

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

In re Application of	)	
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	)	
<b>NBC SUBSIDIARY (WMAQ-TV), INC.</b>	)	File No. BRCT-970731KQ
	)	Facility ID No. 47905
	)	
	)	
For Renewal of License for Station	)	
WMAQ-TV, Chicago, Illinois	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted:** February 22, 2001

**Released:** March 15, 2001

**By the Commission:** Commissioner Furchtgott-Roth concurring and issuing a statement.

1. The Commission has before it a timely application for review filed by Cezary Glebocki, seeking reversal of a December 16, 1999, letter ruling by the Chief, Video Services Division, Mass Media Bureau, which denied his petition to deny.<sup>1</sup> In that letter ruling, the Division Chief also granted the license renewal application for station WMAQ-TV, Channel 5 (NBC), Chicago, Illinois.

2. In his petition to deny, Glebocki had alleged that the employment practices of WMAQ-TV violated the Commission's Equal Employment Opportunity ("EEO") standards and that the station failed to meet the needs of the Polish-American community in Chicago. The staff found that Glebocki failed to raise any substantial and material question of fact which showed that a renewal of WMAQ-TV's application would be contrary to the public interest, convenience and necessity.

3. Glebocki has not specified, as required by our rules, any factors that warrant Commission review. See 47 C.F.R. § 1.115(b)(2). We have reviewed the Division's disposition of the petition to deny and find that its ruling was correct and that no basis exists to warrant reversal. See *WAMC, Inc.*, 10 FCC Rcd 12219 (1995) (denying application for review raising essentially the same arguments as in the petition for reconsideration).<sup>2</sup>

<sup>1</sup> *Letter to Cezary Glebocki and Richard Cotton, Esq., et al*, from Barbara A. Kreisman, Chief, Video Services Division (Dec. 16, 1999).

<sup>2</sup> We note that on February 2, 2000, the Commission released new broadcast EEO rules and policies, which became effective on April 17, 2000. See *Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies and Termination of the EEO Streamlining Proceeding*, FCC 00-20, 15 FCC Rcd

4. Accordingly, IT IS ORDERED that the application for review filed by Cezary Glebocki, IS HEREBY DENIED.

**FEDERAL COMMUNICATIONS COMMISSION**

Magalie Roman Salas  
Secretary

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2329 (2000). As such, the new rules were not applicable to WMAQ-TV's performance during the period in question. These rules were vacated on January 16, 2001 by the United States Court of Appeals for the District of Columbia Circuit Court, *MD/DC/DE Broadcasters Association v. Federal Communications Commission*, 236 F.3d 13 (D.C. Cir. 2001), petitions for rehearing pending. On January 31, 2001, the Commission suspended Section 73.2080 (b) through (j) of the broadcast EEO Rule. See *Suspension of the Broadcast and Cable Equal Employment Opportunity Outreach Program Requirements*, FCC 01-34 (released January 31, 2001).

**Concurring Statement of Commissioner Harold W. Furchtgott-Roth**

**Application for Renewal of License, WMAQ-TV, Channel 5 (NBC), Chicago, Illinois:  
Application for Review**

I concur with the decision the Commission has reached in this Memorandum Opinion and Order. However, I once again note that the Commission may not consider at all rules that were eventually struck down as unconstitutional. This entire proceeding was unnecessary because no set of facts pertaining to the licensee could have permitted the Commission to take action based on unconstitutional rules vacated by a court.