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12/30/08
ORIGINAL

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

In the Matter of)
)
Canyon Media Corporation)
)
Application for Minor Modification of FM)
Station KONY(FM), St. George, Utah (FIN-)
18140) to Change Community of License to)
Hurricane, Utah)
)
To: Office of the Secretary)
Attn: Chief, Audio Division, Media Bureau)

FCC File No. BPH-20070726AHL

FILED/ACCEPTED

DEC 23 2008

Federal Communications Commission
Office of the Secretary

Opposition to Petition for Reconsideration

Western Broadcasting LS, LLC (“Western”), by its attorney, hereby opposes the petition for reconsideration (“Petition”) filed by Canyon Media Corporation (“Canyon”) in connection with the Media Bureau’s recent grant of the above-captioned construction permit application authorizing a minor modification to KONY(FM)’s licensed facilities.¹ Western urges the Media Bureau to deny Canyon’s Petition due to the Commission’s longstanding policy of forbearance with respect to private contractual matters.

Pursuant to a Memorandum of Agreement, Canyon and Western submitted contingent applications to change KONY(FM)’s community of license from St. George, Utah, to Hurricane, Utah, and to change KURR(FM)’s community of license from Hurricane, Utah, to Indian

¹ This Opposition is timely filed pursuant to 47 C.F.R. §§ 1.106(g) and 1.4(h).

Springs, Nevada.² On November 12, 2008, the Commission issued public notice of the grant of these applications.³

Canyon bases its Petition upon the parties' ongoing attempts to finalize a second agreement concerning, "*inter alia*, the terms of Canyon's compensation for accommodating KURR(FM)'s facilities change."⁴ Canyon requests that the Bureau reconsider its grant "to prevent KONY(FM)'s community of license from being changed unnecessarily" and to save the parties and the Commission the expense of a request to reverse the community of license changes if the parties fail to reach an agreement.⁵

The Commission consistently has rejected parties' attempts to delay or reverse its decisions based upon collateral, unresolved contractual disputes, holding that such matters are beyond the scope of its review.⁶ Thus, the Bureau should not involve itself in interpreting or enforcing an alleged agreement to negotiate consideration in the future, and it should not involve itself in any resulting agreement. Moreover, nothing in the Memorandum of Agreement or Canyon's application even suggests that KONY(FM)'s application was subject to negotiation of a later agreement with Western. Consequently, Canyon has cited no reason why the Bureau

² See FCC File No. BPH-20070726AHL, at Exhibit 24.

³ See Broadcast Actions Report No. 46861 (rel. Nov. 12, 2008).

⁴ See Petition at 2-3.

⁵ Petition at 3.


⁶ See, e.g., *Listeners' Guild, Inc. v. FCC*, 813 F.2d 465 (Ct. App. D.C. 1987) (affirming the grant of a license renewal application without an express condition concerning performance of an option agreement to purchase the station); *Pueblo MSA Limited Partnership*, Order, 13 FCC Rcd 2583, 2586 (1998) (rejecting petitions to deny consent to a transfer of control, where the petitioners alleged that the transfer violated a partnership agreement); *Northwest B'casting*, Memorandum Opinion and Order, 12 FCC Rcd 3289, 3293 (1997) (upholding dismissal of a petition for reconsideration of approval of an assignment where petitioners alleged they had the right, under a non-final state judgment, to control the stock of a licensee).

should not have granted the contingent applications of KONY(FM) and KURR(FM) or why it should reconsider that decision now.

Accordingly, because there is no basis for the Bureau to reconsider its proper grant of KONY(FM)'s application to change its community of license, the Petition should be denied.

Respectfully submitted,

Western Broadcasting LS, LLC

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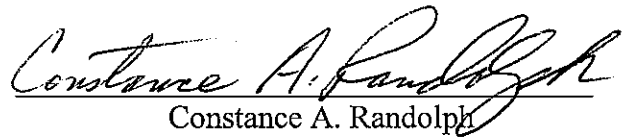
December 23, 2008

CERTIFICATE OF SERVICE

I, Constance A. Randolph, do hereby certify that a true and correct copy of the foregoing "Opposition to Petition for Reconsideration" was sent on this 23rd day of December, 2008 via first-class United States mail, postage pre-paid, to the following:

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December 23, 2008