

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

MM Docket No. 91-204

In re Applications of

CENTER FOR STUDY AND APPLICATION OF BLACK ECONOMIC DEVELOPMENT File No. BRED-900131UA

For Renewal of License of Station KUCB-FM Des Moines, Iowa

and

IOWA ACORN BROADCASTING CORPORATION File No. BPED-900102MB

MINORITY COMMUNICATIONS, INC. File No. BPED-900116MA

For Construction Permit For A New FM Station on Channel 283A, Des Moines, Iowa

**ORDER**

Adopted: January 26, 1996; Released: February 2, 1996

By the Commission:

1. This Order denies Applications for Review of the Review Board's Decision, 10 FCC Rcd 2836, *recon. denied*, 10 FCC Rcd 6069 (Rev. Bd. 1995), filed May 15, 1995 by Iowa Acorn Broadcasting Corporation (Acorn) and July 27, 1995 by Center for Study and Application of Black Economic Development (Center), and dismisses as moot a Contingent Application for Review filed April 17, 1995 by Minority Communications, Inc. (Minority).<sup>1</sup>

2. In conjunction with its Application for Review, Center on July 27, 1995 filed a Petition for Extension of Time.<sup>2</sup> On August 10, 1995, Minority filed a Motion to Strike that pleading and Center's Application for Review, asserting that, although Center's pleadings state that they were served on counsel for Minority and Acorn by Airborne Express (Overnight), those pleadings were not re-

ceived by either of those counsel. Because Center did not respond to Minority's Motion, the General Counsel directed Center to make a showing that it had made appropriate arrangements to send copies of its pleadings to counsel for each of the other applicants. FCC 951-21, released and corrected September 19, 1995 (OGC). On September 29, 1995, Center filed a Response, asserting that copies of the pleadings in question were sent to the Commission via Airborne Express, but that, in accordance with standard office procedure, service on the other parties was achieved with regular first class United States Postal Service mail. Center attaches affidavits indicating that its normal procedures were followed in handling its July 27th pleadings.

3. We will deny Minority's Motion to Strike. Although we do not believe that Center's handling of its July 27th pleadings is in accordance with the provisions of 47 C.F.R. § 1.47(g), requiring that the proof of service shall show the time and *manner* of service, and we do not condone Center's cavalier approach to this aspect of its responsibilities as a party to this proceeding, Center has made an unchallenged showing that it made appropriate arrangements to send copies of its pleadings to each of the other applicants. In view of this submission, we find no basis for a grant of Minority's Motion to Strike.

4. We will grant Center's Petition for Extension of Time. In this regard, counsel states that, although the Board released its Order denying Center's Petition for Reconsideration on June 7, 1995, he did not learn of this action until July 25, 1995 when he received a copy of the Bureau's Opposition to Acorn's Application for Review, that counsel and his staff conducted a thorough search of office files without finding any record that the Board's Order had ever been received, and that the Commission's staff thereafter indicated that the Board's order was mailed to Center but not to counsel. Under 47 C.F.R. § 1.12, a copy of any notice or other written communication pertaining to this proceeding issued by the Commission should have been mailed to the attorney that entered an appearance on behalf of Center in this proceeding. In light of Center's undisputed statement that a copy of the Board's order, triggering the time for filing in this proceeding, was not sent to its counsel, the public interest will be best served in these circumstances by granting an extension of time and accepting Center's July 27th Application for Review.

5. Having carefully considered the matters of record herein, we agree with the Board's disposition of this case and affirm its rulings.<sup>3</sup>

6. ACCORDINGLY, IT IS ORDERED, That the Motion to Strike filed August 10, 1995 by Minority Communications, Inc. IS DENIED and the Petition for Extension of Time filed July 27, 1995 by Center for Study and Application of Black Economic Development IS GRANTED.

7. IT IS FURTHER ORDERED, That pursuant to 47 C.F.R. § 1.115(g) the Applications for Review filed by Iowa Acorn Broadcasting Corporation on May 15, 1995 and by Center for Study and Application of Black Economic De-

<sup>1</sup> Also before the Commission for consideration are Oppositions to Acorn's Application for Review filed May 17, 1995 by Minority and July 20, 1995 by the Mass Media Bureau, and Opposition to Center's Application for Review filed August 4, 1995 by the Mass Media Bureau.

<sup>2</sup> The Mass Media Bureau opposed this request on August 4, 1995.

<sup>3</sup> Because the contentions in Minority's Contingent Application for Review relate solely to the qualifications of Center to remain a licensee, it will be dismissed as moot.

velopment ARE DENIED and the Contingent Application for Review filed by Minority Communications, Inc. on April 17, 1995 IS DISMISSED as moot.

FEDERAL COMMUNICATIONS COMMISSION

William F. Caton  
Acting Secretary