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February 3, 2003

By Hand Delivery

Marlene H. Dortch, Esquire
Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

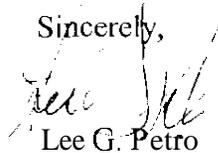
Re: Reply Comments of
The Arkansas Broadcasters Association,
The Mississippi Association of Broadcasters, and
The New Mexico Broadcasters Association
MM Docket No. 98-204

Dear Ms. Dortch:

Transmitted herewith, on behalf of the Arkansas Broadcasters Association, the Mississippi Association of Broadcasters, and the New Mexico Broadcasters Association, is an original and nine copies of its Reply Comments in the above-referenced proceeding.

Should any questions arise concerning this application, please communicate with this office.

Sincerely,



Lee G. Petro

Enclosures

cc: Qualex International
Ms. Wanda Hardy, Media Bureau - Room 2-C221

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

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of

Review of the Commission's Broadcast
And Cable Equal Employment
Opportunity Rules and Policies

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} MB Docket No. 98-204
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TO: THE COMMISSION

JOINT REPLY COMMENTS

The Arkansas Broadcasters Association, the Mississippi Association of Broadcasters, and the New Mexico Broadcasters Association (collectively, the "*Joint State Associations*") hereby submit these Joint Reply Comments in the above-referenced proceeding.¹ The Joint State Associations tiled their Comments on January 16, 2003, and are providing these Reply Comments in response to those parties calling for the strict application of the Commission's Equal Employment Opportunity ("EEO") rules to part-time positions offered by broadcasters.

In response to the Commission's specific call for developing a record with respect to part-time employees, certain parties tiled comments in support of extending the extensive and burdensome outreach and record-keeping requirements recently adopted for full-time employees to also include part-time employees. However, as discussed in more detail below, these comments failed to provide ANY valid justification for this unprecedented action. Therefore, the Joint State Associations continue to believe that the current "substantial compliance" requirement with respect to part-time employees strikes the appropriate balance

¹ Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies, Third Notice of Proposed Rule Making, 17 FCC Rcd 24,018 (2002) (the "*Third NPRM*").

DISCUSSION

In their Comments, the Joint State Associations argued that the Commission should not extend the recently adopted EEO outreach and record-keeping rules to include part-time employees. The Comments discussed the important role that part-time positions play in the delivery of innovative, responsive local programming and concluded that the extension of the comprehensive EEO rules to include part-time positions would reduce their respective benefits, and would likely lead to the elimination of these positions.

Three parties filed comments in support of the unprecedented extension of the EEO rules.² The Supporters generally argue that there is no reason to exclude part-time positions from the new EEO rules, and point to the important role that part-time employment positions play in the broadcast world. However, the Supporters failed to provide ANY specific evidence that past discrimination has occurred with respect to part-time positions. Instead, the Supporters cite generally to the under-representation of minorities and women in the broadcast field,³ or imply that the level of part-time positions in three of the top eight radio markets applies to all radio markets.⁴ Clearly, this is not the case.

The Joint State Associations agree with the Supporters that part-time positions play an important role in recruiting individuals to “get a ‘foot-in-the-door.’” However, the Joint State Associations, which represent broadcasters in mostly small and medium-sized markets, do not

² American Women in Radio and Television, Inc. (“AWRT”), National Organization of Women (“NOW”), and the EEO Supporters (collectively, the “Supporters”) each filed comments in **support** of the extension of the EEO rules to include part-time employees.

³ AWRT Comments, pg. 2.

⁴ EEO Supporters, pg. 7. Additionally, NOW cites a Missouri School of Journalism study that did not differentiate between full-time and part-time positions, but rather merely asked which employees worked less than 40 hours per week. NOW Comments: pg. 4. Both AWRT and NOW also point to a study prepared by RTNDA and Ball State University as well, but that study only dealt with the news staff, and not all employees. Thus, the study provides NO results as to the entire broadcast station’s employees.

AWRT Comments, pg. 3. NOW Comments, pg. 5

believe that the unprecedented extension of the new EEO rules to part-time positions would further this important goal. Instead, the Joint State Associations strongly believe that the current regulatory requirement that broadcasters “substantially comply” with the EEO rules for part-time positions provide the necessary flexibility to ensure that opportunities are available to hire individuals to suit the need of the broadcasters, without the imposition of unnecessary regulations. None of the Supporters submitted any factual evidence to the contrary.⁶

In its Comments, the Joint State Associations detailed the requirements that would need to be satisfied for each part-time position if the EEO rules were extended.⁷ Compliance with these requirements would substantially “chill” the use of part-time positions, which would not remedy the alleged “under-representation” cited by the Supporters.⁸

As discussed in their Comments, it is clear to the Joint State Associations that broadcasters would not be able to move swiftly to respond to local events in their local communities if the new EEO rules were extended to include part-time positions. Moreover, many local broadcasters in small and medium markets may actually reduce their employment opportunities in light of the application of the new EEO rules to part-time positions. Given the small operating budget of many of these broadcasters, it is entirely possible that part-time positions may be replaced by syndicated programming, or the use of automated technology.

⁶ See NOW Comments, pg. 2, 7, arguing that disparate regulations for full-time and part-time positions “may lead to substantial abuse.” Full-time and part-time positions have received disparate treatment under the EEO rules since the inception of the EEO rules, and the Supporters have failed to demonstrate how this past disparate treatment has resulted in EEO violations.

⁷ Joint State Associations Comments, pg. 3

⁸ Again, it is important to note that the Supporters have totally failed to submit any factual evidence to demonstrate that the current situation of part-time employment directly impacts on full-time employment statistics.

CONCLUSION

Part-time positions offer broadcasters the flexibility to respond to their local communities and offer individuals a relatively risk-free environment to measure their interest in the industry. In light of the Supporters' failure to provide ANY evidence of past discriminatory actions with respect to part-time positions, and in light of the substantial outreach and record-keeping hurdles that would need to be addressed for each part-time position, the Joint State Associations urge the Commission not to extend the newly-adopted EEO regulations to include part-time positions,

Respectfully submitted.

**ARKANSAS BROADCASTERS ASSOCIATION,
MISSISSIPPI ASSOCIATION OF BROADCASTERS, and
NEW MEXICO BROADCASTERS ASSOCIATION**

By: _____


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