

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

In re: )  
)  
WCLG(AM), Morgantown, West Virginia ) File No. BAL-20130815ACK  
) Facility ID No. 3  
)  
WCLG-FM, Morgantown, West Virginia ) File No. BALH-20130815ACL  
) Facility ID No. 6553  
)  
Application for the Assignment of License )  
From Bowers Broadcasting Corporation to )  
AJG Corporation )  
)  
5<sup>th</sup> Request for Extension of Time to )  
Consummate )  
)

To: The Secretary  
Attention: Chief, Audio Division, Media Bureau

**PETITION FOR RECONSIDERATION**

1. AJG Corporation (“AJG”), by its undersigned counsel and pursuant to Section 1.106(f) of the Commission’s Rules, hereby petitions for reconsideration of the denial of the fifth request for extension of time to consummate the assignment of the licenses of Stations WCLG(AM) and WCLG-FM, Morgantown, West Virginia (the “Stations”), from Bowers Broadcasting Corporation (“Bowers Broadcasting”) to AJG (the “Transaction”).<sup>1</sup>

**I. Background**

2. The application for assignment of license for WCLG(AM) (FCC File No. BAL-20130815ACK) and WCLG-FM (FCC File No. BALH-20130815ACL) was granted by the

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<sup>1</sup> Letter from Peter H. Doyle, Chief, Audio Division, Media Bureau, Federal Communications Commission, to Matthew H. McCormick, Fletcher Heald & Hildreth, PLC, *WCLG(AM)/ WCLG-FM, 5<sup>th</sup> Request for Extension of Time to Consummate*, 1800B3-MFW (Nov. 30, 2016) (“*Extension Denial Letter*”).

Commission on February 3, 2015, subject to the condition that, *inter alia*, that AJG and West Virginia Radio Corporation (“WVRC”) have terminated their Sales Representation Agreement, dated November 8, 2000 (“JSA”), prior to consummation of the Transaction.<sup>2</sup> On March 6, 2015, AJG filed a Petition for Reconsideration of the imposition of those conditions. That petition was denied September 16, 2015.<sup>3</sup>

3. The process of complying with the conditions imposed by the grant of the Stations’ assignment of license application turned out to be more complex and time consuming than anticipated. In order to negotiate the orderly termination of the JSA and to make arrangements to comply with the Transaction’s other conditions, AJG requested extensions of time to consummate the Transaction. The first extension request followed just five weeks after the denial of the Petition for Reconsideration. The first four extension requests were routinely granted by the Media Bureau. But AJG’s most recent request for extension of time, filed on October 23, 2015 (the “Fifth Request for Extension of Time”), was denied on the grounds that: (1) “numerous extensions of time” were granted by staff; (2) “AJG[’s] fail[ed] to provide reasonable grounds for additional time to consummate the approved transaction”; and (3) the staff’s conclusion that “further extensions

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<sup>2</sup> The grant of the assignment of licenses of the Stations was also conditioned upon AJG’s submission to the Media Bureau, prior to consummation, a sworn statement from Ms. Lauren M. Kelly Driscoll that: (1) neither she nor any officer, director, employee, or agent of AJG, shall have any communication whatsoever, direct or indirect, oral or written with: (a) John R. or David A. Raese; or (b) any officer, director, employee, or agent of any Raese-owned company or any affiliate or subsidiary thereof regarding the management or operating of WCLG(AM) and WCLG-FM; (2) the stations owned by WVRC in the Morgantown-Clarksburg-Fairmount Nielsen Metro Market have ceased sharing managerial staff with AJG-owned stations in that market; and (3) AJG and WVRC have requested that BIA update its records to reflect such changes.

<sup>3</sup> Letter from Peter H. Doyle, Chief, Audio Division, Media Bureau, Federal Communications Commission, to Matthew H. McCormick, Fletcher Heald & Hildreth, PLC, *WCLG(AM)/ WCLG-FM, Assignment of License, Petition for Reconsideration*, 1800B3-MM (Sept. 16, 2015).

would erode the public's right to meaningfully comment on or object to this proposed transaction."<sup>4</sup>

## **II. Termination of the JSA**

4. AJG respectfully urges the Bureau rescind denial of the subject consummation extension request. As detailed herein, AJG and WVRC have taken measures to facilitate the termination of the JSA. Specifically, AJG and WVRC have entered into an agreement under which AJG will sell WKKW(FM), Fairmount, West Virginia (Facility ID No. 15253) to WVRC. The WKKW(FM) assignment of license application was filed with the Commission on December 30, 2016 (FCC File No. BALH-20161230AAD).

5. As part of the WKKW(FM) transaction, and pursuant to the Commission's radio multiple ownership rules, 47 C.F.R. § 73.3555(a)(1), WVRC's affiliates will assign WBUC(AM), Buckhannon, West Virginia (Facility ID No. 9301)<sup>5</sup> and WSWW-FM, Craigsville, West Virginia (Facility ID No. 166030)<sup>6</sup> to AJG. Accordingly, the WBUC(AM) and WSWW-FM's assignment of license applications were filed with the Commission on December 30, 2016 (FCC File Nos. BAL-20161230AAH and BALH-20161230AAF, respectively).

6. Furthermore, in order for WVRC to acquire WKKW(FM), WVRC has severed the attribution to it of *The Dominion Post* – a daily newspaper published in Morgantown, West Virginia. In order to comply with the Commission's daily newspaper-broadcast cross-ownership rule ("NBCO Rule"), 47 C.F.R. § 73.3555(d)(1), WVRC implemented a *pro forma* transfer of control application (FCC File No. BTC-20151221CRL), which was granted by the Commission

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<sup>4</sup> *Extension Denial Letter* at 2.

<sup>5</sup> WBUC(AM) is currently licensed to West Virginia Radio Corporation of Buckhannon.

<sup>6</sup> WSWW-FM is currently licensed to West Virginia Radio Corporation of Charleston.

on December 28, 2015, and consummated on December 16, 2016, to make David A. Raese's interests in WVRC non-attributable, and John R. Raese's interests in *The Dominion Post* non-attributable.

7. AJG believes that the Commission's grant of the application to assign WKKW(FM) from AJG to WVRC would not only permit AJG to satisfy the Transaction's closing conditions – including the termination of the JSA – it would also: (1) permit the grant of the renewal applications for WKKW(FM) (FCC File No. BRH-20110524AGW); and (2) facilitate the license renewals for WVAQ(FM), Morgantown, West Virginia (Facility ID No. 71677)<sup>7</sup> and WAJR(AM), Morgantown, West Virginia (Facility ID No. 71671)<sup>8</sup> – stations currently licensed to WVRC. These license renewals have been delayed by the pending termination of the JSA or grant of a long-standing request for waiver of the NBCO Rule. Additionally, the grant of WKKW(FM)'s license renewal application will permit the grant of AJG's pending transfer of control application to change the trustee of the trust which owns all of AJG's stock from Lauren M. Driscoll to Richard Cox Cowell (FCC File No. BTCH-20160815AAY). Accordingly, the Bureau's reconsideration of its denial of the Fifth Request for Extension of Time would ensure that these long-pending license renewals and transfer of control applications are granted.

### **III. Public's Right to Comment on the Transaction**

8. With respect to Bureau's concern that a further extension of the deadline to consummate the Transaction "would erode the public's right to meaningfully comment on or object to this proposed transaction,"<sup>9</sup> AJG respectfully notes that the public was provided with

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<sup>7</sup> See FCC File No. BRH-20110527AKD.

<sup>8</sup> See FCC File No. BR-20110527AKC.

<sup>9</sup> *Extension Denial Letter* at 2.

sufficient time to comment on the Transaction during the period the application and AJG's reconsideration petition were pending (August 15, 2013 to September 16, 2015).

9. Furthermore, today's filing of the assignment applications for WKKW(FM), WBUC(AM), and WSWW-FM will provide the public with additional opportunity to comment upon the entire package of proposed station assignments. Accordingly, AJG does not believe that the Bureau's reconsideration of the denial of the Fifth Request for Extension of Time would erode the public's right to meaningfully comment on or object to the Transaction.

#### **IV. Other Considerations**

10. The denial of the subject consummation extension request will result in the need to refile the application for assignment of the Stations – resulting in further expense and delay to both AJG and Bowers Broadcasting. The further delay is particularly burdensome on Linda Bowers, the sole principal of Bowers Broadcasting, who is seeking to sell her only stations and then retire.

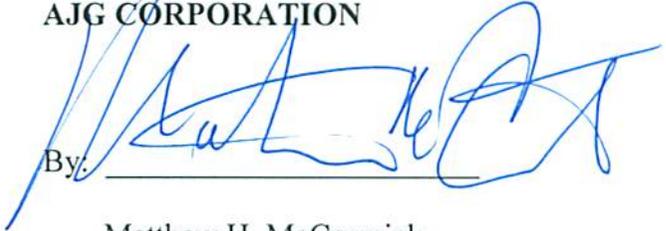
11. Moreover, the denial of the Fifth Request for Extension of Time would needlessly require the Bureau to devote substantial resources to reprocessing the Stations' assignment of license application, which has already undergone a thorough vetting process by the Commission staff.

#### **Conclusion**

12. For the foregoing reasons, AJG respectfully requests that the Media Bureau reconsider its denial of AJG's fifth request for extension of time to consummate the assignment of the licenses of Stations WCLG(AM) and WCLG-FM, Morgantown, West Virginia, from Bowers Broadcasting to AJG.

Respectfully submitted,

**AJG CORPORATION**

By: 

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Dated: December 30, 2016

**CERTIFICATE OF SERVICE**

I, Deborah N. Lunt, a legal secretary at Fletcher, Heald & Hildreth, PLC, do hereby certify that a copy of the foregoing Petition for Reconsideration is being sent via email this 30<sup>th</sup> day of December, 2016, to the following:

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