

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

IN REPLY REFER TO:
1800B2, 8910-AJ

Peter A. Rohrbach, Esquire
Hogan & Hartson, L.L.P., for
Jacor Broadcasting of Knoxville, Inc.
555 Thirteenth Street, N.W.
Washington, D.C. 20004-1109

In Re: WWST(FM), Karns, TN., File No. BALH-951003GE and WMYU(FM),
Sevierville, TN., File No. BALH-951003GF, Assignment of Licenses

Dear Mr. Rohrbach:

The staff has before it an application to assign the license of WWST(FM), Karns, Tennessee from Jacor Broadcasting of Knoxville, Inc. ("Jacor") to Heritage Media Corporation ("Heritage"), File No. BALH-951003GE ("the Application"). Oak Ridge FM, Inc. ("Oak Ridge" or "Petitioner") timely petitioned to deny the Application. Also before us is the unopposed application to assign the license of WMYU(FM), Sevierville, Tennessee from Jacor to Heritage, File No. BALH-951003GF. For the reasons set forth below, we deny the petition and grant the applications.

Petitioner contends that it will be irreparably prejudiced by grant of the Application. In 1994, Petitioner instituted a civil action against WWST(FM)'s former licensee, WCKS Broadcasters, Ltd., in the Chancery Court, Part III, for Knox County, Tennessee. In that action, Oak Ridge seeks to compel the sale of WWST(FM) to itself, pursuant to its alleged agreement with WCKS Broadcasters, Inc. Oak Ridge argues that grant of the assignment to Heritage will preclude it from obtaining the relief it seeks in the Chancery Court. Petitioner concedes that the Commission generally will not withhold action on an application pending the outcome of a civil litigation involving, as here, a contract dispute; however, it contends that it has demonstrated "adequate reasons to depart from such policy in this instance," specifically, to avoid "irreparably prejudic[ing] the relief to which the Petitioner is entitled" in Chancery Court.

The Commission generally does not withhold action on an application pending the outcome of civil litigation. *Sonderling Broadcasting Co.*, 46 RR 2d 889, 894-95 (1979) (despite outstanding civil dispute, assignment applications granted where applicants qualified and grant serves public interest). The Commission is not the proper forum for the adjudication of rights in a private controversy. *Transcontinent Television Corp.*, 21 RR 2d 945, 956 (1961). A Commission grant authorizes, but does not require, parties to proceed with a proposed transaction. As a result, any action we may take on an application does not "preclude interested parties from seeking recourse in other forums for any injunctive or

monetary relief which they believe they are entitled to." Sonderling at 895. The Commission has neither the authority nor expertise to resolve contractual disputes; such issues are properly resolved by local courts. *Arecibo Radio Corp.*, 101 FCC 2d 545, 548 (1985); *John L. Runner*, 36 RR 2d 773, 778 (1976). Petitioner's contention that it will be irreparably harmed by our grant of the Application is properly addressed to a local court of competent jurisdiction.

Accordingly, we find that Oak Ridge's petition to deny is without merit and IS DENIED. We also find that Jacor and Heritage are qualified and that grant of the pending assignment applications would serve the public interest, convenience and necessity. Therefore, we GRANT the application to assign the license of WWST(FM), Karns, TN. (File No. BALH-951003GE) from Jacor Broadcasting of Knoxville, Inc. to Heritage Media Corporation, and WE GRANT the application to assign the license of WMYU(FM), Sevierville, TN. (File No. BALH-951003GF) from Jacor Broadcasting of Knoxville, Inc. to Heritage Media Corporation.

Sincerely,

Linda Blair, Acting Chief
Audio Services Division
Mass Media Bureau

cc: Robert S. Stone, Esquire
Margaret L. Tobey, Esquire