

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

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FCC 75-674

35121

June 4, 1975

IN REPLY REFER TO:

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WGPR, Inc.  
2101 Gratiot Avenue  
Detroit, Michigan 48207

Gentlemen:

This is in reference to your request of June 22, 1973, that the Commission waive the grant fee established by section 1.1111 of its rules, 47 CFR §1.1111, for the construction permit (File No. BPCT-4554) awarded WGPR, Inc. for WGPR-TV, channel 62, Detroit, Michigan. The basis for your request is that waiver of this fee of \$22,500 would be of substantial assistance in assuring the success of a minority-owned and operated television station during the first few difficult years of operation.

The Commission is aware of the problem of limited minority group ownership of radio and television broadcast stations and that this facility will be an entirely Black-owned and operated television station. Despite the importance of increased minority ownership, however, we do not believe that such ownership, per se, is a proper basis for waiver of fees.

Although you have indicated difficulties in obtaining financing from usual sources, financing is available to you from your parent corporation, International Free and Accepted Modern Masons, Inc. You state, however, that despite assured financing and advertising commitments, "the station will struggle on the borderline of financial difficulty at least through its first few years of operation." As you know, the Commission found WGPR, Inc., financially qualified to be a Commission licensee, pursuant to 47 U.S.C. §308(b) and Ultravision Broadcasting Company (1 F.C.C. 2d 544), on the basis of a financing plan and cost estimates which included this fee. In fact, even with the grant fee included as part of your costs, it was found that assured financing and projected revenue substantially exceeded anticipated construction and first-year operating costs. There has been no showing of any significant change in this financial picture. Accordingly, we do not find sufficient justification to warrant waiver of the grant fee in this instance.

WGPR, Inc.

2.

You are directed to tender the required grant fee within 30 days from the date of this letter. Failure to do so will result in your construction permit becoming null, void and ineffective, as provided by section 1.1102(d) of the Commission's rules, 47 CFR §1.1102(d).

Commissioners Hooks ~~dissenting~~; Commissioner Quello dissenting and issuing a statement.

\* BY DIRECTION OF THE COMMISSION

Vincent J. Mullins  
Secretary

cc:  
Dow, Lohnes & Albertson

\* See attached Dissenting Statement of Commissioner Quello.

WJPR

DISSENTING STATEMENT OF COMMISSIONER JAMES H. QUELLO

The majority decision, while correct in a strict legal and policy sense, fails to grasp the real significance of this issue. Here we have the first black-owned and black-operated television venture in the nation. This enterprise is being inaugurated in a well-developed television market where competition is established. The new venture will be facing that competition with a new UHF facility. The odds against success appear to be overwhelming given the obvious problems of programming, staffing, capitalization, etc. Network affiliations, the most popular syndicated features and the most appealing movies are already under contract.

It is obvious that this Commission cannot and should not undertake to guarantee the success of WGPR-TV or any other television station. Nor, in my opinion, should we condone the failure of this unique venture by applying the same standard that we would apply to a venture with a virtual guarantee of success. There are significant and special public interest and social considerations here. The Commission should extend every reasonable effort to encourage the viability of the nation's first black-owned TV station. The Commission might well consider applying the accepted principle of "affirmative action" to encourage ownership opportunities for black, minority or feminine pioneer ventures in special, deserving cases.

The courts have ruled that minority ownership of broadcast properties must, under certain circumstances, be considered a positive factor in this Commission's deliberations.<sup>1/</sup> I believe that this is one of those instances where special consideration is warranted and that mitigation or outright waiver of the fee is justified.

In the narrowest sense, the majority has taken an even-handed approach in determining that equal fees shall be paid by all comparable licensees. However, in the broader sense, it seems to me that in circumstances which force this venture to begin on far less than equal footing--without network service, without the greater service area and acceptability of VHF, and without cash flow generated by successful broadcast properties in other markets--we are being even-handed to a fault.

Therefore, I dissent.

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<sup>1/</sup> See, e.g., TV 9, Inc. v. FCC, 495 F 2d 929(D. C. Cir. 1974); Leroy Garrett v. FCC, No. 73-1840, U.S. App., D. C. (1975).