

STAMP & RETURN

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FILED/ACCEPTED

In re Applications of)
)
Kentucky Public Radio, Inc.)
)
For Renewal of License for)
Noncommercial Educational Stations)
WUOL-FM, Louisville, KY)
)
WFPK(FM), Louisville, KY)
)
WFPL(FM), Louisville, KY)
)

File No. BRED-20120321AAD
Facility ID 69113

File No. BRED-20120321AAE
Facility ID 38621

File No. BRED-20120321AAC
Facility ID 4258

AIIC - 1 2012

Federal Communications Commission
Office of the Secretary

To: The Secretary, FCC
Attn: Chief, Audio Division, Media Bureau

REPLY TO INFORMAL OBJECTION

Kentucky Public Radio, Inc. (d/b/a "Louisville Public Media"), by its counsel, hereby replies to the filing of Lawrence Gettleman received by the FCC on July 2, 2012 and treated as an Informal Objection against the above-referenced license renewal applications for Louisville Public Media's noncommercial educational radio stations WUOL-FM, WFPK(FM), and WFPL(FM). The Objection does not raise any substantial and material question of fact which shows that renewal of the station licenses would be contrary to the public interest, convenience and necessity. The Objection relies on allegations concerning Louisville Public Media's compliance with the community advisory board standards of the Corporation for Public Broadcasting ("CPB"), and as a clear matter of FCC precedent and policy, the FCC defers fully to CPB with respect to compliance with CPB regulations and does not consider such issues in FCC licensing decisions.

Background. The Objection was filed by a former member and chair of Louisville Public Media's community advisory board. As part of an overall restructuring of Louisville Public Media which began in 2006, Louisville Public Media's board of directors approved changes to its community advisory board in 2008 which resulted in the replacement of the existing board structure with a new board known as the Advisory Council. The Objection expresses displeasure with respect to the implementation of the community advisory board changes at that time, and alleges that, as a result of the changes, "Louisville Public Media no longer deserves to receive its CPB grant."¹

Reply. Regardless of the accuracy of the allegations and assertions set forth in the Objection, the Objection fails to raise any issues which impact the processing of the license renewal applications for WUOL-FM, WFPK(FM) or WFLP(FM). The FCC has stated that because "CPB has the authority and responsibility for the distribution of funds under Section 396(k), and because it has taken steps to implement compliance criteria, the Commission defers to that agency in regard to compliance with its regulations."² As in that case, the Objection's allegations with respect to CPB compliance "raise no substantial and material question of fact as to whether renewal of...licenses would serve the public interest, convenience and necessity."³ More recently, the FCC reaffirmed that "it does not consider a licensee's compliance" with CPB requirements "in its licensing proceedings."⁴

¹ Objection at 1.

² *In re KQED, Inc.; For the Renewal of Licenses of Noncommercial Stations KQED-FM, KQED-TV, and KQEC-TV San Francisco, California*, 50 RR 2d 1349, 88 FCC 2d 1159, 1165 (Feb. 2, 1982), *citing* Mississippi Authority for Educational Television, 79 FCC 2d 577 (1980); Community Television of Southern California, 72 FCC 2d 349 (1979) (emphasis added).

³ *Id.*

⁴ *WQED, Pittsburgh*, 19 CR 214, 15 FCC Rcd 202 (Dec. 29, 1999) at ¶ 7 (emphasis added).

Louisville Public Media nonetheless submits that its community advisory board remains in full compliance with the applicable requirements of CPB and the Communications Act. Attached is a Declaration from Louisville Public Media in support of this Reply.

Conclusion. Louisville Public Media respectfully requests that the FCC promptly deny the Informal Objection against the WOUL-FM, WFPK(FM) and WFPL(FM) license renewals and grant the applications. The Objection focuses solely on Louisville Public Media's compliance with CPB community advisory board requirements – a matter on which the FCC defers to CPB, and which does not impact FCC licensing proceedings – and thus fails to raise any substantial and material question of fact which shows that renewal of the station licenses would be contrary to the public interest, convenience and necessity.

Respectfully submitted,

KENTUCKY PUBLIC RADIO, INC.

By: Barry Persh
Todd D. Gray
Barry S. Persh
Its Attorneys

Dow Lohnes PLLC
1200 New Hampshire Ave., N.W.
Suite 800
Washington, DC 20036

August 1, 2012

DECLARATION

Page 1 of 1

I, DENNIS P. STOVALL, hereby declare as follows:

1. I am the CHIEF FINANCIAL OFFICER of Kentucky Public Radio, Inc. (d/b/a "Louisville Public Media"), licensee of noncommercial educational radio stations WUOL-FM, WFPK(FM), and WFPL(FM). This Declaration is provided in reliance on my own personal knowledge of the Station's management and operations.

2. The facts set forth in the foregoing Reply to Informal Objection are true and accurate to the best of my knowledge and belief.

I declare under penalty of perjury that the foregoing is true and correct. Executed on AUGUST 1, 2012.

Dennis P. Stovall

CERTIFICATE OF SERVICE

I, Cynthia Porter, hereby certify that on this 1st day of August, 2012, I sent via first class mail, postage pre-paid, a copy of the foregoing Reply to Informal Objection to the following:

Lawrence Gettleman
1461 S. 4th Street
Louisville, KY 40208-2118

Cynthia Porter

Received & Inspected

JUL 02 2012

FCC Mail Room

69113

1461 S. 4th Street
Louisville, Kentucky 40208-2118

June 26, 2012

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-B204
Washington, DC 20554

This letter is to be filed with the 2012 renewal of CPB support for **Louisville Public Media** and its three FM radio stations, **WFPL, WUOL, and WFPK**.

I served as a volunteer member of the Louisville Public Media's (LPM) Community Advisory Board (CAB) from 1999 to 2008 and chaired it from 2004 through 2007. Board of Directors' chair Robert A. Taylor and vice-chair Diane Tobin **disbanded the CAB** in early 2008, citing as the reasons the managing staff's and the Board's unwillingness to discuss its programming decisions with the CAB of the three public radio stations, and lack of diversity of the CAB.

It is my opinion, and that of 50 other past members of the CAB, that the board and management did not have the legal right to disband the CAB. Independence from the staff and the governing board is noted four times (Sections II. C. 1; II. D. 1; III. A.1; and III. b) in the Corporation for Public Broadcasting's published Community Advisory Board Requirements. The LPM disbanded the duly constituted and self-governing CAB and appointed another one "they way we see fit," in President Donovan Reynolds' words. This hardly will make its new LPM Advisory Council independent. In the CPB Requirements, the only power of the governing board over the CAB is the assignment of additional duties [Sections I. A, B; and III. C.], not the lessening or disbanding of the group. **By these actions I believe that Louisville Public Media no longer deserves to receive its CPB grant.** The new Advisory Council is just be a rubber stamp to the managing staff and Board of Directors, and could be disbanded again.

We were told that legal counsel was consulted on these actions, which revealed the mean spirit that existed toward the CAB by the members of the managing staff throughout the mid-2000s. The issue boiled down to something that Donovan Reynolds said at the September 2007 CAB meeting: "We do not intend to vet programming decisions with the CAB."

The Community Advisory Board had attracted more than 50 members and interested parties from 1999 to 2008, and spent many hours developing bylaws for self-government by surveying other CABs around the country. The CAB also developed the successful "Instrumental Partners" musical instrument donation program. Before the CAB was disbanded, we were developing a "Public Ear" and Web log projects to receive comments and suggestions from listeners and non-listeners.

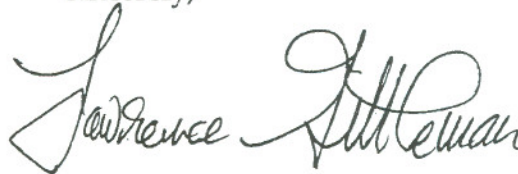
Over the years, the CAB received very little cooperation from the staff when recruiting new members or publicizing its meetings. It was never allowed to review the comments received by listeners and donors during the fund drives, despite repeated requests, nor was it consulted before major programming changes were made, such as dropping most jazz programs on WFPK. The chief responsibility of the CAB is to advise on programming and policy goals and decisions. Even more hurtful, the five years of published minutes from our meetings were immediately deleted from the Web sites in January, as were our names. Fortunately, I have complete files of these documents if needed.

To use the excuse of our lack of diversity was specious and a personal smear on our integrity. The issue was taken to then-Mayor Jerry Abramson, who apparently expressed displeasure in the one-sided view he heard and was never redressed. We had diversity on the CAB for many years. Criticism of this issue by members of the staff or the governing board had never been raised.

Dr. Robert Taylor and Diane Tobin apologized, but never changed course. As a publicly funded organization, we operated on the philosophy to "never say no to a volunteer" because volunteers will no longer contribute their time, talent, or treasure. The programming of LPM is good, even exemplary, but not tuned to an independent Community Advisory Board as required by the CPB.

Nothing was done to correct the errors, and so the 50 other volunteers and I have decided to have nothing to do with the stations or Louisville Public Media. Too bad! We were their most knowledgeable and biggest fans.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lawrence Gettleman".

Lawrence Gettleman