

ORIGINAL

RECEIVED
4-25-91

LAW OFFICES
McCAMPBELL & YOUNG

FCC MAIL SECTION

A PROFESSIONAL CORPORATION
2021 PLAZA TOWER
POST OFFICE BOX 550
KNOXVILLE, TENNESSEE 37901-0550
(615) 637-1440
TELECOPIER (615) 546-9731

H. H. McCAMPBELL, JR. (1905-1974)
F. GRAHAM BARTLETT (1920-1982)

APR 22 8 53 AM '91
ALSO ADMITTED IN
VIRGINIA:

ROBERT S. MARQUIS

ROBERT S. YOUNG, JR.
LINDSAY YOUNG
RICHARD L. HOLLOW
ROBERT S. MARQUIS
ROBERT S. STONE
J. CHRISTOPHER KIRK
MARK K. WILLIAMS
FREDRICH H. THOMFORDE, JR.
LAWRENCE F. GIORDANO
JANIE C. PORTER
E. JEROME MELSON
HERBERT A. HOLCOMB
GREGORY E. ERICKSON

April 17, 1991

File

RECEIVED
APR 22 1991
FM EXAMINERS

The Honorable Donna R. Searcy, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: Orchon Broadcasting Company (File No. BPH-901221MI)
Channel 239A, Greeneville, Georgia

Dear Ms. Searcy:

Enclosed please find an original and four (4) copies of an Opposition to Petition to Deny filed herewith on behalf of Orchon Broadcasting Company, applicant in the above proceeding. Also enclosed is an additional copy to be date-stamped by your office and returned to the undersigned in the enclosed self-addressed, stamped envelope.

Should you or any members of your staff have questions concerning the enclosed, please contact the undersigned for clarification. Thank you for your cooperation in this matter. With kind regards, I remain

Very sincerely yours,

Robert S. Stone
Counsel to Orchon Broadcasting Company

RSS/dlb
Enclosures

cc: Service List
Orchon Broadcasting Company

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

FCC MAIL SECTION

APR 22 8 58 AM '91

In re Application of)
)
ORCHON BROADCASTING COMPANY)
)
For Construction Permit)
for a New FM Station)
on Channel 239A (95.7 MHz))
in Greenville, Georgia)

File No. BPH-901221MI

To: Chief
Audio Services Division
Mass Media Bureau

OPPOSITION TO PETITION TO DENY

Orchon Broadcasting Company ("Orchon"), by counsel, hereby respectfully submits its opposition to the "Petition to Deny", filed against its above-captioned application by competing applicant, Nadine P. Richardson, d/b/a Rocky Mount Broadcasting ("RMB") on April 10, 1991. Orchon respectfully submits that RMB's Petition to Deny is totally without factual or legal merit and should be dismissed or denied. In support whereof, the following is shown:

1. Initially, Orchon is familiar with the Commission's tenderability requirement that the coverage map submitted in response to Section V-B, Item 16 of its application include a clear, legible, and accurate depiction of the legal boundaries of Orchon's principal community to be served, Greenville, Georgia. To that end, the Commission will note that the coverage map submitted with Orchon's "original" copy of its construction permit application clearly, legibly, and accurately depicts the legal boundaries of Greenville, Georgia in red ink, thereby readily

and immediately confirming Orchon's compliance with § 73.315 of the Commission's rules, as well as all other tenderability, acceptability, and grantability criteria.

2. Moreover, as the attached second generation photocopy from Orchon's dated receipt copy of its construction permit application filed December 21, 1990 demonstrates, the Commission's staff may confidently and reliably confirm the boundaries of the principal community of license without resort to the "original" copy of Orchon's application. While Orchon may only speculate as to the quality of photocopying facilities employed by RMB in reproducing the copy of Orchon's coverage map which accompanies its Petition to Deny, or, for that matter, the number of times copies were made from copies in order to arrive at the "quality" of the exhibit accompanying RMB's Petition, the fact remains that Orchon is in full compliance with the Commission's rules. A review of Orchon's application on file at the Commission allows the staff to immediately confirm that, based upon Orchon's predicted 70 dbu contour, taken in conjunction with the clear depiction of the entire community of Greeneville, Georgia, Orchon is in compliance with the Commission's city coverage requirement.

3. RMB's reliance on Karen S. Klehamer, 5 FCC Rcd 2554 (MMB 1990) is misplaced. In that case, the applicant in question, Calcutta Broadcasting Corporation, defined the boundaries of its proposed community of license, Avon, New York, by means of a "darkened smudge" through which it placed its predicted 70 dbu contour. Consequently, the staff could not confirm that the minimum 80% of Avon fell within the city grade contour. As Orchon has shown, it is immediately and abundantly clear that 100% of the community of Greeneville lies well within Orchon's predicted city grade contour. See, Richard Culpepper, 5 FCC Rcd 2983, 2984 (1990); Goodhart Broadcasting, Inc., 5 FCC Rcd 5341 (MMB 1990).

WHEREFORE, premises considered, Orchon Broadcasting Company respectfully urges the Chief, Audio Services Division, to dismiss or deny the "Petition to Deny" filed April 10, 1991 by competing applicant, Nadine P. Richardson, d/b/a Rocky Mount Broadcasting.

Respectfully submitted,

ORCHON BROADCASTING COMPANY

McC Campbell & Young, Its Attorneys

McCAMPBELL & YOUNG
2021 Plaza Tower
Post Office Box 550
Knoxville, TN 37901-0550
(615) 637-1440

By: _____


Robert S. Stone

April 17, 1991

DATED RECEIPT COPY

LAW OFFICES ~~FCC~~ MAIL SECTION

McCAMPBELL & YOUNG

A PROFESSIONAL CORPORATION

2021 PLAZA TOWER

POST OFFICE BOX 550

KNOXVILLE, TENNESSEE 37901-0550

(615) 637-1440

TELECOPIER (615) 546-9731

H. H. McCAMPBELL, JR. (1905-1974)
F. GRAHAM BARTLETT (1920-1982)

ALSO ADMITTED IN
VIRGINIA:

ROBERT S. MARQUIS

ROBERT S. YOUNG, JR.
LINDSAY YOUNG
RICHARD L. HOLLOW
ROBERT S. MARQUIS
ROBERT S. STONE
J. CHRISTOPHER KIRK
MARK K. WILLIAMS
FREDRICH H. THOMFORDE, JR.
LAWRENCE F. GIORDANO
JANIE C. PORTER
E. JEROME MELSON
HERBERT A. HOLCOMB
GREGORY E. ERICKSON

NOV 22 8 59 AM '91

December 20, 1990

VIA FEDERAL EXPRESS

Federal Communications Commission
c/o Mellon Bank
3 Mellon Bank Center
525 William Penn Way
27th Floor, Room 153-2713
Post Office Box 358195
Pittsburgh, PA 15259-0001

FCC/MELLON DEC 21 1990

ATTN: Wholesale Lockbox Shift Supervisor

Re: Greenville, Georgia FM Channel 239A
Application for Construction Permit
Orchon Broadcasting Company, Inc.

Gentlemen:

We submit herewith, on behalf of our client, Orchon Broadcasting Company, Inc., an original and duplicate copies of an application for construction permit for a new FM broadcast station to serve the community of Greenville, Georgia on FM Channel 239A, together with the applicant's check made payable to the Federal Communications Commission in the amount of \$2,030.00, representing the applicant's filing fee. Also enclosed is the applicant's Fee Processing Form, FCC Form 155, which is attached to the "original" copy of the enclosed application.

Finally, we enclose an additional "date stamped" copy of the application, which we would appreciate your returning to the undersigned in the enclosed postage paid, self-addressed envelope, after the copy has been date-stamped by your office.

APPLICATION FOR CONSTRUCTION PERMIT FOR COMMERCIAL BROADCAST STATION

For COMMISSION Fee Use Only	FEE NO:	APPLICANT Fee Use Only
	FEE TYPE:	Is a fee submitted with this application? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	FEE AMT:	If fee exempt (see 47 C.F.R. Section 1.1112), indicate reason therefor (check one box): <input type="checkbox"/> Noncommercial educational licensee <input type="checkbox"/> Governmental entity
	ID SEQ:	FOR COMMISSION USE ONLY FILE NO.

Section I - GENERAL INFORMATION

1. Name of Applicant Orchon Broadcasting Co., Inc.			Send notices and communications to the following person at the address below:		
Street Address or P.O. Box 906 McCurdy Boulevard			Name Robert S. Stone McCampbell & Young, P.C.		
City Manchester	State GA	ZIP Code 31816	Street Address or P.O. Box Post Office Box 550	City Knoxville	State TN
Telephone No. (Include Area Code) (404) 846-3466			Telephone No. (Include Area Code) (615) 637-1440		

2. This application is for: AM FM TV

(a) Channel No. or Frequency 239A

(b) Principal Community	City	State
	Greenville	GA

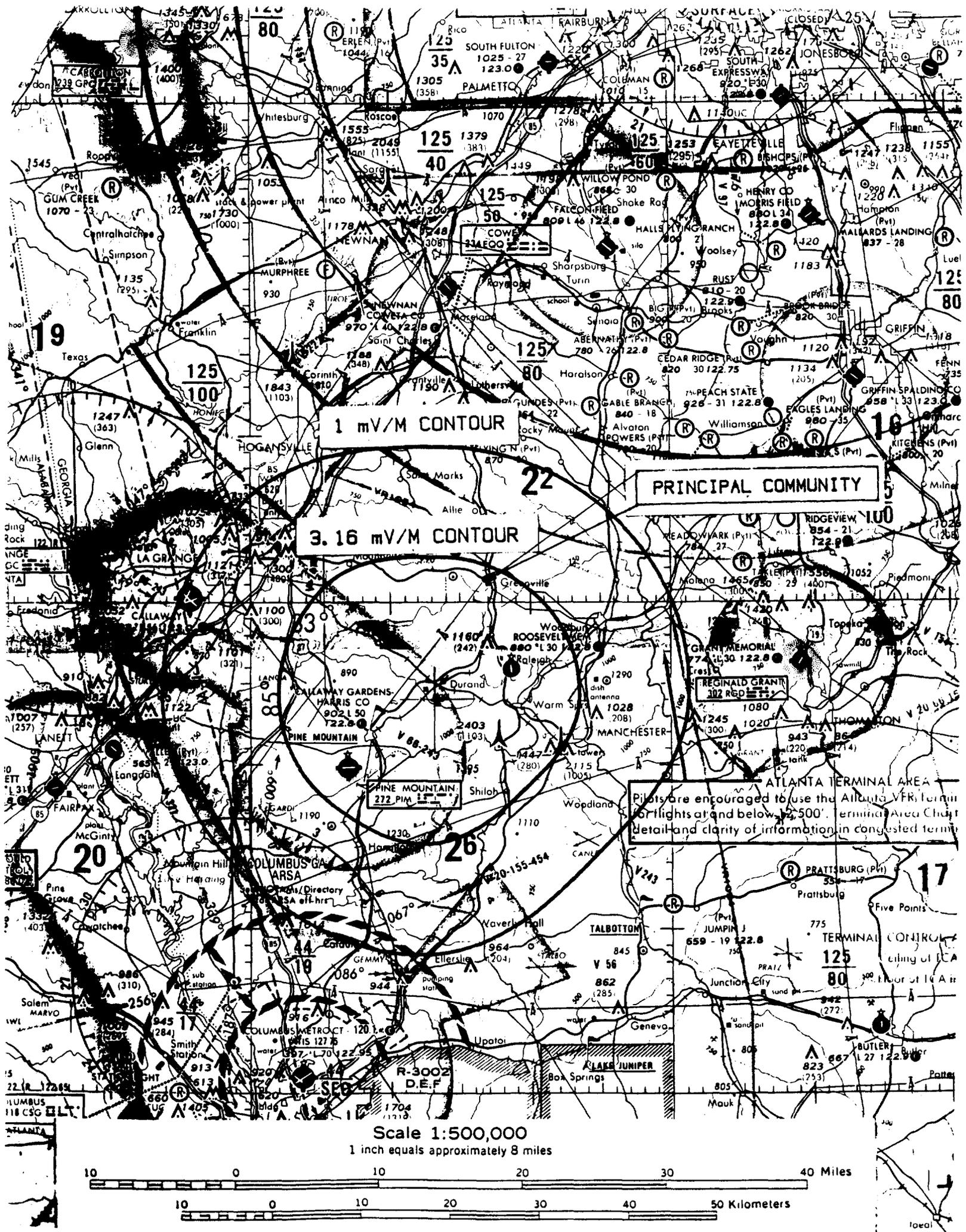
(c) Check one of the following boxes:

- Application for NEW station
- MAJOR change in licensed facilities; call sign: _____
- MINOR change in licensed facilities; call sign: _____
- MAJOR modification of construction permit; call sign: _____
File No. of construction permit: _____
- MINOR modification of construction permit; call sign: _____
File No. of construction permit: _____
- AMENDMENT to pending application; Application file number: _____

NOTE: It is not necessary to use this form to amend a previously filed application. Should you do so, however, please submit only Section I and those other portions of the form that contain the amended information.

3. Is this application mutually exclusive with a renewal application? Yes No

If Yes, state:	Call letters	Community of License	
		City	State



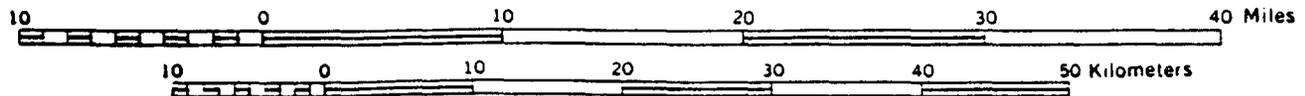
1 mV/M CONTOUR

PRINCIPAL COMMUNITY

3.16 mV/M CONTOUR

ATLANTA TERMINAL AREA
 Pilots are encouraged to use the Atlanta VFR Terminal Area Chart for flights at and below 1,500'.
 Detail and clarity of information in congested terminal area.

Scale 1:500,000
 1 inch equals approximately 8 miles



CERTIFICATE OF SERVICE

FCC MAIL SECTION

I certify that a true and perfect copy of the foregoing **Opposition to Petition to Deny** has been served upon the following by placing same in the United States Mail with sufficient postage thereon, this 17th day of April, 1991:

APR 22 9 00 AM '91
RECEIVED

Barbara L. Waite, Esq.
Venable, Baetjer, Howard & Civiletti
1201 New York Avenue, N.W.
Suite 1000
Washington, D.C. 20005
Counsel for Rocky Mount Broadcasting

Daniel F. Van Horn, Esq.
Arent, Fox, Kintner, Plotkin & Kahn
1050 Connecticut Avenue, N.W.
Suite 600
Washington, D.C. 20036
Counsel for Greeneville Communications, Inc.

Mr. James Crutchfield
FM Branch
Audio Services Division
Mass Media Bureau
Federal Communications Commission
1919 M Street, N.W., Room 332
Washington, D.C. 20554



Robert S. Stone