

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
WGBH Educational Foundation)	File No. BRED-20131202BIA
)	Facility ID No. 70510
)	
Applications for Renewal of Licenses of)	File No. BRH-20131202BIR
WGBH(FM), Boston, Massachusetts, and)	Facility ID No. 23441
WCRB-FM, Lowell, Massachusetts)	
)	

MEMORANDUM OPINION AND ORDER

Adopted: July 16, 2015

Released: July 16, 2015

By the Commission:

1. The Commission has before it an Application for Review (“AFR”) filed January 9, 2015, by the Committee for Community Access (“CCA”). CCA seeks review of a Media Bureau (“Bureau”) decision,¹ dismissing for lack of standing CCA’s Petition for Reconsideration of a prior *Letter Decision*.² In the *Letter Decision*, the Bureau treated as an informal objection CCA’s March 4, 2014, pleading styled as a “Petition to Deny” the captioned renewal applications (“Applications”)³ of the WGBH Educational Foundation (“Foundation”) due to CCA’s late filing of a supporting affidavit.⁴ The Bureau denied CCA’s objection, rejecting its argument that the Foundation exercised insufficient control over programming and its request to reexamine the *Format Policy Statement*⁵ in the context of this proceeding.⁶

2. On review, CCA argues that: (1) the Bureau erred in not treating CCA’s untimely filing as a petition to deny; (2) the *Reconsideration Decision* is in conflict with Commission precedent regarding licensee control over station programming and improperly placed the burden of proof on it rather than the Foundation; and (3) the Bureau’s decision not to reexamine the *Format Policy Statement* in the context of this license renewal proceeding should be reversed.

3. Upon review of the AFR and the entire record, we conclude that the Bureau properly decided the matters raised in the *Letter Decision* and *Reconsideration Decision*, and we uphold its

¹ See Philip R. Olenick, Esq., and Eve Pogoriler, Esq., Letter, Ref. 1800B3-AJR (Dec. 10, 2014) (“*Reconsideration Decision*”).

² See Philip R. Olenick, Esq., and Eve Pogoriler, Esq., Letter, Ref. 1800B3-JFS (Aug. 20, 2014) (“*Letter Decision*”).

³ The Applications sought the renewal of the licenses for noncommercial educational (“NCE”) Stations WGBH(FM), Boston, Massachusetts, and WCRB(FM), Lowell, Massachusetts.

⁴ Specifically, the CCA Petition was filed on March 4, 2014, the deadline for filing petitions to deny against the Applications, but CCA did not submit a supporting affidavit until March 6, 2014.

⁵ *Changes in the Entertainment Formats of Broadcast Stations*, Memorandum Opinion and Order, 60 FCC 2d 858 (1976) (subsequent history omitted) (“*Format Policy Statement*”) (establishing a policy of non-intervention in broadcast station entertainment format changes).

⁶ The Foundation filed an Opposition on January 26, 2015. CCA filed a Reply on February 5, 2015.

decision for the reasons stated therein.⁷ Accordingly, IT IS ORDERED that, pursuant to Section 5(c)(5) of the Communications Act of 1934, as amended, and Sections 1.115(b) and (g) of the Commission's Rules, 47 C.F.R. §§ 1.115(b), (g), the Application for Review filed by the Committee for Community Access IS DISMISSED IN PART to the extent noted in footnote 7 and in all other respects IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁷ We also note that, throughout both its AFR and Reply, CCA makes reference to arguments contained in its previous pleadings. Such incorporation by reference is not allowed under our rules. Rather, the burden is on the party seeking review to set forth fully its argument and all underlying relevant facts in the application for review. 47 C.F.R. § 1.115(b)(2)(i). The Commission is not required to sift through the prior pleadings to supply the reasoning that the Rule requires be so provided, "with particularity," in the application for review. *See Tama Radio Licenses of Tampa, FL, Inc.*, Memorandum Opinion and Order, 25 FCC Rcd 7588, 7589 (2010), *aff'd sub nom.*, *Cherry v. FCC*, 641 F.3d 494 (D.C. Cir. 2011); *Red Hot Radio, Inc.*, Memorandum Opinion and Order, 19 FCC Rcd 6737, 6745 n.63 (2004). We therefore dismiss the AFR to the extent it seeks to incorporate by reference arguments that CCA made in previously filed pleadings. *See Ernesto Bustos*, Memorandum Opinion and Order, 29 FCC Rcd 12863, 12863-64 n.8 (2014).