



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

December 23, 2010

In Reply Refer to:
1800B3-SS
Released:

Mr. Michael Arch
1325 Prentice
West Farmington, OH 44491

Beacon Broadcasting, Inc.
c/o John S. Neely, Esq.
Miller and Neely, P.C.
6900 Wisconsin Ave., N.W., Suite 704
Bethesda, MD 20815

In re: WEXC(FM), Greenville, PA
Facility ID No. 25225
File No. BALH-20100930ADL

WGRP(AM), Greenville, PA
Facility ID No. 25227
File No. BAL-20100930ADM

WLOA(AM), Farrell, PA
Facility ID No. 47569
File No. BAL-20100930ADN

Applications for Assignment of License

Petition to Deny

Dear Mr. Arch and Counsel:

We have before us the referenced applications (the "Applications") for Commission consent to the assignment of the licenses of Stations WEXC(FM) and WGRP(AM), Greenville, Pennsylvania, and WLOA(AM), Farrell, Pennsylvania (the "Stations") from Beacon Broadcasting, Inc. ("Beacon") to Educational Media Foundation ("EMF"). We also have before us a November 5, 2010, Informal Objection (the "Objection") to the Applications¹ filed by Michael Arch ("Arch") who claims an ownership interest in the Stations. For the reasons stated below, we deny the Objection and grant the Applications.

¹ Although the Arch pleading is styled a "Petition to Deny," it was not accompanied by an affidavit of a person with personal knowledge of the facts contained in the pleading, and there is no indication that it was served on Beacon or its counsel, as required by 47 U.S.C. § 309(d) and 47 C.F.R. § 73.3584. Therefore, we will treat the pleading as an Informal Objection pursuant to 47 C.F.R. § 73.3587. Beacon filed an Opposition to the Petition on November 30, 2010 (the "Opposition").

Background. The Applications were filed on September 30, 2010. Previously, Arch sought relief in the Trumbull County (Ohio) Court of Common Pleas² against Beacon involving a private contractual dispute regarding stock ownership in Beacon. After a June 1, 2009, hearing on the merits of the case, the court issued a decision finding in favor of Beacon³ and Arch appealed to the Ohio Eleventh District Court of Appeals. The matter remains pending.⁴ On September 23, 2010, Arch filed a motion for a temporary restraining order against the assignment of the Stations.⁵ In the Objection, Arch claims that his motion was granted.⁶ In its Opposition, Beacon argues that the motion remains pending.⁷ In sum, Arch contends that if he is granted ownership interest in Beacon by the court, he will reject the sale of the Stations.⁸ Beacon, in its Opposition, argues that Arch presents no basis to deny the sale of the Stations.⁹

Discussion. Pursuant to Section 309(e) of the Communications Act of 1934, as amended (the “Act”), informal objections must provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with the public interest, convenience, and necessity.¹⁰

We reject Arch’s argument regarding the court proceedings in connection with the Commission’s ability to assign the Stations. Although Arch states in the Objection that “the TRO was granted,” this appears not to be the case.¹¹ In the absence of such an order from a local court, the Commission has routinely acted favorably on license assignment applications.¹² We note, however, that Commission grant of an assignment or transfer of control application merely finds that the parties are qualified under, and the proposed transaction does not violate, the Act, or the

² Case No. 2007 CV 1383.

³ *Id.* at Attachment 4.

⁴ Petition at 2; *see also* Case No. 2010 TR 0075.

⁵ Case No. 2008 CV 2969.

⁶ Petition at 1.

⁷ Opposition at 1; *see also* Affidavit of Beacon counsel Michael D. Rossi, Esq., at Attachment 1.

⁸ *Id.*

⁹ Opposition at 2.

¹⁰ *See, e.g., WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197 n.10 (1990), *aff’d sub nom. Garden State Broadcasting L.P. v. FCC*, 996 F.2d 386 (D.C. Cir. 1993), *rehearing denied* (Sep. 10, 1993); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1986) (informal objections must contain adequate and specific factual allegations sufficient to warrant the relief requested) (“*Area Christian*”).

¹¹ It appears from the court docket that a hearing on Arch’s request for a temporary restraining order has been set for Wednesday, January 12, 2011, before Judge John M. Stuard. *See* the Public Access Docket List from the Court of Common Pleas for Trumbull County, Ohio, [http://courts.co.trumbull.oh.us/pa.urd/pamw2000.docket list?84750212](http://courts.co.trumbull.oh.us/pa.urd/pamw2000.docket%20list?84750212), last accessed on December 7, 2010.

¹² *See Farm and Home Broadcasting Company*, Letter, 24 FCC Rcd 11814, 11815 (MB 2009).

Commission's rules and policies. As such, it is permissive only¹³ and does not prejudice any relief to which the parties may ultimately be entitled.¹⁴ In these circumstances, we find no impediment at this time to our acting upon the instant Applications.¹⁵

Conclusions/Actions. Based on the evidence presented in the record, we find that Arch has failed to raise a substantial and material question of fact warranting further inquiry. We further find EMF to be fully qualified to be the licensee of Stations and that grant of the Applications will further the public interest, convenience, and necessity.

Accordingly, IT IS ORDERED, that the November 5, 2010, Petition to Deny filed by Michael Arch, treated herein as an Informal Objection, IS DENIED.

IT IS FURTHER ORDERED, that the Applications (File Nos. BALH-20100930ADL; BAL-20100930ADM; and BAL-20100930ADN) for consent to assign the licenses of Stations WEXC(FM) and WGRP(AM), Greenville, Pennsylvania and WLOA(AM), Farrell, Pennsylvania, from Beacon Broadcasting, Inc., to Educational Media Foundation, ARE GRANTED, subject to the following conditions:

The concomitant applications (File No. BMLED-20101026ABX, BML-200101019ADA, and BML-20101019ACZ) to convert stations WEXC(FM), WGRP(AM), and WLOA(AM), respectively, from commercial to noncommercial educational status ARE GRANTED, effective upon consummation of the proposed transactions.

The request for waivers of 47 C.F.R. section 73.1125 submitted as Attachment A, Attachment 1 and Attachment 1 to the above-referenced modification applications for WEXC(FM), WGRP(AM), and WLOA(AM), respectively, ARE GRANTED based upon the specific representations contained therein. These grants are effective upon consummation of the proposed transactions.

In order to facilitate these grants, the parties should also notify Penelope Dade, Room 2-A363 ((202) 418-2700) at the FCC.

Sincerely,



Peter H. Doyle
Chief, Audio Division
Media Bureau

¹³ *Cumulus Licensing, LLC*, Letter, 21 FCC Rcd 2998, 3007 (MB 2006).

¹⁴ *See Dennis P. Corbett, Esq. and Katrina C. Gleber, Esq.*, Letter, 22 FCC Rcd 4795, 4797-98 (MB 2007).

¹⁵ *See, e.g., Caswell Capital Partners, LLC, c/o Erwin Krasnow, Esq., Gresham Communications, Inc., c/o Dan Alpert, Esq., WAY-FM Media Group, Inc., c/o A. Wray Fitch, Esq.*, Letter, 24 FCC Rcd 14335, 14228 (MB 2009) (grant of assignment does not prejudice the rights of objecting parties seeking judicial appeal of the Commission's action).