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**Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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In re Applications of
WINDSOR WIRELESS
MARGERY E. CLARK
ERIC R. HILDING
JUDY YEP HUGHES

For a Construction Permit
for a new Commerical FM Radio
Station on Channel 281a,
Windsor, California

) MM Docket No. N/A
)
) FCC File No. BPH-911115ME
)
) FCC File No. BPH-911115MJ
)
) FCC File No. BPH-911115MR
)
) FCC File No. ~~BPH-911115MT~~ ✓

To: Chief, FM Branch

OPPOSITION TO PETITION FOR LEAVE TO AMEND

I, Eric R. Hilding, "Channel Petitioner" for the new FM allotment at Windsor and a mutually-exclusive applicant in this proceeding, herein submit my timely Opposition To Petition For Leave Amend the application of Windsor Wireless ("Wireless") submitted to the Commission April 7, 1992. 1/

1. The petitioned for Wireless amendment of April 7, 1992 is illegal.

a. Wireless is attempting to file an illegal amendment for substantial changes after the 30 day window period for "amendment as of right" expired on March 3, 1992. There is NO good cause for its acceptance, and the is highly contaminated with numerous technical defects. 2/

1/ This Opposition To Petition For Leave For Amend is timely filed. Wireless failed to provide a service copy of its April 7, 1992 amendment, which was not learned of until the April 30, 1992 receipt of its Opposition To Petition To Deny pleading which made reference to the previously unserved, illegal and extremely "defective" amendment. The amendment is not in the public interest because it proposes unauthorized facilities.

2/ Wireless is proposing changes with contain faulty antenna height AMSL and HAAT, as well as greater than maximum authorized 24 kilometer reference contour ERP.

b. Wireless' alleged "good cause" showing does not tell the entire story, simply attempting to suggest it was capriciously preempted from its site by the landlord. This would not have occurred had Wireless remained at its original site as specified in its November 15, 1992 filed application. Review of the Wireless amendment filed March 2, 1992, clearly shows that the move to the second site was quite "voluntary" on the part of Wireless, and that its "preemption" crisis could have been avoided. The Commission can send no rescue party, because Wireless is hoist by its own petard in attempting to change to a third site after the "amendment as of right" ("B" cut-off) for ALL applicants had expired. 3/

c. Acceptance of the April 7, 1992 Wireless amendment would severely prejudice any other applicants in this proceeding who exercised due diligence to select a viable antenna site, or submitted a fully compliant application either at time of original tender, or *prior to* the "amendment as of right" ("B" cut-off) period on March 3, 1992. Acceptance would discriminate against the diligent.

d. Filing of the new Wireless amendment is already bringing disruption

2. The petitioned for Wireless amendment of April 7, 1992 is defective.

a. Pursuant to Section 1.958 of the Commission's rules (Revised as of October, 1991, the Wireless substantial change amendment is defective.

b. In response to FCC 301 Section V-B, Item #7(a)(1), Wireless has filed faulty site elevation above mean sea level data. The correct elevation of the site is 500 meters AMSL, pursuant to the recently acquired civil engineering detail map of the site and antenna farm area (see **EXHIBIT 1**). 4/

c. In response to FCC 301 Section V-B, Item #7(b)(2), for the above stated reasons, Wireless has provide inaccurate data. The correct height of radiation center above mean sea level is 515 meters.

d. In response to FCC 301 Section V-B, Item #7(b)(3), Wireless' stated HAAT is incorrect due to paragraphs 2(b) and 2(c) above. The correct height of radiation center above average terrain is 344 meters (not 338 meters).

e. In response to FCC 301 Section V-B, Item #8, for reasons set forth above, site elevation AMSL and HAAT date on Exhibit V-2b are incorrect.

f. In response to FCC 301 Section V-B, Item #9(a), and 2(d) above, Wireless' ERP of .275KW exceeds the .240KW maximum authorized at the site.

g. Pursuant to item 2(f) above, Wireless' RF Hazarad/Environmental exhibit is accordingly defective because an illegal ERP was utilized.

h. In response to FCC 301 Section V-B, Item #15, Wireless' Exhibit V-4b is defective because of incorrect ERP and resulting contour defects.

4/ Mutually-exclusive application BPH-911115MR proposes to use the same Viacom Cable site area on Mt. Jackson. The original site elevation was purported to be 502 meters AMSL which was set forth in the initial application. The Commission's 3 meter height variance allowance eliminated any need for further amendment after obtaining the detailed map. Thus, additional paperwork to the Commission was justly reduced.

i. In Response to FCC 301 Section V-B, Item #17, Wireless' claimed service area and population figures are inaccurate for inter-related data defects set forth within paragraph 2(b) through 2(h) herein.

j. In Response to FCC 301 Section V-B, Item #19, all tabulated data is also incorrect pursuant to the reasons stated in paragraph 2(i) above.

k. Wireless also failed to place Latitude and Longitude identification along the specific lines for its site on the contour map in its Exhibit V-5b.

l. On page 4 of its engineering statement, Wireless contends that its "proposed facilities will...comply with the limit of the equivalent...²⁴ [kilometer class reference] contour." For the F-A-C-T-U-A-L reasons and evidence set forth in this Opposition To Petition For Leave To Amend, the Wireless statement is untrue and amounts to false certification of its application. 5/

3. The defective Wireless application must be dismissed.

a. Failure to dismiss the defective Wireless application will result in continued unnecessary delays in bring the new Channel 281A service "on-line" to both the citizens of Windsor and residents of the service area, due to the multitude of issues resulting from its application defects and illegal proposal.

b. The Commission has an obligation to live up to its "Hard Look" applications processing commitment, and dismiss defective proposals. 6/

^{5/} The actual HAAT of Wireless' proposed facilities now being 344 meters instead of 338 meters and ERP of .275KW yields G-R-E-A-T-E-R than a 24 kilometer reference contour. Any substantial compliance allowances are NOT applicable where a maximum authorized ERP has been exceeded. Wireless has proposed an ILLEGAL facility.

^{6/} Apparently, the Commission dismissed defective applications for Channel 281A at Gridley, California. It is my understanding that Mr. Barney Dewey, a principal in the Wireless application, subsequently filed an application as next come, next serve. Now it appears that perhaps Mr. Dewey should concentrate more on fulfilling his future FCC commitment responsibilities to construct and operate the Gridley station upon grant.

9. Declaration

I, Eric R. Hilding, under penalty of perjury, declare the foregoing to be true, accurate and complete of, and/or to the best of, my personal knowledge.

PURSUANT ITS OWN POLICIES AND RULES regarding the stringent

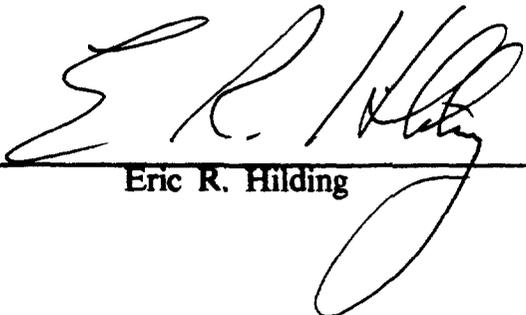
CERTIFICATE OF SERVICE

I, Eric R. Hilding, under penalty of perjury, hereby declare that a copy of this "OPPOSITION TO PETITION FOR LEAVE TO AMEND" has been sent via First Class Mail, U.S. postage prepaid, today, May 4, 1992, to each of the following:

Lee W. Shubert
Haley Bader & Potts
2000 M Street, N.W. #1100
Washington, D.C. 20036
- Counsel for Windsor Wireless

John S. Neely
Miller & Miller, P.C.
P.O. Box 33003
Washington, D.C. 20033
- Counsel for Margery E. Clark

Peter A. Casciato, Esquire
A Professional Corporation
1500 Sansome St. #201
San Francisco, CA 94111
- Counsel for Judy Yep Hughes



Eric R. Hilding