Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

In re Application of

ALABAMA EDUCATIONAL
TELEVISION COMMISSION

DOCKET NOS. 19422-19430

File Nos. BRET-69, BRET-5,
BRET-7, BRET-14,
BRET-87, BRET-130,
BRET-147, BRET-109,
BRET-267

For Renewal of Licenses

MEMORANDUM OPINION AND ORDER

Adopted: July 3, 1973

Released: July 9, 1973

By the Commission: Commissioners Johnson dissenting; Commissioner Hooks dissenting and issuing a statement; Commissioner Wiley not participating.

1. The Commission has under consideration: (a) a Review Board Memorandum Opinion and Order, FCC 72R-135, released May 11, 1972; (b) an application for review, filed May 23, 1972, by Linda Edwards et al. ("Edwards"); (c) an opposition, filed June 5, 1972, by the Chief, Broadcast Bureau; and (d) an opposition, filed June 5, 1972 by Alabama Educational Television Commission ("AETC").

2. The action, review of which is sought, is a refusal by the Review Board to add to the issues in this proceeding one designed to determine the extent of efforts undertaken by AETC to ascertain the educational needs of Alabama's citizens. Issue (2) of the existing issues is "to determine whether the Alabama Educational Television Commission has broadcast programming serving the needs of Alabama's citizens." After the close of pleadings before the Review Board and before the issuance of the dispositive document, a pre-hearing conference was held on March 28, 1972. Therein the scope of Issue (2) was discussed by all counsel and the
Administrative Law Judge and it was agreed that any showing of serving needs under Issue (2) would necessarily encompass a showing of how the needs were determined. 1/

3. ACCORDINGLY, IT IS ORDERED, That the application for review, filed by Edwards, being moot, IS DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION*

Vincent J. Mullins
Acting Secretary

*See attached dissenting statement of Commissioner Benjamin L. Hooks.

1/ Pre-hearing conference, March 28, 1972, passim, esp. Tr. 12, 14, 16 et seq.
DISSENTING STATEMENT OF COMMISSIONER BENJAMIN L. HOOKS


I vigorously dissent in this case because I do not feel that the FCC should involve itself in granting licenses to "public" stations at all if it does not have some criteria for determining whether or how non-commercial stations have or will, in fact, meet the public interest, convenience and necessity. In the present state of our regulations, I think the Commission should bite the bullet and require ascertainment of education-related problems by these stations in accordance with the same or slightly modified methods utilized by commercial broadcasters. 1/

While it may be that the issue is obliquely raised by inference in this particular proceeding, I think we should face it squarely. It is my hope that the Commission will propose rules in this area as soon as possible since the majority does not appear to believe that the question of how "public" stations up for renewal intend to ascertain the problems of the communities they serve is appropriate for examination on a case-by-case basis. 2/

1/ Commercial broadcasters, in preparing their renewal applications, must conduct community surveys to ascertain the important problems in their service area; non-commercial broadcasters are presently exempt. See, Primer on Ascertainment of Community Problems by Broadcast Licensees, 27 F.C.C. 2d 650, 36 Fed. Reg. 4092, 21 R.R. 2d 1507 (1971).

2/ Several Petitions for Rule Making to require non-commercial stations to conduct ascertainment surveys are presently before the Commission. Filing such petitions were: the National Association of Black Adult Educators and the National Black Law Student Association, the National Association of Black Students and Hollis H. Larkins, Jr., jointly (August 30, 1971) and Sandra W. Bennet, Ph.D., individually (November 1, 1971) (RM-1851 and RM-1874, respectively). A statement in support of these petitions was filed by the National Association of Educational Broadcasters (NAEB) and (on May 12, 1972) the Corporation of Public Broadcasting (CPB), in a Petition for Rule Making (RM-1974), requesting revisions in non-commercial broadcast rules, indicated that non-commercial stations should be required to serve demonstrated community needs.