

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

In re Application of)	
)	
PURDUE UNIVERSITY)	File No. 0000184656
(Assignor))	
)	Pleading File No. 0000188323
and)	
)	
METROPOLITAN INDIANAPOLIS)	
PUBLIC MEDIA, INC.)	
(Assignee))	
)	
For Consent to the Assignment of Licenses)	Facility ID Nos. 53946, 53947 and 155740
of WBAA(AM) and WBAA-FM, West)	
Lafayette, IN and W290CM, Lafayette, IN)	

To: The Secretary, Federal Communications Commission
Attn: The Chief, Audio Division, Media Bureau

JOINT OPPOSITION TO INFORMAL OBJECTION

Purdue University (“Purdue”) and Metropolitan Indianapolis Public Media, Inc. (“MIPM” and, collectively with Purdue, the “Applicants”), by their attorneys, hereby oppose the correspondence (hereinafter the “Objection”) filed in LMS by Ms. Roberta Schonemann (the “Objector”), which the Commission has docketed as a “petition to deny” with respect to the captioned application for consent to Purdue’s assignment of noncommercial educational radio stations WBAA(AM) and WBAA-FM, West Lafayette, Indiana (along with WBAA(AM)’s FM translator station W290CM, Lafayette, Indiana) to MIPM. As discussed below, the Objection entirely fails to establish a substantial and material question as to whether the subject assignment is in the public interest. The

Objection should be summarily dismissed or denied and the assignment application promptly granted.

Initially, though LMS terms the Objection a “petition to deny,” the submission meets none of the procedural standards for such status. Indeed, the Objection does not even meet the requirements of an informal objection, because it is not signed.¹ Nor, to the Applicants’ knowledge, was the Objection served on the Applicants or their counsel as required for petitions to deny.² Moreover, the Objection lacks any personal knowledge affidavit supporting Objector’s allegations.³ And the Objection was not filed within the prescribed 30-day period for the filing of petitions to deny the subject application.⁴ Thus, the Objection fails to meet the procedural requirements for a petition to deny. It should at most be considered as an informal objection—although by virtue of its lack of a signature, the pleading fails even the elementary standards for that type of pleading.

Even if the Commission elects to consider the submission as an informal objection, Objector has the burden of providing properly supported allegations of fact that, if true, would establish a substantial and material question that grant of the instant

¹ See 47 C.F.R. §73.3587 (informal objections “may be submitted in letter form (without extra copies) *and shall be signed*”) (emphasis added).

² See 47 U.S.C. §309(d)(1) (“The petitioner shall serve a copy of [a petition to deny] on the applicant.”); *see also* 47 C.F.R. §1.47 (requiring service of petition).

³ See 47 U.S.C. §309(d)(1) (“ . . . [A]llegations of fact [in a petition to deny] shall, except for those of which official notice may be taken, be supported by affidavit of a person or persons with personal knowledge thereof.”)

⁴ The FCC issued public notice of the application’s filing on February 11, 2022. *See Public Notice, “Applications,”* Report No. 1-220211-01 (Feb. 11, 2022). Petitions to deny were due within 30 days of release of that public notice, or by March 14, 2022. *See* 47 C.F.R. §73.3584(a). LMS indicates that the Objection was filed on March 28, 2022, two weeks after the deadline. Inasmuch as the mandatory waiting period for public comment on the instant assignment application came and went without any objection, the Objector’s demand that processing of the application now be “halted to enable public input” rings quite hollow.

application would be *prima facie* inconsistent with the public interest, convenience and necessity.⁵ She has not met this standard. The Objector complains that Purdue decided to sell its stations without input from the university community, cites results of an unspecified poll of unspecified sponsors purporting to show a negative impact of the sale on local businesses, and alleges generally that the assignment will result in the loss of a source of education, culture, entertainment and local promotion to Purdue and the surrounding community. None of these contentions falls within the proper purview of Commission review in the context of an assignment application. For instance, the Commission has found that the appropriateness or legality of a seller's decision to dispose of assets is a matter for local authorities, not the FCC.⁶ Moreover, the Commission has held repeatedly that it does not consider programming and format changes in reviewing applications for the assignment and transfer of broadcast licenses.⁷ MIPM notes, however, that it does not intend to make drastic changes in the

⁵ 47 U.S.C. §309(e); 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* (Sept. 10, 1993); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 R.R.2d 862, 864 (1986) (informal objections, like petitions to deny, must contain adequate and specific factual allegations sufficient to warrant the relief requested).

⁶ See, e.g., *Donald E. Martin*, Letter, 29 FCC Rcd 2869, 2875-76 (Med. Bur. 2014) (declining to consider whether action of seller's board in entering into agreement to sell station was *ultra vires* under state corporate law).

⁷ See *Peter Davidson*, Letter, 22 FCC Rcd 18605, 10606-07 (Med. Bur. 2007) (citing *FCC v. WNCN Listener's Guild*, 450 U.S. 582, 585 (1981) and *Changes in the Entertainment Formats of Broadcast Stations*, Memorandum Opinion and Order, 60 F.C.C.2d 858, 865-66 (1976), *recon. denied*, Memorandum Opinion and Order, 66 F.C.C.2d 78 (1977), *rev'd sub nom. WNCN Listeners Guild v. FCC*, 610 F.2d 838 (D.C. Cir. 1979), *rev'd*, 450 U.S. 582 (1981). See also *Dr. Israeli Jaffe, et al.*, Letter, 24 FCC Rcd 11761, 11762 (Med. Bur. 2009); *Cincinnati Public Radio*, Letter, 22 FCC Rcd 6807, 6807-08 (Med. Bur. 2007).

programming carried on the West Lafayette stations. The stations will remain NPR affiliates, as is MIPM's WFYI-FM, Indianapolis, Indiana.⁸

Instead, the Commission's task here is to review the qualifications of the purchase and sale transaction before it.⁹ In that regard, the Objection makes no assertions whatsoever regarding Purdue's qualifications to assign its licenses, MIPM's qualifications to acquire them, the terms of the proposed sale or the transaction's compliance with applicable Commission rules. In the instant application, MIPM has certified that it has been found qualified as a noncommercial educational entity with a qualifying educational program, and the Objector has not challenged that certification. MIPM has been the licensee of PBS-affiliate WFYI (TV), Indianapolis, Indiana, for more than 50 years and has been the licensee of WFYI-FM since 1986.¹⁰ The Commission has held that where a certification of NCE qualifications has been made, no further inquiry is warranted as to the assignee's educational program vis-à-vis that of the assignor.¹¹

⁸ See attached Declaration of Gregory Petrowich, President of MIPM ("Petrowich Declaration").

⁹ See *Nassau Community College*, 12 FCC Rcd 12234, 12236 n. 6 (1997) ("The primary reason for Commission review of assignment applications is . . . to consider the legal qualifications of the parties.")

¹⁰ See Petrowich Declaration, *supra*.

¹¹ See *Michael Lazarus*, Letter, 26 FCC Rcd 5966, 5969 (Med. Bur. 2011).

Conclusion

The Objection is fatally flawed as a procedural matter, and in any case it raises no substantial or material question as to whether the proposed assignment is in the public interest. The Commission should dismiss or deny the Objection and grant the subject application expeditiously.

Respectfully submitted,

PURDUE UNIVERSITY

By: /s/ Gregory L. Masters /s/
Gregory L. Masters
Its Attorney

WILEY REIN LLP
2050 M Street NW
Washington DC 20036
(202) 719-7370

METROPOLITAN INDIANAPOLIS
PUBLIC MEDIA, INC.

By: /s/ Matthew H. McCormick /s/
Matthew H. McCormick
Its Attorney

FLETCHER, HEALD & HILDRETH, PLC
1300 North 17th Street, 11th Floor
Arlington, VA 22209
(703) 812-0438

April 6, 2022

Declaration of Gregory Petrowich

I, Gregory Petrowich, declare under penalty of Perjury:

I am President of Metropolitan Indianapolis Public Media, Inc. ("MIPM"), the proposed assignee of the Noncommercial Educational Stations WBAA(AM) and WBAA-FM, West Lafayette, Indiana (along with WBAA(AM)'s FM translator station W290CM, Lafayette, Indiana).

I have reviewed the foregoing "Joint Opposition to Informal Objection." The statements of fact made therein with respect to MIPM are accurate.

April 6, 2022



Gregory Petrowich

Certificate of Service

I, Leslie Gray, a secretary in the law firm of Wiley Rein LLP, hereby certify that a true copy of the foregoing “Joint Opposition to Informal Objection” was sent this 6th day of April 2022, by first class United States mail, postage prepaid, to the following:

Ms. Roberta Schonemann
4515 Ervin Road
West Lafayette, IN 47906

Leslie Gray