

**STATEMENT OF
COMMISSIONER MICHAEL P. O'RIELLY**

Re: Re: *Application of Radioactive, LLC For Renewal of License, Station WRAX(FM), Lake Isabella, MI*, MB Docket No. 17-198.

Let me start by stating that I make no comments about the particular case raised by the item before us. Instead, I just want to take a moment to discuss the process outlined in the Hearing Designation Order. Specifically, the Commission is creating a mechanism for the Commission to conduct the necessary hearings, pursuant to statutory requirements, for *certain* broadcast license renewals. In effect, the item is establishing an alternative to the current Administrative Law Judge (ALJ) procedures, which I have targeted for reform.

Just last month, I proposed, in part, that the Commission, in cooperation with our Congressional oversight committees, review and consider ways to eliminate or significantly modify our existing ALJ process. My idea raised the ire of a number of outside detractors for one reason or another. These criticisms often ignored the simple fact that cases have been stuck within the ALJ for multiple years. In last month's item, the case had been pending for six years. And, it is my understanding that there are cases stuck within various levels of the ALJ process for well over a decade.

Think about that for a moment. An individual or company raised a complaint or perhaps a set of facts triggered a hearing under our rules or the law, and the Commission's ALJ procedures has delayed resolution for over a decade. That is beyond negligence and borders on misconduct. Don't try to tell me there are difficult cases with no clear outcome as I find that empty excuse not worthy of the role asked of us by the American people. We make difficult decisions all the time. Sometimes I agree and sometimes I do not but we don't sweep the issue under the rug for a decade, hoping the case will be withdrawn or resolve itself in the meantime.

At the same time, the Commission has been forced to overturn decisions resulting from the ALJ process that were simply not logical or justifiable. In essence, this is creating double the work for the Commission staff and delaying resolution even longer. The better question in my mind is why – knowing what we know – would we continue to allow this process to continue under the status quo? The good news is that Chairman Pai, whether heeding my comments or otherwise, is charting a new course and is not stuck in the old and broken adage of “well, we've always done it this way.”

Today's item creates “paper” hearings for license renewals applications without issues of material fact. In doing so, we bypass the need for our traditional extensive and time consuming evidentiary discovery and hearings procedures. This seems like a logical first step that we should be able to expand upon in the future.

In the end, maybe the functions of the ALJ should be to just conduct evidentiary hearings when there are complex factual issues that, for some reason, can't be handled by staff and then let the Commission resolve any pending cases. Then again, maybe after a little more review we can remove the need for an ALJ altogether. I certainly hope the structure we create today will expedite resolution for this case and serve as a model for other instances within the broadcast sphere and elsewhere.