



Federal Communications Commission  
Washington, D.C. 20554

September 15, 2015

*In Reply Refer to:*  
1800B3-AJR

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In re: **Mendocino County Public Broadcasting**

**KZYG(FM), Philo, CA**  
Facility ID No. 41157  
File No. BRED-20130724AAG

**Application for Renewal of License  
Informal Objections**

Dear Objectors and Counsel:

We have before us the referenced application (the “Application”) of Mendocino County Public Broadcasting (“MCPB”) for renewal of its license for noncommercial educational (“NCE”) Station KZYX(FM), Philo, California (the “Station”). We also have before us: (1) five Informal Objections to the Application;<sup>1</sup> (2) a “Complaint” against MCPB filed by Massey on April 30, 2015;<sup>2</sup> (3) letters in support of grant of the Application filed by listeners of the Station;<sup>3</sup> and (4) various related pleadings.<sup>4</sup> For the reasons set forth below, we grant in part and deny in part the Objections, grant the Application, but admonish MCPB for failure to maintain both one full-time staff and one full-time management level employee at the Station’s main studio.<sup>5</sup>

**Background.** MCPB timely filed the Application on July 24, 2013. In their filings, the Objectors raise concerns about: (1) the Station’s management practices and corporate governance; (2) changes in the Station’s programming; (3) compliance with equal employment opportunity (“EEO”) rules regarding the posting or recruiting for employment positions; (4) MCPB’s maintenance of a sufficient number of employees at the Station’s main studio; (5) the Station’s frequent discontinuances of operation due to equipment failures; (6) the Station’s signal quality; and (7) the airing of two incidents of indecent

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<sup>1</sup> Five individuals filed Objections as follows: (1) John Sakowicz, a Board Member of MCPB, on February 6, 2014 (“Sakowicz Objection”); (2) Sheila Dawn Tracy, a reporter for the Anderson Valley Advertiser, a local newspaper, on February 10, 2014 (“Tracy Objection”); (3) M. Kathryn Massey, a volunteer at the Station, on January 1, 2014 (“Massey Objection”); (4) Yasmin Solomon, a former program host at the Station, on January 28, 2014 (“Solomon Objection”); and Sandra Patterson, a listener and member of the Station, on November 4, 2013 (“Patterson Objection”) (collectively, the “Objections”).

<sup>2</sup> Although styled as a “Complaint,” we will treat Massey’s pleading as an additional informal objection (“Massey Objection II”).

<sup>3</sup> The following individuals filed supporting comments: (1) Eugenia Herr on June 6, 2015; (2) Katharine Cole on June 22, 2015; (3) David Jackness on June 22, 2015; (4) Spencer Brewer on June 30, 2015; (5) Jim Tarbell on June 30, 2015; (6) Joel Goldberg on June 24, 2015; (7) Howell Hawkes on June 30, 2015; (8) John Arteaga on June 30, 2015; (9) William R. Taylor on July 1, 2015; (10) Jonathan Whipple on July 2, 2015; (11) Mary Anne Landis on July 2, 2015; (12) Susan Janssen on July 6, 2015; (13) Antonina Esposito on July 6, 2015; (14) Helen Sizemore on July 7, 2015; (15) Colleen Bassett on July 7, 2015; (16) Pippa Thomas on July 8, 2015; (17) Andrew Stein on August 14, 2015; and (18) Judith M. Jackson on September 8, 2015.

<sup>4</sup> These pleadings include: (1) a Supplement to Objection filed by Sakowicz on May 20, 2014 (“Supplement I”); (2) an Opposition to Informal Objections filed by MCPB on May 21, 2014 (“Opposition”); (3) a Reply to MCPB’s Opposition filed by Sakowicz on April 20, 2015; (4) an additional Supplement to Objection filed by Sakowicz on March 15, 2015 (“Supplement II”); and (5) a copy of a letter dated June 28, 2014, to John Coate submitted by Massey (“Massey Letter”).

<sup>5</sup> The Objections and Supplement I also were filed against the renewal application (File No. BRED-20130724AAF) for commonly-owned Station KZYZ(FM), Willits, California. However, the Media Bureau (“Bureau”) granted the renewal application for Station KZYZ(FM) on November 22, 2013 without considering those Objections. *See Public Notice*, Report No. 48124 (Nov. 27, 2013). Because four of the Objections were filed after the grant of the KZYZ(FM) application, the Bureau was not required to consider them. *See* 47 C.F.R. § 73.3587 (permitting informal objections to be filed prior to the grant of any instrument of authorization). *See also Aspen FM, Inc.*, Letter, 12 FCC Rcd 17852 (1997) (affirming dismissal of untimely informal objection). Although the Bureau erred by not considering the Patterson Objection, which was filed prior to November 22, 2013, we find herein that Patterson’s arguments do not raise a substantial and material question of fact regarding the license renewal application for Station KZYX(FM).

programming.<sup>6</sup> Accordingly, the Objectors request that the Commission either deny or delay action on the Application, contingent on a change in the Station's management.

In its Opposition, MCPB argues that these Objections only express unhappiness with the Station's management, corporate governance, and programming, but do not raise a substantial and material question of fact regarding violations of the Commission's Rules (the "Rules"). Accordingly, MCPB states that the Objections should be dismissed and the Station's Renewal Application should be granted.

On January 15, 2015, we requested that MCPB provide additional information regarding the Station's employment practices.<sup>7</sup> On January 29, 2015, MCPB submitted a Response to Letter of Inquiry, indicating that the Station was not required to recruit widely for the hiring of a news reporter because the position was part-time and the hiring occurred at a time when the Station had fewer than five full-time employees and was not subject to the recruitment requirement. The Response included a second declaration by Coate made under penalty of perjury. Thereafter, we received 18 letters from listeners, supporting the Station's management and urging renewal of the Station's license.

**Discussion.** Pursuant to Section 309(e) of the Communications Act of 1934, as amended (the "Act"),<sup>8</sup> informal objections to license renewal applications must 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, which governs our evaluation of an application for license renewal.<sup>9</sup> 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, which taken together, constitute a pattern of abuse.<sup>10</sup>

*Station Management Practices and Corporate Governance.* Sakowicz and Massey request the replacement of the Station's General Manager and Executive Director, John Coate.<sup>11</sup> They contend that he did not share key information with the MCPB Board of Directors such as reasons why Board meetings were cancelled or financial information.<sup>12</sup> Sakowicz, Massey, and Solomon also complain about the Station's corporate governance such as compliance with the by-laws, the election of Board members, and by-law changes.<sup>13</sup>

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<sup>6</sup> Specifically, Massey claims that: (1) at 3:25 PM on January 21, 2014, a song was aired with the words "fuck" and "bull-shit"; and (2) at 7:10 pm on March 30, 2015, during an interview with poet, Ruth Weiss, she said "some such shit." See Massey Complaint at 4-5.

<sup>7</sup> See *Colin Black Andrews, Esq.*, Letter, Ref. 1800B3-AJR (Jan. 15, 2015) ("*Letter of Inquiry*").

<sup>8</sup> 47 U.S.C. § 309(e).

<sup>9</sup> See, e.g., *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1986) (providing that informal objection must contain adequate and specific factual allegations sufficient to warrant the relief requested) ("*Area Christian Television*").

<sup>10</sup> 47 U.S.C. § 309(k)(1).

<sup>11</sup> See Sakowicz Objection at 7; Massey Objection at 7

<sup>12</sup> See Sakowicz Objection at 2; Massey Objection at 2. The Massey Letter raises many of the issues contained in the Massey Objection.

<sup>13</sup> See Sakowicz Objection at 3; Tracy Objection at 1-3; Solomon Objection at 2.

We agree with MCPB that these allegations do not raise a substantial and material question of fact because, even if true, they do not involve violations of the Rules. Rather, these allegations concern how Mr. Coate manages the Station or complies with the MPBC's charter and by-laws. Under established precedent, these are non-broadcast activities that the Commission does not regulate. Specifically, the Commission does not have the authority to replace the Station's General Manager.<sup>14</sup> Likewise, the Commission does not adjudicate whether a station has complied with its charter or by-laws because these are matters more appropriately left for state courts.<sup>15</sup> Accordingly, these allegations do not warrant further inquiry.

*Programming Changes.* Next, Sakowicz, Patterson, and Solomon criticize changes management made to the Station's programming, such as cancelling the "Open Lines" program in which members of the public could comment on any subject for three minutes without restriction or dismissing popular program hosts.<sup>16</sup> Sakowicz also expresses concern over the reduction of news programming from 30 minutes to five minutes a day.<sup>17</sup> Tracy alleges that the Station airs only one hour of children's programming per week and schedules it on a weekday evening instead of on a weekend.<sup>18</sup>

It is well established that a broadcast licensee has broad discretion – based on its right to free speech -- to choose, in good faith, the programming that it believes serves the needs and interests of the members of its audience.<sup>19</sup> The Commission will not take adverse action on a licensee renewal application based solely on the subjective determination of a single listener or group of listeners as to what constitutes appropriate programming.<sup>20</sup> We will intervene in programming matters only if a licensee abuses that discretion.<sup>21</sup> We find that the Objections have not shown an abuse of this discretion. Although Sakowicz claims that the "Open Lines" program was cancelled because callers became critical of the Station's management,<sup>22</sup> he has provided no evidence to support this position or to show that the

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<sup>14</sup> See *Ms. Rosanda Suetopka Thayer, et al.*, 22 FCC Rcd 17305 (MB 2007) (denying request to replace a station's manager because she was appointed without public input or notification to the Hopi community) ("*Thayer*").

<sup>15</sup> See *Donald E. Martin, Esq., et al.*, Letter, 29 FCC Rcd 2869 (MB 2014) (denying argument that a Board of Directors of a non-commercial educational FM station exceeded its powers by signing a management and programming agreement because this is a question appropriately left to state courts); see *Thayer*, 22 FCC Rcd at 17308 (stating that the Commission has no authority to direct the manner in which board members of NCE stations are to be selected).

<sup>16</sup> See Sakowicz Objection at 4; Patterson Objection at 1; Solomon Objection at 2.

<sup>17</sup> See Sakowicz Objection at 5.

<sup>18</sup> See Tracy Objection at 5.

<sup>19</sup> 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).

<sup>20</sup> See *WGBH Educational Foundation*, Memorandum Opinion and Order, 69 FCC 2d 1250, 1251 (1978). Although Sakowicz was a Board Member when he filed his objection, his argument, as well as that of Patterson and Solomon, are in the nature of listener objections to programming.

<sup>21</sup> See *Philadelphia License Renewals*, 8 FCC Rcd at 6401 (1993) (explaining that abuse of discretion occurs if a licensee is unreasonable or discriminatory in its selection of issues that it believes are of concern to the local community or if offers such nominal levels of issue-responsive programming as to have effectively defaulted on its obligation).

<sup>22</sup> See Sakowicz Objection at 4.

Station's programming decisions, including the dismissal of program hosts, were unreasonable. Likewise, while Sakowicz claims that there was a reduction in the amount of news programming, he did not show that the Station aired an insufficient amount of issue-responsive programming to meet its public interest obligations.<sup>23</sup> Finally, there is no requirement that radio stations broadcast children's programming.<sup>24</sup> Accordingly, the Objectors have not raised a substantial and material question of fact with regard to the Station's programming.<sup>25</sup>

*Indecency Allegations.* We do not rule on the merits of Massey's indecency allegations. However, we have reviewed the facts presented in the Complaint and have concluded that, even if a violation were adjudicated based on these facts, such a violation would not justify denial or designation of the license renewal application or demonstrate a pattern of non-compliant behavior.

*Employment Practices.* Sakowicz claims that the Station violated the Commission's EEO Rule<sup>26</sup> when the General Manager allegedly hired Michael Kisslinger and Sheri Quinn in December 2013, Paul Lambert, a news reporter, in 2011, and David Brooksher, the News Director, without posting or recruiting for these positions. Sakowicz also alleges that Brooksher and Christina Aanestad, a news reporter, were fired without cause and Eells Cooperrider, a program host, was fired. Further, Sakowicz generally asserts that the Station has violated the EEO Rule by failing to adopt an outreach program for hiring or to conduct non-vacancy specific outreach. MCPB denies the truth of these allegations, and it also argues that the Station has fewer than five fulltime employees and is entitled to the small station exemption to the Commission's EEO Rule.<sup>27</sup> Additionally, Massey alleges three instances of gender discrimination by the Station's Program Director, Mary Aigner, because three male programmers were dismissed by her for the airing of profanity while two female programmers, Mary Aigner and Sherry Glaser, were retained in spite of the airing of indecent programming previously described.<sup>28</sup> MCPB did not respond to Massey's allegations.

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<sup>23</sup> See, e.g., *Citicasters Licenses, L.P.*, Memorandum Opinion and Order and Notice of Apparent Liability, 22 FCC Rcd 19324, 19329 (MB 2007) (finding that, contrary to allegations in Petitions to Deny, three radio stations had provided issue-responsive programming to the extent and manner within their broad discretion).

<sup>24</sup> See 47 C.F.R. § 73.671 (providing that commercial and noncommercial educational television stations must serve the educational and informational needs of children); 47 C.F.R. § 73.670 (limiting the amount of commercial matter that may be broadcast by television stations during children's programming).

<sup>25</sup> As a related matter, in Supplement II to his Objection, Sakowicz claims that on February 20, 2015, Coate discussed the Objections filed in this renewal proceeding over the air and stated that the Objectors made erroneous statements in their pleadings to the Commission. Sakowicz alleges that Station management should not be allowed to voice a one-sided opinion on unresolved matters under review by the Commission. We find that no substantial and material question of fact has been raised. Sakowicz has not cited any rule or policy that has been violated. Indeed, the Commission eliminated its Fairness Doctrine in 1987. See *Syracuse Peace Council*, Memorandum Opinion and Order, 2 FCC Rcd 5043 (1987), *recon. denied*, Memorandum Opinion and Order, 3 FCC Rcd 2035 (1988) (concluding that the Fairness Doctrine violated the first amendment and contravened the public interest). Further, Coate's comments were made over a year after the Station's license term had ended.

<sup>26</sup> See 47 C.F.R. § 73.2080 (requiring stations to afford equal opportunity in employment, recruit for full-time job vacancies, and establish outreach and training programs).

<sup>27</sup> See 47 C.F.R. § 73.2080(d) (exempting stations that have fewer than five full-time employees from the EEO program requirements set forth in subsections (b) and (c) of this rule). See File No. B396-20130718AGY at 1 (stating that KZYX(FM) has less than five full-time employees).

<sup>28</sup> See Massey Objection II at 2. Massey does not identify the names of the male programmers who were dismissed.

In the *Letter of Inquiry*, we requested that MCPB clarify whether it recruited widely for Lambert's position as a news reporter because it appeared that the alleged Lambert hiring occurred prior to the time that the Station had fewer than five full-time employees.<sup>29</sup> In its Response, MCPB states that it was not required to recruit widely for Lambert's position because: (1) contrary to the facts alleged by Sakowicz, Lambert's arrangement with MCPB began in July 2012, at which time MCPB was entitled to the small station exemption; and (2) Lambert's position was not full-time because he did not have a regular work schedule of 30 hours per week.<sup>30</sup>

Although the Station has had fewer than five full-time employees since July 2012, we note that the affidavit of Coate states that the Station had more than five full-time employees for the years prior to July 2012 and had filed Annual EEO Public File Reports.<sup>31</sup> Therefore, the Station was subject to the requirements in Section 73.2080 of the Rules prior to that time. We find, however, that Sakowicz has not raised a substantial and material question of fact about the Station's employment practices. According to representations in Coate's Declaration, which were not contested, Kisslinger and Quinn were independent contractors, as opposed to full-time employees,<sup>32</sup> and thus those positions were not subject to the EEO recruitment requirements.<sup>33</sup> Additionally, these hirings occurred in December 2013 when the Station was not subject to Section 73.2080(b) and (c). Further, MCPB has demonstrated that the hiring of Brooksher complied with the Commission's EEO Rule because the Station notified and used four recruitment sources to fill the News Director position.<sup>34</sup> Likewise, MCPB has shown that it was not required to recruit widely for Lambert's position as a news reporter because it was a part-time position.

With respect to the allegations that Aanestad and Brooksher were terminated without cause, Coate states in his Declaration that they were laid off in June 2009 and July 2012, respectively, in order to reduce the Station's costs.<sup>35</sup> Likewise, Coate states that Cooperrider, a volunteer program host was not fired but chose voluntarily to step down as a program host.<sup>36</sup> In any event, whether employees were wrongfully terminated are matters more appropriately handled by the Equal Opportunity Employment Commission ("EEOC") or other government agency and/or courts.<sup>37</sup> MCPB has also attested that there were no complaints of employment discrimination filed during the license term.<sup>38</sup> We find that Coate's documented affidavit containing specific factual statements on these points to be of greater probative

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<sup>29</sup> See *Letter of Inquiry* at 1.

<sup>30</sup> See MCPB Response to Letter of Inquiry at 2.

<sup>31</sup> See MCPB Opposition, Exhibit 1, Declaration, under penalty of perjury, of John Coate at 1 ("Coate Declaration").

<sup>32</sup> *Id.* at 3.

<sup>33</sup> See 47 C.F.R. § 73.2080(c) (establishing EEO program recruitment requirements for every full-time job vacancy); 47 C.F.R. § 73.2080(e)(1) (defining a full-time employee as a permanent employee whose regular work schedule is 30 hours per week or more). See also *Daniel Forrestall, Receiver*, Memorandum Opinion and Order, 8 FCC Rcd 884 (MMB 1993) (finding that station had not misrepresented that it had fewer than five full-time employees because the others were hired as part-time or as independent contractors).

<sup>34</sup> See 2011 Annual EEO Public File Report, at: <http://kzyx.org/index.php/about-us/station-business/misc-reports> ("2011 EEO Report"); see also Coate Declaration at 3.

<sup>35</sup> See Coate Declaration at 1 and 4.

<sup>36</sup> *Id.* at 3.

<sup>37</sup> See *Thayer*, 22 FCC Rcd at 17307-08.

<sup>38</sup> *Id.* at 1.

value than Sakowicz's Objections.<sup>39</sup> Finally, Sakowicz has not provided evidence to support his general allegation that the Station has failed to adopt outreach programs for hiring or to conduct non-vacancy specific outreach. On the contrary, an examination of the Station's 2011 Annual EEO Public File Report reveals that the Station has continued an internship program, participated in a job fair, and provided training to management level personnel on implementing an equal employment opportunity program.<sup>40</sup>

With regard to Massey's allegations that three male programmers were discriminated on the basis of gender because they were terminated for the airing of indecent programming but two female programmers were retained, Massey has not provided affidavits or other materials regarding the termination of the three male employees. She has not identified the names of the three male programmers or provided specific facts regarding their termination. Her unsupported and conclusory allegation here is insufficient to warrant further inquiry.<sup>41</sup> Moreover, as indicated above, whether an employee was wrongfully terminated is a matter more appropriately handled by the EEOC or a state court.<sup>42</sup> Accordingly, Sakowicz or Massey have not raised a substantial and material question of fact regarding the Station's employment practices.

*Main Studio Staffing.* Sakowicz asserts that there was no staff at the main studio when he hosted a biweekly program on Friday mornings at 9 a.m. and that the station was typically left unattended during business hours.<sup>43</sup> MCPB disputes the accuracy of this allegation. In support of this position, MCPB submits an affidavit from its General Manager that the Station has at least one staff member on the premises at 9 a.m. and has two or more staff at the Station for the rest of the business day.<sup>44</sup> Further, the General Manager states that Sakowicz may have been unaware of the staff's presence because the Station has two adjacent buildings.

The Commission's policy is that a station must "maintain a meaningful management and staff presence" at the main studio."<sup>45</sup> The Commission has clarified "meaningful presence" as one full-time managerial and one full-time staff personnel.<sup>46</sup> While MCPB has stated that it maintained two full-time employees at the main studio, we are unable to find that it complied with the requirements of *Jones Eastern* because there is no evidence in the record that one of these employees was a full-time management-level employee. However, it appears that staff was present at the main studio who could operate the equipment and make the public file available to visitors. Under these circumstances, we admonish MCPB for apparently not maintaining both a staff employee and a management-level employee

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<sup>39</sup> See, e.g., *Bee Broadcasting Associates*, Memorandum Opinion and Order, 3 FCC Rcd 4323, 4328 (MB 1988) (finding that petitioner's speculative and conclusory allegations fail to establish that a substantial and material question exists, particularly in light of the applicant's properly supported declarations and affidavits of those with personal knowledge of the facts alleged).

<sup>40</sup> See 2011 Annual EEO Report at 1-2.

<sup>41</sup> See *Area Christian Television*, 60 RR 2d at 864.

<sup>42</sup> See *Thayer*, 22 FCC Rcd at 17307-08.

<sup>43</sup> See Sakowicz Objection at 7.

<sup>44</sup> See MCPB Opposition, Exhibit 1, Declaration of John Coate at 4.

<sup>45</sup> See *Main Studio and Program Origination Rules for Radio and Television Broadcast Stations*, Memorandum Opinion and Order, 3 FCC Rcd 5024, 5027 (1988).

<sup>46</sup> *Jones Eastern of the Outer Banks, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 3615, 3616 (1991) ("*Jones Eastern*").

at the studio on a full-time basis during regular business hours.<sup>47</sup> We also direct MCPB to remedy this apparent violation.

*Discontinuances of Operation.* Sakowicz complains of the Station's failing transmission facilities and alleges that the Station is frequently off the air.<sup>48</sup> Section 73.1740(a)(4) of the Rules provides that, in the event that causes beyond the control of a licensee make it impossible to continue operating, the station may limit or discontinue operation for a period of not more than 30 days without further authority from the Commission.<sup>49</sup> The licensee is required to notify the Commission not later than the tenth day of limited or discontinued operation.<sup>50</sup> Although MCPB acknowledges that the Station has been off the air for limited periods of time, we find that there has been no violation of this rule because MCPB has represented, based upon its review of Station records, that the Station has not been off the air for more than 36 hours at any given time going back to October 2007 and no more than 48 hours since the beginning of the license term in 2005.<sup>51</sup> Further, even if the Station had been off the air for nine days in 2009, as alleged by Sakowicz, such a discontinuance of operation would not have violated our Rules or required notification to the Commission because it was for less than 10 consecutive days. Accordingly, Sakowicz has not raised an issue regarding discontinuances of operation.

*Signal Quality.* Sakowicz also contends that there have been numerous instances of poor signal quality in 2014 and 2015.<sup>52</sup> In support of this position, he cites to the blog of the Station's General Manager, Coate, acknowledging various instances of a "scratchy signal" due to an aging studio transmitter link ("STL"), which has broken down intermittently. We find that these allegations do not raise a substantial and material question of fact. Sakowicz has not demonstrated any rule violations or that the cumulative effect of the equipment failure is the public being deprived of a signal of acceptable quality.<sup>53</sup> Rather, these incidents of a "scratchy signal" appear to be intermittent. Accordingly, we find no substantial and material question of fact warranting further inquiry.

*Corporation for Public Broadcasting Requirements/Volunteering.* Tracy complains that the Station did not comply with requirements of the Corporation for Public Broadcasting ("CPB") for posting information on the Station's website. However, the Commission does not consider compliance with CPB requirements in its licensing proceedings.<sup>54</sup> Likewise, although Tracy and Solomon allege that they were denied the opportunity to volunteer or to host on-air programs, respectively, at the Station, these decisions are within the discretion of the licensee and do not violate any Rules.

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<sup>47</sup> See, e.g., *Danville Television Partnership*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 16 FCC Rcd 9314, 9320 (MB 2001) (determining that an admonishment, as opposed to a forfeiture, is the appropriate sanction where a station did not maintain one full-time staff and one full-time management level employee at the main studio but two employees of a contractor were present).

<sup>48</sup> See Sakowicz Objection at 7. Specifically, in his Supplement I, Sakowicz alleges that the Station was off the air for ten days in 2009. See Sakowicz Supplement to Objection at 1. In his Reply, Sakowicz cites additional instances of discontinuances in the Station's operation.

<sup>49</sup> 47 C.F.R. § 73.1740(a)(4). Licensees are required to notify the Commission no later than the tenth day of limited or discontinued operation.

<sup>50</sup> *Id.*

<sup>51</sup> See MCPB Opposition, Exhibit 2, Declaration of Rich Culbertson at 1.

<sup>52</sup> See Sakowicz Reply at 1-2.

<sup>53</sup> Cf. *Eli and Harry Daniels*, Decision 32 FCC 2d 196 (1971) (denying renewal application for a television station due to a multitude of technical rule violations and the failure to provide a signal of acceptable quality).

<sup>54</sup> See *Leonard Clark*, Letter, 27 FCC Rcd 13075, 13077 (2012) (dismissing allegation that a station did not comply with CPB funding requirements such as holding open meetings or seeking input from a community advisory board).



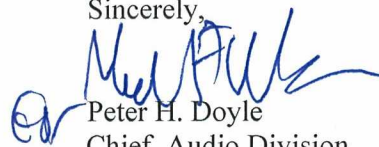
*Renewal Application Evaluation.* Finally, we have evaluated the referenced Applications pursuant to Section 309(k) of the Communications Act of 1934, as amended (“Act”), and we find that the Stations have served the public interest, convenience, and necessity during the subject license term. Moreover, we find that there have been no serious violations of the Act or the Rules, nor have there been violations by the Licensee of the Act or the Rules, which, taken together, would constitute a pattern of abuse.

**Conclusion/Actions.** For the foregoing reasons, the Informal Objections filed by John Sakowicz, Sheila Dawn Tracy, M. Kathryn Massey, Yasmin Solomon, and Sandra Peterson ARE GRANTED IN PART and OTHERWISE DENIED.

IT IS FURTHER ORDERED that MCPB IS ADMONISHED for failure to maintain both a full-time staff employee and one full-time management level employee at Station KZYX(FM)’s main studio during the license term.

IT IS FURTHER ORDERED that the application of Mendocino County Public Broadcasting for renewal of the license for Station KZYX(FM), Philo California (File No. BRED-20130724AAG) IS GRANTED.

Sincerely,



Peter H. Doyle  
Chief, Audio Division  
Media Bureau