



Federal Communications Commission  
Washington, D.C. 20554

April 12, 2011

*In Reply Refer to:*  
1800B3-JA  
Released:

Mr. John P. Stokes  
Skyline Broadcasters, Inc.  
PO Box 923  
Kalispell, MT 59903

In re: KGEZ(AM), Kalispell, Montana  
Facility ID: 60575  
File No. BR-20041130AMS

Petition for Reconsideration

Dear Mr. Stokes:

We have before us: (1) a Petition for Reconsideration (“Petition”) of the April 30, 2007, staff action granting the above-captioned renewal application,<sup>1</sup> filed on May 30, 2007, by the Montana Human Rights Network and Kate Hunt (collectively, the “Petitioners”); (2) a Supplement to the Petition filed on June 11, 2007, by the Petitioners; (3) an Opposition to the Petition (“Opposition”) filed by Skyline Broadcasters, Inc. (the “Licensee”) on June 13, 2007; and (4) a Reply to the Opposition (“Reply”) filed on July 25, 2007, by the Petitioners. For the reasons discussed below, we deny the Petition.

**Background.** On November 30, 2004, the Licensee timely filed a renewal application for Station KGEZ(AM). Numerous petitions to deny and informal objections were filed against the renewal application,<sup>2</sup> including a petition to deny filed by Kate Hunt and an informal objection filed by Montana Human Rights Network. The petitions to deny and informal objections each contained similar objections to the license renewal for Station KGEZ(AM), mainly that the license renewal application should be denied because the president of the Licensee, John Stokes, allegedly broadcast on Station KGEZ(AM): (1) hate speech and speech that incites violence; (2) false and defamatory statements about several of the objectors; (3) indecent speech; and (4) personal information about several of the objectors. A number of the objections also alleged that the corporation listed as the Licensee in its renewal application dissolved in 2001. Finally, several of the objectors asserted that the Licensee has filed frivolous lawsuits against them and has made misrepresentations about them in its Opposition to their objections.

The *2007 Letter* considered and denied each of these objections, stating that the Commission will not take adverse action on a license renewal application based upon the subjective determination of a listener or group of listeners as to what constitutes appropriate programming.<sup>3</sup> The *2007 Letter* found that the objectors had not shown that the Licensee abused its broad discretion – based on its right to free

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<sup>1</sup> *Letter to John Neely, Esq.*, 22 FCC Rcd 8395 (MB 2007) (“*2007 Letter*”).

<sup>2</sup> The Commission received fourteen petitions to deny and informal objections against the license renewal application for Station KGEZ(AM). *See id.* at 8395.

<sup>3</sup> *Id.* at 8397 (citing *WGBH Educational Foundation*, Memorandum Opinion and Order, 69 FCC 2d 1250, 1251 (1978)).

speech – to choose, in good faith, the programming that it believes serves the needs and interests of the community.

The 2007 Letter further stated that: (1) allegations that the Licensee had broadcast false statements or personal information, such as home addresses, are outside of the Commission’s jurisdiction; (2) no statute or Commission Rule directly prohibits the viewpoints expressed in Stokes’ programs that allegedly incited violence; (3) in light of the Commission’s clear directive regarding treatment of broadcast speech that allegedly advocates or incites violence, the objectors failed to establish a *prima facie* case that a grant of the renewal application would be inconsistent with Section 309(k) of the Communications Act of 1934, as amended (the “Act”); and (4) it could not be affirmatively established, after reviewing recordings submitted by the objectors, that the alleged indecent content was, in fact, broadcast on Station KGEZ(AM).

Regarding the allegations of misrepresentation and corporate insolvency, the 2007 Letter found that the objectors failed to present properly supported specific allegations of fact to establish a *prima facie* case that a grant of the Application would be inconsistent with Section 309(k) of the Act. Therefore the 2007 Letter denied all the informal objections and petitions to deny and granted the KGEZ(AM) license renewal.

The Petitioners timely filed the Petition on May 30, 2007, restating many of the allegations presented in the informal objections and petitions to deny against the license renewal application. The Petitioners ask the Commission to deny the license renewal application and designate this matter for evidentiary hearing because the Licensee fails to meet the Section 309(k) of the Act renewal standard. The Petitioners state that: (1) the Licensee has broadcast speech inciting specific imminent acts of violence, which raises a substantial and material question of fact regarding the Licensee’s basic qualifications to hold a Commission License;<sup>4</sup> and (2) an examination of the Station’s public inspection file by Ms. Hunt reveals that there is not “a single example of a single program responsive to any community need of Kalispell, MT – or any programming at all except hate speech programming. . . .”<sup>5</sup>

The Petitioners claim that the Station’s issues/programs lists only provide “cryptic and meaningless entries” and proceed to list the entries found on the January and February 2006 lists.<sup>6</sup> The Petitioners did not attach copies of the lists from the Station’s public inspection file. The Petitioners further state that the Licensee’s abuse of Commission processes and intimidation of witness must be examined in a hearing. As support for their allegations, the Petitioners restate the arguments made below and cite eight of the informal objections and petitions to deny filed against the renewal application. Petitioners also cite numerous newspaper articles and websites that have content related to either Stokes, Station KGEZ(AM), or the Montana Human Rights Network.

In the June 11, 2007, Supplement to the Petition, the Petitioners summarize and cite two additional informal objections to the license renewal application which have identical allegations to those cited in the Petition. They also state that the Licensee made the following false certifications on the renewal application: (1) “Section II, Question 4 (FCC violations during the preceding license term), owing to the licensee’s use of the station for incitement and licensee’s failure to document any community needs and programming serving those needs”; and (2) “Section III, Question 3 and Exhibit 11 (Local Public File), owing to licensee’s failure to include in the public file (inspected May 15, 2006) any issues/programs lists covering any portions of the license term.”<sup>7</sup>

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<sup>4</sup> Petition at 14.

<sup>5</sup> Petition at 11.

<sup>6</sup> Petition at 10-11.

<sup>7</sup> Supplement at 2:

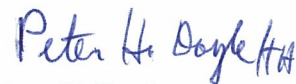
**Discussion.** The Commission will consider a petition for reconsideration when the petitioner shows either a material error in the Commission's original order, or raises additional facts not known or existing at the time of the petitioner's last opportunity to present such matters.<sup>8</sup> A petition for reconsideration that simply reiterates arguments that were previously considered and rejected will be denied.<sup>9</sup> We find that the Petitioners have not demonstrated material error or omission in the *2007 Letter*, nor raised any material new facts unavailable at the time of their original objection and petition to deny the license renewal application.

Outside of the Petitioners' allegations regarding the false certifications on the license renewal application, they have not raised any new allegations or new facts regarding the allegations previously made in the petitions to deny and informal objections. The Commission will not grant reconsideration "merely for the purpose of again debating matters on which the tribunal has once deliberated and spoken." We therefore decline to reconsider Petitioners' repetitive arguments and their request for an evidentiary hearing.

With respect to the allegations of false certifications on the license renewal application, such allegations could have been made in the Petitioners' informal objection and petition to deny the renewal application. The Petitioners have not demonstrated that the facts relied upon could not be discovered through the exercise of ordinary diligence at the informal objection/petition to deny stage. Moreover, the Petitioners' claim that the licensee falsely certified the question regarding FCC violations during the preceding license term is merely a restatement of the arguments made below and in the Petition. As the *2007 Letter* found, the Licensee's actions during the preceding license term did not violate any Commission Rule or the Act. With respect to the public inspection file, the renewal application requires licensees to certify their compliance with the Rules and the Act during the preceding license term, in this case, the period from 1997 to 2005. Missing or incomplete issues/programs lists from 2006 have no bearing on the licensee's certifications made on the renewal application filed on November 30, 2004, which covered the license term expiring April 1, 2005. For these reasons we deny the Petition with respect to these allegations.

**Conclusion.** For the above stated reasons, Kate Hunt and the Montana Human Rights Network's Petition for Reconsideration is DENIED.

Sincerely,



Peter H. Doyle  
Chief, Audio Division  
Media Bureau

cc: John Neely, Esq.  
David Honig, Esq.  
Kate Hunt  
The Montana Human Rights Network

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<sup>8</sup> See 47 C.F.R. § 1.106. See also *WWIZ, Inc.*, Memorandum Opinion and Order, 37 FCC 685, 686 (1964), *aff'd sub nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 387 U.S. 967 (1966).

<sup>9</sup> See *WWIZ, Inc.*, 37 FCC at 686.