



**Federal Communications Commission**  
**Washington, D.C. 20554**  
September 14, 2020

In Reply Refer To:  
1800B3-SDW

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**In re: WLIX-LP, Ridge, NY**  
Facility ID No. 131740  
File No. BALL-20191030AAD

**Application for Assignment of License**  
**Informal Objection**

Dear Applicants and Objector:

We have before us the above referenced application (Application) for consent to the proposed assignment of the license for Low Power FM (LPFM) station WLIX-LP, Ridge, New York (Station or WLIX), from Pine Barrens Broadcasting, Inc. (Pine) to RCN Ministry, Inc. (RCN). We also have before us an Informal Objection (Objection) to the Application, filed November 6, 2019, by REC Networks (REC or Objector).<sup>1</sup> For the reasons set forth below, we deny the Objection and grant the Application.

*Background.* On October 30, 2019, Pine filed the Application seeking consent to assign the Station's license to RCN. REC filed its Objection on November 6, 2019. In its Objection, REC urges the Commission to investigate the Application to: (1) determine whether Cantico Nuevo Ministry (Cantico) is the real-party-in-interest to the Application; (2) determine whether Pine has abdicated control of WLIX; and (3) verify the residency and co-habitation status of RCN's board members.<sup>2</sup>

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<sup>1</sup> On November 18, 2019, Pine and RCN filed a joint opposition to the Objection (Opposition). REC filed a reply on November 29, 2019 (Reply).

<sup>2</sup> Objection at 2-3. REC also sought dismissal of the Application based on RCN's corporate status. We find that this issue is moot and need not be addressed herein. See Objection at 1 (arguing that RCN is not a noncommercial educational organization and therefore is not qualified for a LPFM license pursuant to section 73.853(a) of the

In its Opposition, Pine counters that REC's allegations "about the character of the principles" of Pine and RCN are "wild," "unsubstantiated," and "frivolous."<sup>3</sup> Pine urges the Commission to dismiss the Objection and approve the Application.<sup>4</sup>

In its Reply, REC reiterates its request that the Commission investigate whether Cantico is the real-party-in-interest to the Application seeking to circumvent the Commission's LPFM cross-ownership rules, and whether Pine abdicated control of WLIX. REC also asks the Commission to issue a Letter of Inquiry (LOI) to resolve "unanswered issues" related to RCN's qualifications to be a LPFM licensee.<sup>5</sup>

*Discussion.* Section 310(d) of the Communications Act of 1934, as amended (the Act)<sup>6</sup> requires the Commission to determine whether the proposed assignment of a broadcast license would be in the public interest. Informal objections, like petitions to deny, 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 the public interest, convenience, and necessity.<sup>7</sup> For the reasons discussed below, REC has not satisfied this threshold requirement.

*Real-Party-in-Interest and Unauthorized Transfer of Control.* Section 310(d) of the Act prohibits *de facto*, as well as *de jure*, transfers of control without Commission approval.<sup>8</sup> The phrase "real party-in-interest" is used in connection with pending applications, while "*de facto* control" is used in connection with a licensed station.<sup>9</sup> In either case, the pertinent concern is whether someone other than the named applicant or licensee is in control.<sup>10</sup> The principal indicia of "real-party-in-interest status or *de facto* control include governance of policies regarding (1) the personnel matters of a station, (2) the programming of a station, and (3) the finances of a station."<sup>11</sup> The Commission analyzes real-party-in-interest and unauthorized transfer of control issues on a case-by-case basis."<sup>12</sup>

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Commission's rules); Opposition, Exh. 1 (providing RCN's Certificate of Incorporation from the County Clerk's Office of Suffolk County, New York, dated August 19, 2019); Reply at 2 (stating that the issue related to RCN's corporate status "is now moot.").

<sup>3</sup> Opposition at 2.

<sup>4</sup> *Id.*

<sup>5</sup> Reply at 3-4.

<sup>6</sup> 47 U.S.C. § 310(d).

<sup>7</sup> 47 U.S.C. § 309(d). *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); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864, para. 6 (1986).

<sup>8</sup> 47 U.S.C. § 310(d); *Arnold L. Chase*, MM Docket No. 89-625, Initial Decision, 6 FCC Rcd 7387, 7409, para. 158 & n.51 (ALJ 1991) (*Arnold Chase*) (stating that "[c]ontrol can be either *de jure* or *de facto* control. A party will have *de jure* control where its legal ownership rights provide it with the right to govern the actions of the FCC applicant, permittee or licensee. A party without *de jure* control will have *de facto* control of an applicant, permittee or licensee if it governs, in actuality, the broadcast affairs or the applicant, permittee or licensee." (citations omitted)).

<sup>9</sup> *Ronald Brasher*, EB Docket. No. 00-156, Hearing Designation Order, 15 FCC Rcd 16326, 16330, para. 8 (2000) (*Brasher Order*).

<sup>10</sup> *Id.* at 16331, para. 8 (citing *Arnold L. Chase*, MM Docket No. 89-625, Hearing Designation Order, 5 FCC Rcd 1642, 1648 note 5 (1990)).

<sup>11</sup> *Arnold Chase*, 6 FCC Rcd at 7409, para. 159.

<sup>12</sup> *Id.* at 7409, para. 158.

REC alleges that Cantico, a full-power broadcast licensee,<sup>13</sup> not RCN, is the real-party-in-interest behind the Application,<sup>14</sup> and questions whether Pine has abdicated control of WLIX prior to the filing of the Application.<sup>15</sup> In support of its claims, REC alleges a familial relationship between Edward Salgado, an owner of RCN,<sup>16</sup> and Erick J. Salgado, and Eric J. Salgado, Jr., owners of Cantico.<sup>17</sup> According to REC, this “possible familial relationship brings in to question whether there is a hidden party in interest that will be controlling and/or influencing” the Station,<sup>18</sup> and questions whether the familial interest “is being used to circumvent” the Commission’s LPFM cross-ownership rules.<sup>19</sup> REC notes that under the *Spousal Attribution Policy Statement*, the Commission considers media interests held by immediate family members to be relevant in deciding issues of common influence or control.<sup>20</sup> In furtherance of this allegation, REC also relies on social media posts to evidence the “various connections” between RCN and Cantico.<sup>21</sup> Specifically, REC produced screenshots of a Facebook page for “RCN Ministry 94.7FM,” a page purportedly belonging to RCN, that displays a profile picture referencing several radio stations.<sup>22</sup> REC alleges that two of the radio stations displayed on the profile picture are associated with Cantico.<sup>23</sup> REC states that the social media posts “further substantiate” its allegation “that Cantico may have a prohibited influence on RCN” and that the Station “is being obtained for the benefit of Cantico.”<sup>24</sup>

REC also questions whether Pine abdicated control of the Station to Tammy Celenza (Celenza), an individual that REC alleges is affiliated with Cantico.<sup>25</sup> In support of this claim, REC states that on January 16, 2018, WLIX filed a silent notification, signed by one of its board members, Scott Harthill.<sup>26</sup> REC states that WLIX filed to resume operations on July 6, 2018.<sup>27</sup> REC states that Celenza signed the

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<sup>13</sup> Objection at 2 (noting that Cantico is the licensee for WLIM-AM, Medford, New York, and that Cantico is providing programming to WNYH-AM, Huntington, New York, pursuant to a time brokerage agreement with WIN Radio Broadcasting, Inc.); Objection at 3 (noting that Cantico also has “several pending applications to acquire even more stations including WALK (BAL-20191029AAE), WTTH (BAL-20190207AAE), KLDS (BAL-20190813ABA), KDFM (BALH-20190813ABB) and KCZO (BALED-20190813ABD)”).

<sup>14</sup> Objection at 2, 4.

<sup>15</sup> Objection at 2.

<sup>16</sup> *Id.* at 2 (noting the Application lists Edward Salgado, Alexis Acevedo, and Elisa Nolasco as RCN’s board members.).

<sup>17</sup> *Id.* (noting that Cantico’s 2017 Ownership Report “indicates that the members are Rev. Erick J. Salgado, Eric J. Salgado, Jr and Frederick Santiago.”).

<sup>18</sup> Objection at 3.

<sup>19</sup> Reply at 3.

<sup>20</sup> Objection at 3 (citing *Clarification of Commission Policies Regarding Spousal Attribution*, MM Docket No. 91-122, Policy Statement, 7 FCC Rcd 1920 (1992)).

<sup>21</sup> Reply at 3; Objection at 2.

<sup>22</sup> Objection at Attach. 1; *Id.* at 2 (stating that the Facebook profile picture includes “several frequencies including 740AM, 1440AM, 1530AM, 97.5FM, 100.7FM and 106.3FM.” (footnotes omitted)); *Id.* at Attach. 1.

<sup>23</sup> Objection at 2 (noting that Cantico is the licensee of 1440AM and provides programming to station 740AM pursuant to a time brokerage agreement.)

<sup>24</sup> Reply at 3.

<sup>25</sup> Objection at 2; Reply at 3.

<sup>26</sup> Objection at 2 (noting that “WLIX-LP was first licensed in 2005 with a board of directors consisting of David Gottlieb (“Gottlieb”) and Scott Harthill (“Harthill”)” and that “[n]o transfer of control has been filed since 2005.”).

<sup>27</sup> *Id.*

resume operations notification for WLIX under the title of Operations Manager.<sup>28</sup> REC claims that Celenza is “currently” affiliated with Cantico by virtue of a time brokerage agreement to provide programming for WLIM-AM, Medford, New York (WLIM), a station licensed to Cantico.<sup>29</sup> Based on these allegations, REC questions whether WLIX was still under Pine’s control when operations resumed, and “whether Celenza . . . had any control or influence over” the Station’s programming “despite her attributable interest in WLIM.”<sup>30</sup> Also, by virtue of Celenza’s connection to Pine and Cantico, REC questions whether Pine “has entered into an unauthorized agreement with Cantico” in violation of the Commission’s cross-ownership rules.<sup>31</sup> REC urges the Commission to investigate these allegations, including issuing an LOI,<sup>32</sup> and to designate the Application for hearing or take appropriate enforcement action.<sup>33</sup>

Cantico. We find that REC has failed to establish a *prima facie* case that Cantico is the real-party-in-interest behind the Application. REC’s allegation that Edward Salgado, Erick J. Salgado, and Eric J. Salgado, Jr., are related is speculative and unsubstantiated. REC submits no evidence or an affidavit of someone with personal knowledge evidencing any such familial relationship. REC assumes that the parties are related solely by virtue of their shared last name. Even assuming, *arguendo*, that REC had established some familial relationship between Edward Salgado, Erick J. Salgado, and Eric J. Salgado, Jr., its Objection would still be lacking. The Commission has long recognized that familial and business relationships, standing alone, are insufficient to create real-party-in-interest or unauthorized transfer of control problems.<sup>34</sup> The Commission has also repeatedly indicated that “a petitioner attempting to raise a real-party-in-interest issue [based on a family relationship carries] a heavy burden,” given the typical financial ties between family members.<sup>35</sup> Accordingly, any familial relationship between Edward Salgado, Erick J. Salgado, and Eric J. Salgado, Jr., absent any indicia of common control or influence, is insufficient to establish that Cantico is a real-party-in-interest. REC’s reliance on the Facebook page also fails to establish that Cantico is the real-party-in-interest. As a threshold matter, the Commission generally does not consider posts to websites such as Facebook as evidence because it is hearsay.<sup>36</sup> Moreover, the Facebook page, even considered as evidence, fails to establish that Cantico has any control or influence over RCN. The fact that the Facebook profile picture displays two frequencies licensed to or affiliated with Cantico, along with several frequencies belonging to other licensees, does not demonstrate

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<sup>28</sup> *Id.*

<sup>29</sup> Reply at 3.

<sup>30</sup> *Id.*

<sup>31</sup> Objection at 4 (questioning whether Pine has entered into an unauthorized agreement with Cantico in violation of section 73.860(e) of the Commission’s rules); 47 CFR § 73.860(e) (“No LPFM licensee may enter into an operating agreement of any type, including a time brokerage or management agreement, with either a full power broadcast station or another LPFM station.”).

<sup>32</sup> See Reply at 3 (providing a list of questions that REC deems appropriate to include in an LOI investigating the control of WLIX).

<sup>33</sup> Objection at 3-4.

<sup>34</sup> *Arnold Chase*, 6 FCC Rcd at 7409, para. 160.

<sup>35</sup> *Meridian Communications of Idaho, Inc.*, Memorandum Opinion and Order, 26 FCC Rcd 678, 681, para. 9 (2011).

<sup>36</sup> *San Tan Educational Media*, Letter Order, Ref. No. 1800B3-IB (Media Bur., Audio Div., June 25, 2018) (stating that the “Commission generally does not consider Facebook information as evidence because it is hearsay.”); see also *Richard F. Swift*, Letter Order, 26 FCC Rcd 15567, 15570 (MB 2011) (noting that the Commission has “consistently held that newspaper articles are the equivalent of hearsay and cannot act as a substitute for affidavits based on personal knowledge that are required to substantiate serious allegations.”).

that Cantico is the real-party-in-interest.

Celenza. We also find that REC has not established that Pine abdicated de facto control of the Station to Celenza when it resumed service. At the outset, REC's allegations are conclusory and unsubstantiated. REC has failed to produce any evidence or affidavit of a person with personal knowledge indicating that Pine has abdicated de facto control of the Station. REC makes much of the fact that Celenza signed the resume operations notice on behalf of the station.<sup>37</sup> We do not. The Commission has made clear that licensees are permitted under Section 310(d) of the Act to delegate day-to-day operations of the Station, as long as they continue to set the policies guiding those operations and remain ultimately in control of Station operations.<sup>38</sup> REC has failed to establish that Celenza was not subject to Pine's authority and control when she signed the resume operations notice, nor has it presented any evidence indicating that Celenza possessed any unauthorized control or influence over the Station's personnel, programming, or finances. Accordingly, we reject REC's allegations that Pine abdicated control of the Station to Celenza.

Unauthorized Agreement Between Pine and Cantico. We also find that REC has failed to establish any unauthorized agreement between Pine and Cantico. It appears that REC bases this allegation on Celenza's role at WLIX and WLIM. This allegation is similarly unsubstantiated and speculative. As a threshold matter, REC does not assert that Celenza's association with WLIX and WLIM was contemporaneous.<sup>39</sup> Moreover, even if her affiliation with both stations was contemporaneous, we find that Celenza's employment with WLIX, as an Operations Manager, and her purported affiliation with WLIM, as a party to a time brokerage agreement, does not evidence any unauthorized agreement between the station's licensees, Pine and Cantico.

Taken together, REC has failed to substantiate its allegations that Cantico is the real-party-in-interest or that Pine abdicated de facto control over the Station's personnel, programming, or finances. Accordingly, we reject REC's real-party-in-interest, unauthorized transfer of control, and cross-ownership allegations, and decline to conduct further inquiry into these allegations though the issuance of an LOI as requested by REC.

Local Ownership. REC urges the Commission to investigate the "residency and cohabitation" status of the parties to the Application.<sup>40</sup> REC states that RCN's board members each list 130 Raynor Road, Ridge, NY 11961 (Raynor) as their place of residence.<sup>41</sup> REC urges the Commission to verify the residency status of RCN's board members by investigating "the owner of Raynor and any authorized tenant(s)."<sup>42</sup>

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<sup>37</sup> Reply at 3.

<sup>38</sup> See *WGPR, Inc.*, Memorandum Opinion and Order, 10 FCC Rcd 8140, 8142 (1995), *vacated on other grounds, sub nom. Serafyn v. FCC*, 149 F.3d 1213 (D.C. Cir. 1998); *Southwest Texas Public Broadcasting Council*, Memorandum Opinion and Order, 85 F.C.C.2d 713, 715 (1981).

<sup>39</sup> Instead, REC infers the presence of an unauthorized agreement between Pine and Cantico by the fact that Celenza, at one time, signed the resume operations notice on behalf of WLIX, and is "currently" under a time brokerage agreement with WLIM.

<sup>40</sup> Objection at 3.

<sup>41</sup> *Id.* at 2.

<sup>42</sup> *Id.* at 3.

Section 73.853(b) of the Commission's rules permit only local organizations to hold authorizations in the LPFM service.<sup>43</sup> Pursuant to section 73.853(b), an organization is deemed local if the applicant is headquartered or at least 75 percent of its board members reside within 20 miles of the LPFM transmitter site, or within ten miles in the case of applicants in the top 50 urban markets.<sup>44</sup> Although REC does not specifically cite to section 73.853(b),<sup>45</sup> REC urges the Commission to investigate the residency of the parties to the Application, and we find that section 73.853 governs any such inquiry. However, REC fails to present any evidence or affidavit of a person with personal knowledge that RCN is not a local organization within the meaning of section 73.853(b). Accordingly, we find that REC has not presented a *prima facie* case that RCN is not a local organization and we decline REC's request to further investigate.

*Conclusion/Actions.* For these reasons, we find that REC has failed to raise a substantial and material question of fact calling for further inquiry regarding the Application. We also find that Pine is qualified to assign the Station's license, RCN is qualified to hold the Station's license, and that grant of the Application is consistent with the public interest, convenience, and necessity.

Accordingly, IT IS ORDERED, that the Informal Objection, filed November 6, 2019, by REC Networks, IS DENIED.

IT IS FURTHER ORDERED, that the Application for the Assignment of License for Low Power FM Station WLIX-LP, Ridge, New York (File No. BALL-20191030AAD), from Pine Barrens Broadcasting, Inc. to RCN Ministry, Inc. IS GRANTED.

Sincerely,

Albert Shuldiner  
Chief, Audio Division  
Media Bureau

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<sup>43</sup> 47 CFR § 73.853(b).

<sup>44</sup> *Id.*

<sup>45</sup> REC refers generally to section 73.853(b) in its Reply. Reply at 1-2 (stating that REC "looks at various aspects of the assignment proposal to include the corporate status of the proposed assignee, localism of the proposed assignee in accordance with 47 C.F.R. §73.853(b), the nature of any asset purchase agreement including the justification of the consideration promised as well as the influence from any other broadcast station or applicant, including familial interests.").