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MAY 6 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

May 6, 1993

Ms. Donna R. Searcy, Secretary
Federal Communications Commission
Room 222, 1919 M Street, N.W.
Stop Code 1170
Washington, D.C. 20554

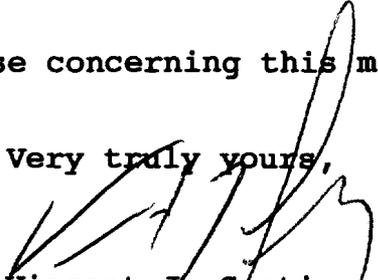
Re: MM Docket No. 93-93
Bakersfield, California

Dear Ms. Searcy:

There are being transmitted herewith, on behalf of Valley Public Television, Inc., applicant for a construction permit to operate a new noncommercial television station on Channel *39 at Bakersfield, California, an original and six copies of its "Comments on Motion for Extension of Hearing Date" in the above-referenced proceeding.

Should any questions arise concerning this matter, please communicate with this office.

Very truly yours,


Vincent J. Curtis, Jr.
Counsel for Valley Public
Television, Inc.

VJC/mac
Enclosures

cc: The Honorable Arthur I. Steinberg (with enclosure)(by hand)

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BEFORE THE

Federal Communications Commission

MAY 26 1993

WASHINGTON, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)

COMMUNITY TV OF)
SOUTHERN CALIFORNIA)

VALLEY PUBLIC)
TELEVISION, INC.)

For Construction Permit for a)
New TV Station on Channel *39)
in Bakersfield, California)

MM Docket No. 93-93

File No. BPET-881012KE

File No. BPET-900904KE

Directed to: The Honorable Arthur I. Steinberg
Administrative Law Judge

**COMMENTS ON
MOTION FOR EXTENSION OF HEARING DATE**

Valley Public Television, Inc. ("Valley"), by its attorneys, hereby submits its Comments on the Motion for Extension of Hearing Date filed by Community TV of Southern California ("CTSC"). With respect thereto, the following is stated:

Basically, Valley has no objection to the CTSC request to move the start of this hearing to November 16, 1993. However, it believes that the following comments more accurately reflect the situation.

1. Shortly before the annual meeting of the National Association of Broadcasters ("NAB") (which was held April 19-22, 1993 at Las Vegas, Nevada), counsel for CTSC contacted one of the attorneys for Valley and advised her that he had a personal conflict with the scheduled starting date of the hearing (August 17, 1993) because of scheduled vacation plans. At that

time, no other reason for seeking a delay was suggested. While Valley did not have any problems with discussing a possible change of dates, it was agreed that the matter be put off until after the NAB meeting.

2. Subsequently, various telephone calls took place between the parties and the Presiding Judge. As a result, it was agreed that an informal conference be held with the Presiding Judge in his chambers on April 30, 1993.

3. The informal conference was held as agreed upon, with counsel for the party-applicants and the Mass Media Bureau in attendance.

4. The initial thrust of the discussion was as previously stated, i.e., that the scheduled start date conflicted with the vacation plans of counsel for CTSC. Valley agreed to an extension to accommodate counsel to CTSC provided that it was moved to November (November 15-16 being suggested). The reason for suggesting the November date was the fact that the Chairperson of Valley's Board is also on the city council and will be engaged in a re-election campaign during September and October. As such, any hearing date in September or October would not only be inconvenient but could be a substantial disadvantage to her chances for re-election. Obviously, if she will be required to take time out from her campaign to devote to the hearing and possibly have to come to Washington to assist and testify, such activities could result in substantial negative

views by the local press,¹ the citizens and certainly her opponents.

5. The Presiding Judge indicated that the Office of the Administrative Law Judges was under increased pressure to move hearings forward and, therefore, he suggested that the hearing date be moved forward to July or the end of June.² Both CTSC and Valley noted that moving the hearing forward would be unwise since the complexity of a non-commercial hearing required at least the time scheduled for preparation.³

6. The Presiding Judge suggested a date of September 20, 1993. Valley pointed out the problem with its Board Chair running for re-election. Valley argued that it believed that if the November date could not be accepted then it wanted to stay with the August 17 date. To do otherwise would reach a conclusion that the public interest would be served by accommodating the vacation plans of counsel but not to

¹ Recently, Washington D.C. Mayor Kelly came under serious criticism for attending meetings in New York during the time that the stalker was causing havoc. While such a position may be totally illogical as to how her absences could affect a police investigation, it nonetheless resulted in substantial negative press and views by the public. If Mayor Kelly was in the middle of a re-election campaign, it is clear that her absence would be very detrimental to her chances for success.

² While Valley clearly supports the concept that hearings should stay on track, it is submitted that a blind

accommodate Valley's Board Chair's city council re-election efforts.

7. CTSC also supported the November date and then added that August is not a good date for non-commercial stations because that is the time scheduled for fund drives.

8. The Presiding Judge maintained that he still was not inclined to move the date to November and said that he believed that the alternate September date should not be that much of a burden to Valley's Board Chair. The Presiding Judge believed that much of the preparation could be accomplished in August thus having a minimum effect on her re-election campaign. As noted above,⁴ Valley believes that the Presiding Judge underestimates the effect that a September date would cause. Also, it must be noted that the two (2) week period prior to a hearing is very intense and requires considerable time. Thus, it would not only be the time during the hearing but the period immediately prior that would impact.

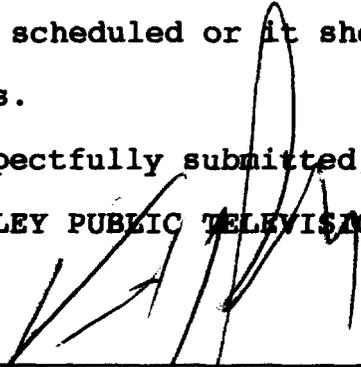
9. Since the party-applicants and the Presiding Judge could not reach an agreement at the informal conference, it was suggested that a formal motion be filed.

In conclusion, while Valley is agreeable to accommodate counsel for CTSC and reschedule the start of the hearing to November 16, 1993, a change to a date in September or October would clearly be detrimental and not acceptable. If the Presiding Judge believes that he cannot use the November date,

⁴ See Paragraph 4 and footnote 1 above.

then it appears to Valley that his choice is between accommodating the vacation plans of counsel for CTSC or the re-election campaign of Valley's Board Chair. Valley contends that the public interest is clear and that the date for the hearing should either remain as presently scheduled or it should be re-set for November 16 or thereabouts.

Respectfully submitted,
VALLEY PUBLIC TELEVISION, INC.

By: 
Richard Hildreth
Vincent J. Curtis, Jr.
Patricia A. Mahoney

Its Attorneys

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May 6, 1993

CERTIFICATE OF SERVICE

I, Marnette Clemons, hereby certify that on this 6th day of May, 1993, copies of the foregoing COMMENTS ON MOTION FOR EXTENSION OF HEARING DATE were mailed, postage prepaid, or hand-delivered to the following:

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*By hand



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