

MORGAN MURPHY MEDIA



September 24, 2019

Via email to: pdcc@pdcc.wa.gov
Washington State Public Disclosure Commission
711 Capitol Way S. #206
P.O. Box 40908
Olympia, WA 98504-0908
Attn: Sean Flynn, PDC

Television Wisconsin, Inc.
Madison, WI
QueenB Television
LaCrosse/Eau Claire, WI
Joplin, MO/Pittsburg, KS
Victoria, TX
Spokane Television, Inc.
Spokane, WA
Apple Valley Broadcasting, Inc.
Yakima/Tri-Cities, WA
QueenB Radio
Spokane, WA
Platteville, WI
Madison Magazine, Inc.
Madison, WI

To the Commission:

Morgan Murphy Media (“MMM”)¹ submits these written comments to the Public Disclosure Commission (“PDC”) to urge the PDC to avoid imposing unduly costly and/or duplicative political advertising rules for radio and television stations serving the state of Washington.² MMM urges the PDC to reject overbroad legal requirements for broadcasters as contrary to the Federal regulatory framework and as overburdensome for TV and radio stations.

Background

MMM’s broadcast subsidiaries in Spokane, Spokane Television, Inc. and QueenB Radio, Inc., and in Yakima, Tri-Cities, Apple Valley Broadcasting, Inc., serve local communities in Washington state with news, weather and other important information. Like other television and radio broadcasters, MMM has a long-standing public-interest obligation to serve the needs of local communities. Myriad regulatory requirements already apply to MMM’s local program service, many of which simply do not apply to digital or print media.

Extensive FCC rules also govern many aspects of political broadcasting, both for candidate ads and third-party ads. Equal opportunities obligations, the lowest unit rate rules, obligations to provide reasonable access and other long-standing rules apply to political broadcasting. Broadcasters are required to fully and accurately disclose information to legally qualified candidates regarding current advertising sales practices and policies. Covered political advertising is subject to sponsorship identification requirements. Finally, the FCC requires all stations to maintain an online political file, hosted on the FCC’s website, that reports information to political requests for broadcast time.

¹ Evening Telegram Company d/b/a Morgan Murphy Media files these comments on behalf of the following direct or indirect subsidiaries: Spokane Television, Inc. (licensee of KXLY-TV, Spokane, WA); QueenB Radio, Inc. (licensee of KZZU-FM, Spokane, WA; KEZE-FM, Spokane, WA, KXLY[AM] & KXLY-FM, Spokane WA; KHTQ [FM], Hayden, ID; KVNI[AM], Coeur d’Alene, ID; KXLX[AM], Airway Heights, WA), and Apple Valley Broadcasting, Inc. (licensee of KAPP[TV], Yakima, WA, and satellite station KVEW[TV], Kennewick, WA).

² See Proposed Rules at <http://lawfilesexst.leg.wa.gov/law/wsr/2019/16/19-16-097.htm>.

Against this backdrop of extensive regulation for broadcasters, MMM urges the PDC to reconsider burdensome legal requirements that largely are unnecessary and that needlessly duplicate the Federal regulatory framework.

First, the PDC should not require broadcasters to maintain a website of political advertising records via state regulations that exceed FCC requirements. The FCC already requires broadcasters to maintain an online public inspection file, including an online political file, that the FCC hosts at www.fcc.gov. The political file contains, among other things, “a complete and orderly record ... of all requests for broadcast time made by or on behalf of a candidate for public office, together with an appropriate notation showing the disposition made by the licensee of such requests, and the charges made, if any, if the request is granted.”³ Effective March 1, 2018, all broadcasters were required to transition to the online public file, so broadcasters must not be required to operate or control a website that contains substantially the same material as the FCC’s online public files. Requiring a separate online public file would introduce needless compliance risks to broadcasters, such as increased likelihood of minor inconsistencies, for the sake of managing largely duplicative material. Broadcasters instead should continue to retain flexibility to address public requests via email or other electronic means on a case-by-case basis.

A five-year retention period, as the PDC has proposed, far exceeds the FCC’s two-year requirement for broadcaster political files. In MMM’s view, such a retention period is at tension with Federal policy and greatly increases the workload and recordkeeping burdens for broadcasters. Similarly, state requirements to make copies of political advertisements available to the public (which the FCC does not require) are burdensome for local broadcasters given the large number of ads (often in multiple variations) being placed by campaigns and other organizations. Political season taxes scarce resources for local broadcasters, particularly smaller organizations like MMM; rather than exacerbate these burdens, the PDC should assure that broadcasters are not disadvantaged relative to other media outlets considering the extensive Federal regulations already in place for political advertising.

Separately, it undermines Federal policy to require broadcasters to make certain political advertising material available to members of the public who request the material in person. The FCC has statutory authority over licenses, frequencies and hours of operation for broadcast services.⁴ Effective January 8, 2018, the FCC eliminated its “Main Studio Rule,” which required each AM, FM and television broadcast station to maintain a main studio located in or near the station’s community of license. The FCC also eliminated local staffing requirements during normal business hours and certain program origination capability requirements.⁵ The FCC determined that technological changes “have rendered local studios unnecessary as a means for viewers and listeners to communicate with or access their local stations and to carry out the other traditional functions that they have served,” particularly given that broadcasters now keep a variety of materials, including a political

³ 47 CFR Section 73.1943(a).

⁴ 47 USC Section 307(b).

⁵ See *Elimination of the Main Studio Rule*, Report and Order, FCC 17-137, MB Docket No. 17-106 (rel. Oct. 24, 2017).

file, in an online public inspection file that the FCC hosts. According to the FCC, “[o]nce broadcasters fully transition to the online public file in early 2018, requiring stations to maintain a fully staffed main studio for purposes of providing access to the file will no longer be practical or justifiable.”⁶ Accordingly, state regulations requiring broadcasters to maintain a staffing presence to handle such local requests would be unduly burdensome and contrary to Federal policy objectives.

In considering its political advertising and recordkeeping rules, the PDC instead should acknowledge that broadcasters such as MMM already are subject to high standards when it comes to political advertising, with a higher level of legal accountability than print, digital and other media. Broadcast spectrum is a public resource with corresponding rights and obligations, and the potential increase in state regulatory burdens disserves the local communities in Washington state that are served by MMM and others. For these reasons, the PDC should avoid imposing undue political advertising requirements on broadcasters serving Washington state.

Respectfully submitted,

/s/ Brian Burns
Brian Burns
Executive Vice President/Chief Operating Officer
Morgan Murphy Media

⁶ *Id.* at para. 9.