

ORIGINAL

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

1440 NEW YORK AVENUE, N.W.  
WASHINGTON, D.C. 20005-2111

TEL: (202) 371-7000  
FAX: (202) 393-5760  
http://www.skadden.com

FIRM/AFFILIATE OFFICES

BOSTON  
CHICAGO  
HOUSTON  
LOS ANGELES  
NEWARK  
NEW YORK  
PALO ALTO  
SAN FRANCISCO  
WILMINGTON  
BEIJING  
BRUSSELS  
FRANKFURT  
HONG KONG  
LONDON  
MOSCOW  
PARIS  
SINGAPORE  
SYDNEY  
TOKYO  
TORONTO

FILED/ACCEPTED

JAN - 5 2010

Federal Communications Commission  
Office of the Secretary

DIRECT DIAL  
(202) 371-7230  
DIRECT FAX  
(202) 661-8270  
EMAIL ADDRESS  
ABUSH@SKADDEN.COM

January 5, 2010

FILED/ACCEPTED

JAN - 5 2010

Federal Communications Commission  
Office of the Secretary

VIA ELECTRONIC MAIL AND HAND DELIVERY

Chairman Julius Genachowski  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

RE: Petition to Deny Renewal of Station License of  
WWOR-TV; File No. BRCT-20070201AJT  
and MB Docket No. 07-260

Dear Chairman Genachowski:

By and through its undersigned counsel, Fox Television Stations, Inc. ("Fox"), licensee of television station WWOR-TV, Secaucus, New Jersey, hereby submits this response to the letter recently submitted to the Commission by Voice for New Jersey ("VNJ") in connection with the above-referenced matters.<sup>1</sup>

In its letter, and the accompanying exhibit, VNJ repeats a wide variety of unsubstantiated claims and erroneous legal conclusions that VNJ originally included as part of its 2007 Petition to Deny WWOR-TV's renewal application.<sup>2</sup>

<sup>1</sup> See Letter from Donna Sandorse, Member, Voice for New Jersey, to Chairman Julius Genachowski, Federal Communications Commission, MB Docket No. 07-260 (dated Nov. 27, 2009) (the "VNJ Letter").

<sup>2</sup> See *In re Application for Renewal of Station License of WWOR-TV, Secaucus, NJ, File No. BRCT-20070201AJT*, Petition to Deny, Voice for New Jersey (filed April 30, 2007) (the "VNJ Petition to Deny").

No. of Copies rec'd 0 + 2  
List ABCDE

The VNJ Letter also attempts to introduce into the record of this proceeding certain new allegations about WWOR-TV's performance since the expiration of the station's most recent license term. Pursuant to the Communications Act of 1934 (the "Act") and well-settled Commission precedent, however, neither the repetitive – and thoroughly-refuted – original assertions nor the new claims possibly could justify a Commission decision to deny WWOR-TV's license renewal application. On the contrary, the evidence in the record of this proceeding overwhelmingly demonstrates that WWOR-TV has provided exemplary service to its community of license and to the greater northern New Jersey geographic area. Accordingly, the VNJ Petition should be dismissed and the WWOR-TV license should be renewed.

As a preliminary matter, the Commission should reject VNJ's attempt to introduce into this proceeding evidence about WWOR-TV's performance since the expiration of its most recent license term.<sup>3</sup> As Section 309(k) of the Act makes clear, the Commission is obliged to grant a station's license renewal application "if it finds, with respect to that station, during the *preceding term of its license*" that the station has served the public interest and that there have been no serious violations of the Act or the FCC's Rules (and no other violations that taken together constitute a pattern of abuse).<sup>4</sup> Quite clearly, the statute precludes, as part of the inquiry regarding the pending WWOR-TV renewal application, consideration of allegations about the station's performance since June 1, 2007 – the date upon which WWOR-TV's *preceding* license term was set to expire.

Indeed, the Commission has emphasized that "consideration of post-[license] term developments is fundamentally at odds with [the] backwards-looking standard" embodied in Section 309(k) of the Act.<sup>5</sup> For that reason, the FCC consistently has refused to evaluate a licensee's or station's actions that occur "outside the license term for which the renewal application was filed."<sup>6</sup> Even the instructions to FCC Form 303-S, the license renewal application, make clear that a licensee is "required to disclose *only* violations of the [Act] or the Rules of the

---

<sup>3</sup> See VNJ Letter, at 2, and Exhibit A, at 4-11.

<sup>4</sup> 47 U.S.C. § 309(k) (emphasis supplied).

<sup>5</sup> *In re Birach Broadcasting Corp.*, 16 FCC Rcd 5015, 5020 (2001).

<sup>6</sup> *In re K Licensee, Inc.*, 23 FCC Rcd 7824, 7827 (2008).

Commission that occurred at the subject station *during the license term . . .*<sup>7</sup> In short, VNJ's allegations about WWOR-TV's service since June 1, 2007 cannot form the basis for an evaluation of the station's performance during its most recent license term and are therefore irrelevant to the currently-pending license renewal application.<sup>8</sup>

Let there be no mistake, though. Regardless of the "backwards-looking" legal standard, WWOR-TV since the end of its most recent license term has continued to provide the viewers of northern New Jersey with outstanding broadcast service. Even though it is the 6th-ranked English-language station in its market in terms of audience share, WWOR-TV continues to provide a daily local newscast and it continues to broadcast a weekly public affairs program.<sup>9</sup> Both of these programs

---

<sup>7</sup> FCC Form 303-S, Instructions for Application for Renewal of Broadcast Station License, at 7 (emphasis supplied). In the application itself, Section II, Question 4 directs licensees to certify that no violations have occurred "during the preceding license term."

<sup>8</sup> In this connection, the Commission also can disregard VNJ's assertion that Fox has engaged in "significant misrepresentations" to the FCC. *Id.* at 4. VNJ appears to base this claim entirely on an exhibit that Fox submitted with an *ex parte* letter in this proceeding; the exhibit detailed WWOR-TV's service to New Jersey and addressed certain legal matters – in each case related to the station's performance during its most recent license term. See Letter from Jared S. Sher, Counsel to Fox, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 07-260 (dated Aug. 26, 2009), at Exhibit A. VNJ alleges that this exhibit misrepresents the current levels of news and public affairs programming on WWOR-TV. See VNJ Letter, Exhibit A, at 4. As noted above, WWOR-TV's *current* programming is not relevant to the license term performance that is at issue in this proceeding. Moreover, Fox on its own accord, well before becoming aware of VNJ's allegations, updated and revised the text of the exhibit to make clear that its representations were intended only to describe the station's performance during the license term in question. See, e.g., Letters from Antoinette Cook Bush and Jared S. Sher, Counsel to Fox, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 07-260 (dated Sept. 4 and 23, 2009), at Exhibit A (describing WWOR-TV's service from 2001 "until the end of its most recent license term" and noting that the station "provided more news coverage" than other New Jersey stations). The VNJ Letter simply ignores these changes when it incorrectly upbraids Fox, in all CAPS, for "RE-SUBMITT[ING]" the same exhibit. VNJ Letter, Exhibit A, at 5. In any event, for the FCC to find that Fox engaged in a misrepresentation, it would have to conclude not only that there was a "false statement of material fact" but also that a false statement was "made with an intent to deceive the Commission." *In re Citadel Broadcasting Co.*, 22 FCC Rcd 7083, 7090 (2007). Plainly, VNJ's allegation cannot support either of these elements.

<sup>9</sup> The Commission itself found in 2008 that 60 percent of all stations ranked fifth or below in markets nationwide provide *no local news whatsoever*. See *2006 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*. Report and Order and Order on Reconsideration, MB Docket No. 06-121, FCC 07-216 (released Feb. 4, 2008), at ¶ 62, n.204. This comes as no surprise, given that lower-ranked stations (especially those not affiliated with a

provide New Jersey viewers with critical news and informational programming, but they certainly are not the only examples of the station's service or commitment to its community. As detailed in its renewal application, and as further described in Fox's Opposition to the VNJ Petition to Deny,<sup>10</sup> WWOR-TV goes out of its way to embed itself in the fabric of its community. From its broadcasts of important community events to its participation in local community causes and activities, the station and its employees are deeply ingrained in New Jersey.

Aside from attempting to introduce new and irrelevant evidence, the VNJ Letter otherwise essentially repeats the arguments raised in VNJ's Petition to Deny. In particular, VNJ asserts that WWOR-TV's license "carries with it a special obligation" to serve New Jersey.<sup>11</sup> VNJ also claims, based on the same limited and distorted analysis of the station's performance that undermined the Petition to Deny, that WWOR-TV has failed to meet its public interest obligations.<sup>12</sup> Fox's Opposition thoroughly rebutted each of these arguments, and there is no need here to respond in detail to each and every repetitious claim made by VNJ. Fox does feel, however, that it is important to point out that VNJ continues to misconstrue Commission precedent with regard to both WWOR-TV's so-called "special obligation" and the appropriate degree of governmental oversight of stations' editorial decisions.

First, as Fox made clear in its Opposition, the Commission already expressly considered and rejected the argument that WWOR-TV's service should be judged by a higher standard of review than is applicable to any other station.<sup>13</sup> FCC precedent makes clear that WWOR-TV's "obligation to serve the issues and concerns of northern New Jersey is not different in kind or degree from any

---

major broadcast network) cannot generate advertising revenues comparable to higher-ranked stations. VNJ, incidentally, attempts to have it both ways, arguing with equal force that WWOR-TV *should not* receive any *credit* for local programming related to the greater New York metropolitan area but that it *should* be judged *in comparison* to other stations located in New York, "the largest and most lucrative market in the country." VNJ Letter, Exhibit A, at 11.

<sup>10</sup> See *In re Application for Renewal of Station License of WWOR-TV, Secaucus, NJ, File No. BRCT-20070201AJT*, Opposition to Petition to Deny, Fox Television Stations, Inc. (filed May 30, 2007) (the "Fox Opposition").

<sup>11</sup> VNJ Letter, Exhibit A, at 1.

<sup>12</sup> See *id.* at 2.

<sup>13</sup> Fox Opposition, at 16.

licensee's obligation to serve its community of license,"<sup>14</sup> and that WWOR-TV's "performance should be judged in the same manner as any other television station in it[s] overall performance, except that its performance will be tied to northern New Jersey, not primarily Secaucus."<sup>15</sup> The VNJ Letter charges Fox with "misquotation" in citing to the FCC's precedent, but offers no explanation or support for this clearly erroneous accusation.<sup>16</sup> To the extent that the VNJ Letter concedes that WWOR-TV's "special obligation" is limited to, at most, a requirement that the station serve northern New Jersey, rather than just Secaucus,<sup>17</sup> Fox concurs. In fact, Fox noted in its Opposition that any historic reference to a "special obligation" related only to the geographic scope of WWOR-TV's service obligation.<sup>18</sup> If VNJ now agrees that any "uniqueness" applicable to review of WWOR-TV's programming arises at most "from the different 'community' to be served" and does not "give[ ] the Commission the right or obligation to second-guess the program content or the editorial discretion of this or any other licensee," that would represent substantial progress.<sup>19</sup>

---

<sup>14</sup> *In re RKO General, Inc.*, 1 FCC Rcd 1081, 1087 (1986).

<sup>15</sup> *Id.* at 1086.

<sup>16</sup> VNJ Letter, Exhibit A, at 1. Based on an earlier VNJ filing in this proceeding, VNJ's misquotation allegation appears to stem from a Commission discussion of WWOR-TV's historic obligation to serve its Grade B service area, rather than just its community of license. *See In re Application for Renewal of Station License of WWOR-TV, Secaucus, NJ, File No. BRCT-20070201AJT*, Reply to Opposition, Voice for New Jersey (filed June 20, 2007), at 6 (*citing RKO General*, 1 FCC Rcd at 1087 (describing WWOR-TV's service obligation as the same as other stations "except to the extent of geographic coverage . . .")). Quite clearly, this quotation has nothing to do with any obligation for WWOR-TV to provide a level of service different in kind or degree, in terms of quantity or content, from any other station.

<sup>17</sup> *See* VNJ Letter, Exhibit A, at 1 (arguing that WWOR-TV's is obligated "to give special emphasis to the needs of northern New Jersey").

<sup>18</sup> Fox Opposition, at 4-5.

<sup>19</sup> *RKO General, Inc.*, 1 FCC Rcd at 1086. To the degree that VNJ also complains (Exhibit A, at 3) about the specific quantities of news stories on WWOR-TV related to any particular locale in northern New Jersey, the Commission has emphatically rejected a "quantitative approach" to analyzing licensee performance. *RKO General, Inc.*, 1 FCC Rcd at 1087 (*citing In re Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations*, 98 F.C.C. 2d 1076, 1093-94 (1984)). Rather, licensees have broad discretion to select the specific types and amounts of programming necessary to respond to community needs. The Commission already has refused to find that WWOR-TV should be entitled to less latitude than a typical station in the exercise of reasonable editorial discretion. "Our review of [WWOR-TV]'s programming need be no more extensive than we generally undertake in reviewing whether the issues and concerns of a particular service area have been met." *RKO General, Inc.*, 1 FCC Rcd at 1087. Thus, "[j]ust as we would not

Second, as Fox stressed in its Opposition, the First Amendment, the Act and Commission and judicial precedent all make clear that the FCC cannot sit in judgment over a licensee's editorial choices.<sup>20</sup> "[B]ecause news and comment programming are at the core of speech which the First Amendment is intended to protect, we have long believed that a particularly high threshold should govern Commission intervention in this area."<sup>21</sup> Thus, a petitioner to deny can make a *prima facie* case against a license renewal application only if it includes specific allegations of fact which, if true, demonstrate that a "license's *overall* past programming could not reasonably have met the needs and interests of the people within [its] service area . . . ."<sup>22</sup> A renewal opponent cannot merely allege, as VNJ has done, that a licensee failed to cover certain events that the opponent deems important, for a "licensee is under no obligation to cover each and every newsworthy event which occurs within a station's service area."<sup>23</sup>

Moreover, VNJ did not make any attempt in its Petition to Deny to evaluate WWOR-TV's *overall* level of performance.<sup>24</sup> Nor does the VNJ Letter do so now. Instead, VNJ continues to assert that WWOR-TV purportedly failed to "provide adequate news coverage," as well as coverage of state elections and government, based only on an incredibly limited analysis that completely excludes the vast majority of WWOR-TV's programming during its most recent license term.<sup>25</sup> Indeed, VNJ's allegations rest entirely upon: (i) a 30-day review of local newscasts in 2005; (ii) a review of just 5 issues/programs lists (out of 21 full quarters

---

purport to tell a licensee of New York City how much coverage it should devote to New York high school sports, neither will we intrude in the editorial discretion of a New Jersey station." *Id.* at 1088.

<sup>20</sup> Fox Opposition, at 11-15.

<sup>21</sup> *In re Liability of NPR Phoenix, L.L.C.*, 13 FCC Rcd 14070, 14072 (1998).

<sup>22</sup> *In re Dena Pictures, Inc., et. al.*, 71 F.C.C. 2d 1402, 1405 (1979) (internal citation omitted) (emphasis supplied).

<sup>23</sup> *In re American Broadcasting Companies, Inc.*, 83 F.C.C. 2d 302, 303 (1980). In fact, because a license has "broad discretion to choose, in good faith, which issues are of concern to the community. . . [t]he Commission will not interfere with the broadcaster's judgment without a showing that the broadcaster was unreasonable or discriminatory in its selection of issues" or unless "the licensee has offered such nominal levels of issue responsive programming as to have effectively defaulted on its obligation to the discussion of issues facing its community." *In re: License Renewal Applications of Certain Commercial Television Stations Serving Philadelphia, Pennsylvania*, 5 FCC Rcd 3847, 3847-48 (1990).

<sup>24</sup> See Fox Opposition, at 9.

<sup>25</sup> VNJ Letter, Exhibit A, at 2.

during the term in which Fox operated WWOR-TV); and (iii) VNJ's "analysis" of local news coverage during a 2-week period in 2007.<sup>26</sup>

Fox's Opposition makes clear that each of these efforts at quantitative analysis is egregiously flawed.<sup>27</sup> Not only does VNJ's selective examination of the station's record constitute a woefully deficient sample in comparison to WWOR-TV's overall service, it is also patently unfair for VNJ to credit WWOR-TV with covering an issue relevant to New Jersey viewers only if the story originates within the geographic boundaries of the state. Surely national and international news – not to mention news about the greater metropolitan area in which New Jersey citizens live and work – would be relevant in any legitimate evaluation of a broadcaster's effort to serve its viewers. The station's programming efforts, including its news coverage of events important to northern New Jersey viewers, leaves no doubt that WWOR-TV has satisfied its public interest obligations.<sup>28</sup>

At base, VNJ's concern is with the editorial choices that WWOR-TV has made in serving New Jersey, but VNJ has no right to appoint itself the editorial judge and jury for all of WWOR-TV's viewers. Fox's Opposition described the precedent pursuant to which the Commission consistently has concluded that it does "not sit to review the broadcaster's news judgment, the quality of his news and public affairs reporting, or his taste."<sup>29</sup> Moreover, the FCC has said that "it is not the proper concern of this Commission why a licensee" presents one particular story in lieu of another.<sup>30</sup> Those choices are "matters for the journalistic judgment" of licensees and are not reviewable.<sup>31</sup>

---

<sup>26</sup> See *id.* at 2-3.

<sup>27</sup> See Fox Opposition, at 18-29.

<sup>28</sup> See, e.g., *In re Chicago Media Action and Milwaukee Public Interest Media Coalition*, 23 FCC Rcd 10608, 10609-10 (2008) (rejecting petition to deny that focused only on early and late evening local newscasts, which did "not provide a comprehensive analysis of programming aired on these stations" and "did not demonstrate that television programming in Chicago and Milwaukee has generally been unresponsive") (internal citations omitted).

<sup>29</sup> Fox Opposition, at 12 (citing *In re Complaints Concerning Network Coverage of the Democratic National Convention*, 16 F.C.C. 2d 650, 654 (1969)).

<sup>30</sup> *Democratic National Convention*, 16 F.C.C. 2d at 655.

<sup>31</sup> *Id.* See also *In re Oregon Alliance to Reform Media*, 22 FCC Rcd 15183, 15184 (2007) (rejecting a petition to deny that alleged a failure to "present adequate programming related to state and

Finally, the Commission should disregard the unsupported allegations contained in the VNJ Letter with respect to the employee presence at WWOR-TV's headquarters in Secaucus, New Jersey.<sup>32</sup> VNJ asserts, in entirely vague terms and without any supporting declaration or affidavit from an individual with personal knowledge of the charges, that WWOR-TV is only "keeping the lights on in New Jersey" and that the station's staff "spends the bulk of their time in New York."<sup>33</sup> The VNJ Letter also claims that during an unspecified "visit" by one of its unnamed members to the Secaucus facility, the building appeared nearly "deserted."<sup>34</sup> These allegations are completely without merit. WWOR-TV maintains a management and production staff with more than 75 employees *in its New Jersey facility every day*.<sup>35</sup> Staffers are in the building from approximately 7 a.m. until 11:45 p.m. each day; indeed, the WWOR-TV local newscast is produced live from the Secaucus facility.<sup>36</sup> A visitor to the station's public inspection file would hardly be expected to tour the entire 110,000 square foot facility, and it is entirely unclear on what basis VNJ could claim with any reliability that the building appeared "deserted."<sup>37</sup>

VNJ fares no better in challenging WWOR-TV's "regulatory compliance" with respect to record-keeping of viewer correspondence.<sup>38</sup> VNJ claims that one of its members recently reviewed the station's public file "in an effort to gauge community reaction" to the station's current programming schedule.<sup>39</sup> VNJ then expresses incredulity that the station received a total of only five viewer comments regarding programming issues during a 90-day period over the Summer of

---

local elections and ballot issues" because the petition failed to "provide evidence that the named licensees exercised their editorial discretion in bad faith").

<sup>32</sup> VNJ Letter, Exhibit A, at 5.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.* at 6.

<sup>35</sup> *See* Declaration of Audrey Pass, Senior Director of Communications and Public Affairs, WWOR-TV, attached hereto as Exhibit A.

<sup>36</sup> *See id.*

<sup>37</sup> VNJ also suggests that WWOR-TV on-air talent has been shifted to another station, claiming (again without support) that longtime WWOR-TV news anchor Harry Martin "has recently been absent from WWOR's new broadcasts." VNJ Letter, Exhibit A, at 6. To be clear, Mr. Martin remains anchor of the WWOR-TV news. *See* Declaration of Audrey Pass.

<sup>38</sup> VNJ Letter, Exhibit A, at 7.

<sup>39</sup> *Id.*

2009.<sup>40</sup> Although it does not allege that any viewer comments were in fact missing, VNJ “urge[s]” the Commission to “look closely into this matter.”<sup>41</sup> Despite VNJ’s professed surprise about the volume of programming-related comments in WWOR-TV’s public file, its subjective concerns do not amount to a specific allegation of fact that warrants any Commission review.<sup>42</sup> Moreover, in a touch of irony apparently lost of VNJ, the group’s expression of shock at the volume of programming-related public comments comes notwithstanding the fact that VNJ itself did not submit any of its own comments to the station during the Summer of 2009.

\* \* \*

In sum, the VNJ Letter raises no new issues that bear on the WWOR-TV license renewal proceeding. To the extent that VNJ presents allegations about the station’s service outside of the license term under review, Commission precedent makes clear that these allegations are not germane to the pending application. Aside from these unripe allegations, the VNJ Letter merely rehashes arguments that have been thoroughly rebutted by Fox’s Opposition to the VNJ Petition to Deny. Accordingly, given WWOR-TV’s exemplary service to northern New Jersey, Fox respectfully requests that the Commission dismiss the Petition to Deny and promptly grant the station’s license renewal application.

---

<sup>40</sup> See *id.* at 8.

<sup>41</sup> *Id.*

<sup>42</sup> As the VNJ Letter notes (*id.*), WWOR-TV acknowledged to VNJ’s representative that a handful of viewer emails had been mis-filed during July, August and September 2009. After a VNJ representative visited the station to review the public file and asked questions about viewer comments related to news and public affairs programming, WWOR-TV staff conducted a thorough search and discovered that a temporary staffer employed during the Summer of 2009 had mis-filed 5 viewer emails related to news programming (all of which related to the rescheduling of the station’s weeknight local newscast from 10 p.m. until 11 p.m.). WWOR-TV promptly notified VNJ’s representative of this information and placed the mis-filed emails into the proper location in the station’s public file. WWOR-TV has taken steps to ensure that employees responsible for filing viewer emails receive better training in the future. See Declaration of Audrey Pass. In any case, as described above, even if there were issues relating to the WWOR-TV public file in 2009, they would have no bearing on the station’s pending renewal application.

Chairman Julius Genachowski  
January 5, 2010  
Page 10

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. Sher', written over the printed name 'Jared S. Sher'.

Antoinette Cook Bush  
Jared S. Sher

*Counsel to Fox Television Stations, Inc.*

cc (via email): Commissioner Michael J. Copps  
Commissioner Robert M. McDowell  
Commissioner Mignon Clyburn  
Commissioner Meredith Atwell Baker  
Sheresse Smith  
Rosemary Harold  
Joshua Cinelli  
Rick Kaplan  
Bradley Gillen  
William Lake  
Barbara Kreisman  
Dave Roberts  
Best Copy and Printing, Inc.  
Donna Sandorse, Voice for New Jersey (via regular mail)

**EXHIBIT A**



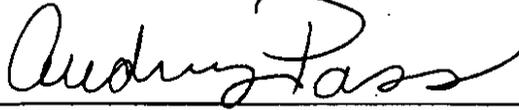
## DECLARATION

I, Audrey Pass, hereby state as follows:

1. I am Senior Director of Communications and Public Affairs for WWOR-TV, Secaucus, New Jersey. I submit this Declaration in connection with Fox Television Stations, Inc.'s letter responding to the letter from Voice for New Jersey ("VNJ"), dated November 27, 2009, submitted as part of the record in MB Docket No. 07-260.
2. WWOR-TV continues to operate out of a 110,000 square-foot headquarters facility in Secaucus, New Jersey. The facility serves as the station's main studio. WWOR-TV employs more than 75 people. The Secaucus facility is staffed with employees daily between the hours of approximately 7 a.m. and 11:45 p.m. WWOR-TV originates its live broadcast of a local newscast from the Secaucus facility each weekday.
3. Harry Martin continues to serve as the co-lead anchor (with Brenda Blackmon) for WWOR-TV's local newscast.
4. On or about November 4, 2009, an individual who identified himself as Charles Lovey (who previously has submitted filings to the Commission as a member of VNJ) visited WWOR-TV's Secaucus, New Jersey main studio and requested to inspect the public file. After he was given access to the file, he asked if the station had received any viewer comments during July, August and September 2009 related to WWOR-TV's decision to eliminate its regularly-scheduled weekend newscast and its public affairs program entitled "Real Talk."
5. On or about November 5, 2009, I called Mr. Lovey and informed him that I was looking into his question. I conducted research and determined that, with respect to viewer comments related to news and public affairs programming that the station received during July, August and September 2009, five emails had been mis-filed. All five of these emails related to WWOR-TV's decision to reschedule its local newscast from 10 p.m. to 11 p.m. on weeknights.
6. Promptly thereafter, I called Mr. Lovey again and informed him that five viewer emails related to news programming had been found mis-filed. I described the correspondence to him and invited him to return to WWOR-TV's main studio to view the emails (which by then had been placed in the proper file). Mr. Lovey expressed surprise that the station had not received any additional programming-related viewer correspondence, particularly related to weekend news and public affairs programming, during July, August and September 2009.
7. Upon further research, I determined that the five emails had been mis-filed by a temporary staff member employed by the station during the Summer of 2009. I determined that this staff member had not received adequate training, and I

coordinated with WWOR-TV's Vice President who oversees viewer services to ensure that supervisors provide better training for employees responsible for filing viewer emails.

I declare under penalty of perjury that the foregoing is true and correct, to the best of my knowledge, information and belief. Executed on January 5, 2010.



---

Audrey Pass  
Senior Director of Communications  
and Public Affairs  
WWOR-TV, Secaucus, New Jersey  
9 Broadcast Plaza  
Secaucus, NJ 07096