

EXHIBIT 7

With respect to unresolved or resolved character issues (Section II, Certification 5), Assignor previously has provided a “No” response in other applications. In the 2005 renewal applications, Assignor provided a “No” response. The facts underlying the “No” response were that principals of Tejas controlled a low-power television station wherein the grant of an application for Class A status was rescinded, the Class A application dismissed and the station’s call sign downgraded from “CA” to “LP.” While character issues were alleged, the Commission basis for the rescission was deficiencies, not character issues. In the initial decision (dated July 23, 2004) rescinding the Class A grant, the Commission focus was limited to the matter of compliance with the Commission’s main studio requirements as follows (page 3):

“Our focus in this proceeding will be limited to determining whether Local One . . . was in compliance with the Commission’s main studio requirements.” (Copy of pages 1-3, Appendix A)

The staff decision rescinding the Class A grant was the subject of two Petitions for Reconsideration – both of which confirmed the initial 2004 staff decision pertaining to (a) rescinding the Class A status and (b) permitting LocalOne to continue low-power television operation.¹

The 2005 renewals were granted in 2005. The 2013 renewal applications also reflect a “No” response to the character issues. The “No” response to the character issue certification in numerous previous filings (including the 2006 filing and FCC approval of the WFUN-LP assignment of license application) was based on an abundance of caution, i.e., the possibility of a Petition to Deny alleging an improper response to the character issue certification. The “Yes” response herein to Section II, Certification 5, however, reflects an appropriate up-to-date change. Character issues were not the basis for rescission. Reasonably and logically, the continuation of a “No” response to the “Character Issue Certification”, wherein the 2005 renewal applications and numerous application filings (including the WFUN-LP assignment of license application) have been granted without objection, is not warranted. Considering the circumstances noted herein, “abundance of caution” is no longer necessary.

Copies of the relevant exhibits in the 2005 and 2013 renewal of license applications are attached as Appendix B.

¹ LocalOne Texas, Ltd., 20 FCC Rcd. 13521 (2005); LocalOne Texas, Ltd., DA 13-256 (2013).

APPENDIX A



Federal Communications Commission
Washington, D.C. 20554

JUL 23 2004

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LocalOne Texas, Ltd.
c/o A. Wray Fitch III, Esq.
Gammon & Grange
8280 Greensboro Drive
7th Floor
McLean, Virginia 22102-3807

The School Board of Broward
County, Florida
c/o Paul H. Brown, Esq.
Wood, Maines & Brown
1827 Jefferson Place, N.W.
Washington, D.C. 20036

Sherjan Broadcasting Corporation
c/o Peter Tannenwald, Esq.
Irwin Campbell & Tannenwald, PC
1730 Rhode Island Avenue, N.W.
Suite 200
Washington, D.C. 20036-3101

Re: Application to Convert WFUN-LP to
Class A Television Status
File No. BLTTA-20001208AEP
Facility ID No. 60542

Gentlemen:

This is with respect to the above-referenced application to convert the license of low power television station WFUN-LP, Miami, Florida, to Class A television status. The application was filed by Rodriguez Communications, Inc. (LocalOne)¹ on December 8, 2000, placed on public notice on January 19, 2001, and granted 14 days later on February 2nd. The School Board of Broward County, Florida (School Board), the licensee of noncommercial educational television station WPPB-TV, channel *63, Boca Raton, Florida, and Sherjan Broadcasting Company, the licensee of Class A television station WJAN-CA, Miami, Florida, filed petitions for reconsideration, which LocalOne has opposed.

Procedural Issue. Section 1.106(b)(1) of the Commission's rules provides that:

... [A]ny party to the proceeding, or any other person whose interests are adversely affected by any action taken by the Commission or by the designated authority, may file a petition requesting reconsideration of the action taken. If the petition is filed by a person

¹ During the pendency of this proceeding, Rodriguez filed several *pro forma* applications ultimately assigning the license to LocalOne Texas, Ltd. For ease of reference, both licensees will be referred to herein as "LocalOne."

who is not a party to the proceeding, it shall state with particularity the manner in which the person's interests are adversely affected by the action taken, and shall show good reason why it was not possible for him to participate in the earlier stages of the proceeding.

47 C.F.R. § 1.106(b)(1). The rule also provides that where a petition for reconsideration relies on facts not previously presented, it will be accepted if the Commission "determines that consideration of the facts relied on is required in the public interest." 47 C.F.R. § 1.106(c)(1). Neither Sherjan nor the School Board filed an initial objection to the license application. However, we believe that the public interest compels our consideration of the reconsideration petitions. Similarly, with respect to LocalOne's argument that the Commission should not consider certain pleadings because they were allegedly untimely, irrelevant or repetitive, in the interest of developing a complete record, and consistent with the public interest, we have given full consideration to all pleadings filed in connection with the Class A license application.

LocalOne also asserts that the alleged facts, even if true, "would not be a sufficient basis upon which to withdraw a license grant under any 'public interest' standard," because the station has been licensed as a Class A facility for barely two months. According to LocalOne, "the implied assertion that the Commission could, or should, make a valid public interest determination revoking or rescinding a [Class A license] after having operated as a Class A licensee for less than 90 days is, on its face, without merit." As discussed below, LocalOne's operating record after it filed its license application is irrelevant to the matter now before us – whether the staff should have granted the Class A license application if it had been aware, at the time it acted on the application, of the facts now before it. Based on the record before us, it is now clear that LocalOne was not qualified for a Class A license at the time it filed its license application. Accordingly, the license application should have been dismissed.²

Discussion. Pursuant to the Community Broadcasters Protection Act of 1999 (CBPA), in order to be eligible to qualify for Class A status, a low power television station, for at least 90 days preceding November 28, 1999, the date of enactment of the CBPA, must have: (1) broadcast a minimum of 18 hours per day; (2) broadcast an average of at least three hours of locally produced programming weekly; and (3) been in compliance with the Commission's requirements governing low power television stations.³ The statute also requires that, in addition to meeting these programming and service requirements, an eligible Class A television station must also be in compliance with the Commission's requirements for full service television stations "from and after the date" of filing its Class A license application.⁴ In *Establishment of a Class A Television Service*, 15 FCC Rcd 6355, 6369 (2000), the Commission also stated that it would apply to Class A licensees all Part 73 regulations except for those which could not apply for technical or other reasons,⁵ and required that qualified low power television licensees file a license application on FCC Form 302-CA within six months of the effective date of the rules adopted in the *Report and Order*.⁶ That deadline was July 12, 2001.

² Petitioners have raised several issues relating to WFUN-LP's operating record following grant of its Class A license application and LocalOne's candor with respect to certain certifications and representations made in its Class A license application and in this proceeding. LocalOne has disputed those issues. However, we need not, and do not, address these issues here. Rather, those matters will be referred to the Enforcement Bureau for its consideration and for whatever action it may deem appropriate.

³ 47 U.S.C. § 336(f)(2)(A)(i).

⁴ 47 U.S.C. § 336(f)(2)(A)(ii).

⁵ *Id.* at 6365.

⁶ *Id.* at 6362.

One of the Part 73 requirements which low power television stations are required to be in compliance with at the time they filed for a Class A license is that they maintain a main studio within their protected contour.⁷ Over the years, the Commission has reiterated that the primary function of a main studio is to serve the needs and interests of the residents of a station's community of license.⁸ In order to qualify as a main studio, the studio location must be equipped to meet this function, which requires that:

... a station must equip the main studio with production and transmission facilities that meet applicable standards, maintain continuous program transmission capability, and maintain a meaningful management and staff presence. Maintenance of production and transmission facilities and program transmission capability will allow broadcasters to continue ... to produce local programs at the studio. A meaningful management and staff presence will help expose stations to community activities, help them identify community needs and interests and thereby meet their community service requirements.

Clarification of the Main Studio and Program Origination Rules for Radio and Television Broadcast Stations, 3 FCC Rcd at 5026; see also FCC Form 302-CA, Instruction II.F (to qualify as a main studio, "the location must be equipped with appropriate equipment capable of originating programming at any time. Additionally, the studio must be staffed by at least one management-level employee and one staff-level employee at all times during regular business hours.") In addition, a complete public inspection file must be maintained at the main studio and readily available to visitors during regular business hours, see 47 C.F.R. § 73.3526, and a station must maintain a local telephone number in its community of license or a toll-free number. Our focus in this proceeding will be limited to determining whether LocalOne, at the time it filed WFUN-LP's Class A license application, was in compliance with the Commission's main studio requirements.

In its license application filed on December 8, 2000, LocalOne certified that, among other things, it: (1) constructed and maintained a main studio as required by Section 73.1125 of the Commission's rules; (2) maintained a public file at that location; and (3) complied with those station operating requirements set forth in Part 73 that are applicable to Class A stations.

On reconsideration, petitioners disputed these statements and submitted affidavits of their principals, Phyllis Finney Loconto and Sherwin Grossman, describing their separate visits to 390 N.W. 210th Street in Miami, where they had been informed the main studio was located. Grossman stated there was a small transmitter building at that site, and the only person on the premises was a security guard, who stated that he was not an employee of LocalOne. The guard showed him a file containing copies of applications filed with the Commission for WFUN-LP, but Grossman stated that the file did not contain any documentation of what local programming had been aired by the station or information about its

⁷ *Id.* at 6366.

⁸ See *Review of the Commission's Rules Regarding the Main Studio and Local Public Inspection Files of Broadcast Television and Radio Stations*, 13 FCC Rcd 15691, 15692 and n.3 (1998), modified, 14 FCC Rcd 11113 (1999) (Serving the needs and interests of its community is a "bedrock obligation" of every broadcast licensee," citing *Deregulation of Radio*, 84 F.C.C.2d 968, 977, 982, on recon., 87 F.C.C.2d 797 (1981), remanded on other grounds sub nom., *Office of Communication of the United Church of Christ v. F.C.C.*, 707 F.2d 1413 (D.C. Cir. 1983), *Clarification of the Main Studio and Program Origination Rules for Radio and Television Broadcast Stations*, 3 FCC Rcd 5024, 5026 (1988), and *En Banc Programming Inquiry*, 44 F.C.C. 2303, 2312 (1960). See also *Establishment of a Class A Television Service on Reconsideration*, at 28-29 (2001).

APPENDIX B

**COPY OF RELEVANT EXHIBITS FROM 2013
RENEWAL OF LICENSE APPLICATIONS**

EXHIBIT 3

On July 23, 2004, the Commission rescinded the grant of Class A status to LPTV station WFUN, Miami, Florida stating:

“...the application for Class A television status IS RESCINDED, the application IS DISMISSED, and the call sign of WFUN-CA is changed to WFUN-LP.”

A Petition for Reconsideration was denied on August 4, 2005.¹ A second Petition was filed on September 4, 2005 and denied on February 22, 2013 (copy attached).² The dismissal and denials (as of the renewal filing date) were reported in the 2005 Tejas renewal of license applications (copy of Exhibits 3 and 4, attached) and in an assignment of license application of station WFUN-LP, which was granted in November, 2004. The prior disclosures and the grant of the Tejas 2005 renewal of license applications effectively remove any impediment to the grant of the 2013 renewal applications.

¹ While the Petition was denied, the Commission's letter recognized the continuation of the licensee's status as an LPTV operator.

² Deficiencies, not character issues, were the basis for rescinding the Class A status application.

a.	the 1 mV/m contour of one of the FM station(s)?	<input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
b.	the 2 mV/m contour of one of the AM station(s)?	<input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
If No to either Question 8.a or 8.b, has the Commission made a finding pursuant to Section 310 (d) of the Communications Act that the newspaper/broadcast combination is in the public interest?		<input type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 16]

Exhibits

Exhibit 4

Description: EXHIBIT 4 - CHARACTER ISSUES

THERE ARE NO PENDING APPLICATIONS IN ANY PROCEEDING WHERE CHARACTER ISSUES WERE LEFT RESOLVED OR UNRESOLVED. AS IS REFLECTED IN EXHIBIT 3, THE COMMISSION 2004 DECISION RESCINDED THE GRANT OF A CLASS A STATUS TO STATION WFUN, DISMISSED THE WFUN APPLICATION FOR CLASS A STATUS AND CHANGED THE WFUN CALL SIGN FROM WFUN-CA TO WFUN-LP. THE WFUN PETITIONS FOR RECONSIDERATION OF THE CLASS A APPLICATION DISMISSAL AND THE DOWNGRADE TO WFUN-LP WERE DENIED (SEE EXHIBIT 3). THERE ARE NO PENDING APPLICATIONS PERTAINING TO CHARACTER ISSUES. NEVERTHELESS, IN AN ABUNDANCE OF CAUTION, EXHIBIT 4 IS PROVIDED TO AVOID ANY MISUNDERSTANDING.

Attachment 4

Exhibit 9

Description: EXHIBIT 9 - BIENNIAL OWNERSHIP REPORT

THE 2011 BIENNIAL OWNERSHIP REPORT WAS ELECTRONICALLY FILED ON MARCH 19, 2013.

Attachment 9

**COPY OF RELEVANT EXHIBITS FROM 2005
RENEWAL OF LICENSE APPLICATION**

Exhibits

Exhibit 3

Description: EXHIBIT 3 - CHARACTER ISSUES

JAMES L. ANDERSON AND CHARLES J. BROOKS ARE PRINCIPALS OF LOCALONE TEXAS, LTD., LICENSEE OF LOW POWER TELEVISION STATION WFUN-LP, MIAMI, FLORIDA (FACILITY ID 60542). IN A PROCEEDING INVOLVING A LICENSE APPLICATION (FILE NO. BLTTA-20001208AEF) TO CONVERT STATION WFUN-LP TO A CLASS A STATION, A MISREPRESENTATION ISSUE WAS RAISED AGAINST LOCALONE TEXAS, LTD. BY LETTER DATED JULY 23, 2004, THE COMMISSION STAFF DISMISSED WFUN-LP'S APPLICATION FOR CLASS A STATUS WITHOUT MAKING ANY ADVERSE DETERMINATION ON THE MISREPRESENTATION ISSUE; THE MATTER, HOWEVER, WAS REFERRED TO THE ENFORCEMENT BUREAU FOR ITS CONSIDERATION AND, THEREFORE, REMAINS UNRESOLVED. A TIMELY PETITION FOR RECONSIDERATION AND MOTION FOR STAY HAVE BEEN FILED AND, CONSEQUENTLY, THE APPLICATION REMAINS PENDING. THESE MATTERS WERE REPORTED IN THE ASSIGNMENT OF LICENSE APPLICATION GRANTED ON NOVEMBER 15, 2004.

Attachment 3

Exhibit 4

Description: EXHIBIT 4 - CHARACTER ISSUES

JAMES L. ANDERSON AND CHARLES J. BROOKS ARE PRINCIPALS OF LOCALONE TEXAS, LTD., LICENSEE OF LOW POWER TELEVISION STATION WFUN-LP, MIAMI, FLORIDA (FACILITY ID 60542). IN A PROCEEDING INVOLVING A LICENSE APPLICATION (FILE NO. BLTTA-20001208AEF) TO CONVERT STATION WFUN-LP TO A CLASS A STATION, A MISREPRESENTATION ISSUE WAS RAISED AGAINST LOCALONE TEXAS, LTD. BY LETTER DATED JULY 23, 2004, THE COMMISSION STAFF DISMISSED WFUN-LP'S APPLICATION FOR CLASS A STATUS WITHOUT MAKING ANY ADVERSE DETERMINATION ON THE MISREPRESENTATION ISSUE; THE MATTER, HOWEVER, WAS REFERRED TO THE ENFORCEMENT BUREAU FOR ITS CONSIDERATION AND, THEREFORE, REMAINS UNRESOLVED. A TIMELY PETITION FOR RECONSIDERATION AND MOTION FOR STAY HAVE BEEN FILED AND, CONSEQUENTLY, THE APPLICATION REMAINS PENDING. THESE MATTERS WERE REPORTED IN THE ASSIGNMENT OF LICENSE APPLICATION GRANTED ON NOVEMBER 15, 2004.

Attachment 4
