

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

MM Docket No. 89-3

In re Applications of

PYLE COMMUNICATIONS File Nos. BR-830401ZE
OF BEAUMONT, INC. and BRH-830331ZZ

For Renewal of License of
Stations KWIC and KWIC-FM
Beaumont, Texas

MEMORANDUM OPINION AND ORDER

Adopted: January 12, 1989; Released: February 1, 1989

By the Commission:

1. By *Memorandum Opinion and Order* (Order), released March 26, 1987, 2 FCC Rcd 1793 (1987), the Commission granted the 1983 renewal application of Pyle Communications of Beaumont, Inc. (Pyle) for Stations KWIC¹ and KWIC-FM, Beaumont, Texas, for a short-term, subject to two particularized equal employment opportunity (EEO) progress reports. By the same order, the Commission denied the petition to deny those applications filed by the National Black Media Coalition and the Beaumont NAACP (collectively "NBMC" or "petitioners"). NBMC appealed to the U.S. Court of Appeals for the District of Columbia Circuit. On August 19, 1988, the court ordered the Commission to hold a hearing to resolve the questions about actual discrimination and about the licensee's failure to meet its affirmative action obligations. *Beaumont Branch of the NAACP and the National Black Media Coalition v. FCC*, 854 F.2d 501 (D.C. Cir. 1988). Accordingly, this Order designates for hearing certain issues pursuant to the Court's mandate.²

2. Accordingly, IT IS ORDERED, That the Commission's *Memorandum Opinion and Order*, released March 26, 1987, 2 FCC Rcd 1793 (1987), hereby IS WITHDRAWN and the orders of that date hereby ARE VACATED.

3. IT IS FURTHER ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. Section 309(e), the above-captioned applications ARE DESIGNATED FOR HEARING at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine whether the licensee of Stations KWIC and KWIC-FM discriminated in its employment practices against blacks in violation of Section 73.2080(a) of the Commission's Rules;

(2) To determine the extent to which the licensee of Stations KWIC and KWIC-FM complied with the affirmative action provisions specified in Section 73.2080(b) of the Commission's Rules;

(3) To determine whether, in light of the evidence adduced pursuant to the foregoing issues, a grant of the subject license renewal applications would serve the public interest, convenience and necessity.

4. IT IS FURTHER ORDERED, That the National Black Media Coalition and the Beaumont Branch of the NAACP are made parties to the hearing ordered herein.

5. IT IS FURTHER ORDERED, That, in accordance with Section 309(e) of the Communications Act of 1934, as amended, the burden of proceeding with the introduction of evidence upon issues (1) and (2) and the burden of proof with respect to all issues shall be upon the licensee, Pyle Communications, Inc.

6. IT IS FURTHER ORDERED, That, to avail themselves of the opportunity to be heard, the parties respondent herein, pursuant to Section 1.221 of the Commission's Rules, in person or by attorney, shall file with the Commission, within twenty (20) days of the mailing of this Order, a written appearance in triplicate, stating an intention to appear on the date filed for the hearing and present evidence on the issues specified in this Order.

7. IT IS FURTHER ORDERED, That Pyle Communications, Inc. shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in that rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

8. IT IS FURTHER ORDERED, That the Secretary send by Certified Mail-Return Receipt Requested, one copy of this Order to each of the parties to this proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Donna R. Searcy
Secretary

FOOTNOTES

¹ Prior to May 16, 1986, the AM station's call sign was KIEZ.

² On February 8, 1988, Pyle Communications of Beaumont, Inc. filed applications for renewal of license for Stations KWIC and KWIC-FM (file nos. BR-880208UB and BRH-880208YJ). These applications were placed on deferred status pending the Court's ruling on this matter. Because the Court's action calls into question Pyle's qualifications to remain a licensee, the 1988 license renewal applications for Stations KWIC and KWIC-FM will remain in deferred status pending the outcome of the Commission's hearing on the stations' 1983 renewal applications.