decision, Administrative Law Judge Richard L. Sippel (ALJ) denied RBI's application and granted Adam's. Initial Decision of

¹ Also before the Commission are: (1) Oppositions, filed May 23, 2001, by Adams Communications Corporation, and May 25, 2001, by the Enforcement Bureau, and (2) a Request for Expedited Action, filed May 30, 2001, by Parker.

Administrative Law Judge Richard L. Sippel, FCC 01D-01 (Apr. 5, 2001) (ID). The ALJ found, among other things, that Parker, who was RBI's president and a director, had committed misrepresentations and lacked candor before the Commission in statements regarding various media interests. The ALJ purported to find Parker personally unqualified to be a Commission licensee. ID at ¶ 254, n.22. The ALJ did not, however, make Parker a party to the proceeding. Accordingly, the ALJ's findings regarding Parker, even if affirmed, are not binding. Thus, regardless of the outcome of this proceeding, Parker would be given a full opportunity as a party to litigate any character issue in a future Commission proceeding, to the extent such a proceeding is necessary. See Westel Samoa, Inc., 13 FCC Rcd 6342, 6346 ¶ 13 (1998). Nevertheless, the ALJ concluded that RBI could be found qualified, if it severed its relationship with Parker. RBI submitted a "Section 1.65 Statement" on May 21, 2001, indicating that Parker had resigned as president and director of RBI, that his stock interests had been placed in a voting trust or otherwise transferred, and that a management agreement between Parker and RBI had been terminated.

3. Parker seeks to intervene in order to file exceptions to the ALJ's initial decision. He contends that he has shown good cause to intervene under 47 C.F.R. § 1.223(c), which states that:

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 substantial 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, must set forth any proposed issues in addition to those already designated for hearing, and must set forth reasons why it was not possible to file a petition within the time prescribed by paragraphs (a) and (b) of this section. . . . If, in the opinion of the presiding officer, good cause is shown for the delay in filing, he may in his discretion grant such petition or may permit intervention limited to particular issues or to a particular stage of the proceeding.

4. Further, to warrant intervention more than 30 days after designation of an issue, the Commission requires the petitioner to show that: earlier failure to seek intervention was occasioned by circumstances beyond petitioner's control; the evidence offered appears to be of decisional significance; and the decision in the proceeding may have a direct bearing on petitioner's reputation and ability to earn a livelihood in the broadcasting industry. See Trinity Broadcasting of Florida, Inc., 14 FCC Rcd 13570, 13574 n.4 (1999); West Jersey Broadcasting Co., 89 FCC 2d 469, 472-73 ¶ 10 (1980). See also Quality Broadcasting Corp., 4 RR 2d 865 (1965).

5. Parker asserts that intervention is necessary for him to defend himself in light of the ALJ's adverse findings. He maintains that the ALJ's findings adversely affect his reputation for truthfulness and veracity, his standing before the Commission, and his ability to continue to earn a livelihood in the broadcasting industry. According to Parker, since his severance from RBI, his interests are distinct from RBI's, and he cannot rely on RBI to advocate his interests. He further maintains that his participation, by filing exceptions to the initial decision, will assist the Commission to fully develop the relevant issue. He argues that his intervention attempt is timely because his interests did not become separate from RBI's until the ALJ's adverse findings effectively changed the relationship between Parker and RBI.

6. We deny the request. Parker, like the petitioner in Trinity, has not shown that his failure to seek timely intervention was occasioned by circumstances beyond his control, but only that he failed to anticipate the ALJ's adverse findings. These findings, however, represent a reasonably foreseeable outcome of this type of issue. Moreover, Parker, like the petitioner in Trinity, does not seek to develop new evidence. Indeed, he participated extensively in creating the existing evidentiary record. His position is advocated by RBI in its exceptions.² We will therefore deny Parker's petition. Parker may be heard effectively as an amicus.

7. ACCORDINGLY, IT IS ORDERED, That the Petition to Intervene as a Party, filed May 21 by Micheal L. Parker, 2001, IS DENIED; that the Consolidated Exceptions and Brief of Micheal L. Parker to the Initial Decision of Administrative Law Judge Richard L. Sippel, filed May 21, 2001, IS ACCEPTED as an amicus brief; and that the other parties may file a reply brief within 10 days of the release date of this order.

8. IT IS FURTHER ORDERED, That the Request for Expedited Action on Petition to Intervene as a Party, filed May 30, 2001 by Micheal L. Parker, IS DISMISSED as moot.

FEDERAL COMMUNICATIONS COMMISSION


Magalie Roman Salas
Secretary

² Compare Palmetto Communications Co., 6 FCC Rcd 5023, 5024 ¶ 8 (Rev. Bd. 1991) (where a "sharp diversity of interests" existed between the petitioner and the licensee).