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In re: **Maricopa County Community
College District**
KJZZ(FM), Tempe, Arizona
Facility ID No. 40095
File No. BRED-20130531AOG

**Application for Renewal of NCE
Radio Station License**

Informal Objection

Dear Ms. Snyder and Counsel:

This letter refers to: (1) the above-captioned application (“Renewal Application”) of Maricopa County Community College District (“MCCCD”) to renew its noncommercial educational (“NCE”) license for Station KJZZ(FM), Tempe, Arizona (“KJZZ” or “Station”) and (2) the September 26, 2013, letter, styled as an informal objection (“Objection”),¹ from Ms. Judy Snyder (“Snyder”) requesting denial of the Renewal Application.² For the reasons set forth below, we deny the Objection and grant the Renewal Application.

¹ See 47 C.F.R. § 73.3587.

² MCCCD filed its “Opposition of Licensee, Maricopa County Community College District to Informal Objection to Renewal of Broadcast License of KJZZ-FM” (“Opposition”) on November 21, 2013.

Background. MCCCCD timely filed the Renewal Application on May 31, 2013.³ On September 26, 2013, Snyder filed the Objection requesting denial of the Renewal Application. The Objection was timely filed with the Commission, before the Renewal Application was granted.⁴

Snyder advances two discernible arguments, supported by several examples, concerning MCCCCD's news and public affairs programming. Snyder first contends that KJZZ's programming is biased because it reports, and promotes, only one side of certain issues,⁵ and fails to cover contrary views, such as those Snyder holds.⁶ Second, Snyder argues that the views espoused in KJZZ's programming are contrary to Snyder's interests and, by proxy, to the public interest.⁷

In its Opposition, MCCCCD counters that Snyder's Objection does not meet the standard for an informal objection because the allegations have no merit and, even if they did, they "would not constitute a violation of any statute, rule, or policy within the Commission's jurisdiction."⁸ MCCCCD emphasizes that neither the Communications Act of 1934, as amended (the "Act"), Commission rules (the "Rules"), nor Commission policy require licensees to "present contrasting viewpoints on any issue, controversial or otherwise, or to present multiple viewpoints on the public issues" they address in programming.⁹ MCCCCD notes that Snyder seemingly "wishes to invoke the now-repealed 'Fairness Doctrine,'" which required broadcasters to "devote a reasonable portion of broadcast time to controversial issues of public importance" and to also broadcast "expression of contrasting viewpoints regarding the controversial issues presented."¹⁰ MCCCCD points out that the Commission has abolished the Fairness Doctrine and, as such, "[e]ven if Ms. Snyder's false assertions of slanting the news were accurate, KJZZ would not have

³ Renewal applications for stations in Arizona were to be filed by June 3, 2013, and licenses expired on October 1, 2013.

⁴ A mail room stamp indicates that the Commission received Snyder's Objection on September 26, 2013. However, on September 27, 2013, Media Bureau staff granted the Renewal Application. Four days later, the Federal Government shut down. Because Snyder filed the Objection prior to staff action granting the Renewal Application, but delay associated with the Federal Government shutdown prevented staff from receiving the Objection prior to grant, we rescinded grant of the Renewal Application to address the issues raised in the Objection. *See Broadcast Applications*, Public Notice, Report No. 28103 (MB October 28, 2013).

⁵ *See* Objection at 1-2 (stating, "KJZZ uses FCC-licensed airwaves to advocate for certain causes and population rather than to serve the interests of all American citizens in its listening area..." Snyder provides several examples, such as, "[KJZZ] seek[s] to make the effects of the [Affordable Care] Act more palatable to the public and to portray its detractors as belligerent and miserly").

⁶ For example, Snyder states, "[t]hey seem to care deeply about certain voices, but *not* mine or those of my ilk," and later, "I don't see stories reflecting the point of view of American citizens who support enforcement of existing laws." *Id.* at 1, 4 (original emphasis).

⁷ Snyder asserts, "[t]he bias I perceive does not serve my interests, but rather, I believe, is contrary to my interests. And as a member of the public and an American citizen I respectfully ask that you take this into consideration before moving to renew KJZZ's FCC license." *Id.* at 10.

⁸ Opposition at 4.

⁹ *Id.*

¹⁰ *Id.* at 6.

violated any law or policy and [the] Commission would have no basis in law or fact for granting Ms. Snyder's demand."¹¹

MCCCD notes that KJZZ has already demonstrated that it serves the public interest, convenience, and necessity when the Commission initially granted its Renewal Application.¹² Finally, MCCCD submits that the Objection does not meet the requirements of Section 309(d) or (e) of the Act because it does not raise a substantial or material question as to whether granting the Renewal Application would be *prima facie* inconsistent with Section 309(k) of the Act.¹³

Discussion. An informal objection must, pursuant to Section 309(d) of the Act, provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with Section 309(k) of the Act,¹⁴ which governs our evaluation of an application for license renewal. Specifically, Section 309(k)(1) provides that we are to grant the renewal application if, upon consideration of the application and pleadings, we find that (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Rules; and (3) there have been no other violations that, taken together, constitute a pattern of abuse.¹⁵ If, however, the licensee fails to meet that standard, the Commission may deny the application, after notice and opportunity for a hearing under Section 309(d) of the Act, or grant the application "on terms and conditions that are appropriate, including a renewal for a term less than the maximum otherwise permitted."¹⁶

Content-based complaints concern matters over which the Commission has only limited authority to review.¹⁷ The Commission's role in overseeing program content is limited by the First Amendment to the United States Constitution and Section 326 of the Act, which prohibit the Commission from interfering with broadcasters' freedom of expression and from censoring program material.¹⁸ While the Commission will regulate broadcast content where federal statutes direct it to do so,¹⁹ we "will not take

¹¹ *Id.*

¹² *Id.* at 3-4.

¹³ *Id.* at 10.

¹⁴ 47 U.S.C. § 309(k). *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), *reh'g denied* (D.C. Cir. Sept. 10, 1993).

¹⁵ 47 U.S.C. § 309(k)(1). The renewal standard was amended to read as described in the text by Section 204(a) of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). *See Implementation of Sections 204(a) and 204(c) of the Telecommunications Act of 1996 ("Broadcast License Renewal Procedures")*, Order, 11 FCC Rcd 6363 (1996).

¹⁶ 47 U.S.C. §§ 309(k)(2), 309(k)(3).

¹⁷ *See Ms. Lora Leland et al.*, Letter, 23 FCC Rcd 11008, 11010 (2008) (noting that the Commission regulates broadcast content only in very limited circumstances, such as where federal statutes direct it to do so, as with the Commission's enforcement of the statutory prohibition on broadcast of obscene, indecent and profane material).

¹⁸ U.S. Const., Amend I; 47 U.S.C. § 326.

¹⁹ *See* 18 U.S.C. § 1464.

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,” such as is the case here.²⁰ Rather, a licensee has broad discretion to choose, in good faith, the programming it believes serves the needs and interests of its audience community.²¹ We will intervene in programming matters only if a licensee abuses that discretion.²²

Snyder makes clear that numerous views espoused in MCCCCD’s programming conflict with her own, but as she notes, she has the option to, and indeed does, “just turn off the radio” whenever she “hear[s] the beginning of a story that sounds...like advocacy.”²³

Thus, ultimately, Snyder’s complaints concerning KJZZ’s programming amount to a difference of opinion with MCCCCD over the type of news and public affairs programming that best serves the community in Tempe, Arizona.²⁴ As MCCCCD correctly notes, the Commission has long since abolished the Fairness Doctrine after concluding that it no longer served the public interest, was not statutorily mandated, and was inconsistent with First Amendment values.²⁵ Indeed, contrary to Snyder’s argument, the Commission found that the Fairness Doctrine “actually inhibit[ed] the presentation of controversial issues of public importance to the public’s detriment and in degradation of the editorial prerogatives of broadcast journalists.”²⁶ Thus, Snyder’s complaints of bias and one-sidedness are inapposite; KJZZ has no regulatory obligation to present contrasting viewpoints in its programming. As such, we do not find that Snyder’s allegations raise a substantial and material question of fact that grant of the Renewal Application would be *prima facie* inconsistent with the Act.

²⁰ See *supra* note 21.

²¹ See, e.g., *License Renewal Applications of Certain Commercial Radio Stations Serving Philadelphia, Pennsylvania*, Memorandum Opinion and Order, 8 FCC Rcd 6400, 6401 (1993) (“*Philadelphia Station License Renewals*”) (citing *Time-Life Broadcast, Inc.*, Memorandum Opinion and Order, 33 FCC 2d 1081, 1082 (1972), and *Office of Communications of United Church of Christ v. FCC*, 707 F.2d 1413 (D.C. Cir. 1983) (subsequent history omitted)).

²² *Philadelphia Station License Renewals*, 8 FCC Rcd at 6401.

²³ Objection at 1.

²⁴ For example, while Snyder skeptically points out that she did not hear any coverage about the “very newsworthy July 15 March for Jobs in Washington D.C.,” in fact, KJZZ was under no obligation to cover the March. *Id.* at 5.

²⁵ In 1987, the Commission held, in *Syracuse Peace Council*, that the Fairness Doctrine “contravene[d] the First Amendment and its enforcement [was] no longer in the public interest.” 2 FCC Rcd 5043, 5051-52 (1987). In 1989, the Court of Appeals for the District of Columbia Circuit affirmed the Commission’s conclusion that the Fairness Doctrine no longer served the public interest, without reaching the question of its constitutionality. *Syracuse Peace Council v. FCC*, 867 F.2d 654, 656 (D.C. Cir. 1989), *cert denied*, 493 U.S. 1019 (1990). See also *Amendments of Parts 1, 73 and 76 of the Commission’s Rules*, Order, 26 FCC Rcd 11422 (2011) (deleting broadcast and cable rules referencing the Fairness Doctrine).

²⁶ See *Inquiry into Section 73.1910 of the Commission’s Rules and Regulations Concerning Alternatives to the General Fairness Doctrine Obligations of Broadcast Licensees*, Report, 2 FCC Rcd 5272, 5274 (1987).

We have evaluated MCCCCD's Renewal Application pursuant to Section 309(k) of the Act, and Sections 0.61 and 0.283 of the Rules.²⁷ Particularly given MCCCCD's noncommercial, educational nature and mission, we cannot conclude from this record that MCCCCD has violated the Act or the Rules. We have found no violations which, taken together constitute a pattern of abuse, and have not found that MCCCCD has failed to serve the needs of its community or the public interest generally.

Conclusion. In sum, we find no evidence of rule violations by MCCCCD that would warrant conditioning or denying its Renewal Application for Station KJZZ. Moreover, we find that KJZZ has served the public interest, convenience, and necessity during the subject license term. Accordingly, in light of the above discussion, and pursuant to Section 309(k) of the Communications Act of 1934, as amended, and Sections 0.61 and 0.283 of the Commission's Rules,²⁸ the Objection filed by Ms. Judy Snyder IS DENIED. IT IS ORDERED that, pursuant to Section 309(k) of the Communications Act of 1934, as amended, the license renewal application of Maricopa County Community College District, for Station KJZZ(FM), Tempe, Arizona (File No. BRED - 20130531AOG) IS GRANTED.

Sincerely,



Peter H. Doyle 
Chief, Audio Division
Media Bureau

²⁷ 47 U.S.C. § 309(k); 47 C.F.R. §§ 0.61, 0.283.

²⁸ *Id.*