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VIA HAND DELIVERY



Joseph Weber, Esquire
Wireless Communications Bureau
Federal Communications Commission
2025 M Street, N.W., Room 8308
Washington, DC 20554

Re: In re Applications of Liberty Cable Co., Inc., for Private Operational Fixed
Microwave Service Authorization and Modifications (WT Docket No. 96-41)

Dear Mr. Weber:

On behalf of Bartholdi Cable Co., Inc., formerly known as Liberty Cable Co., Inc. ("Liberty"), this letter responds to your May 7, 1996 pleading, entitled "Wireless Telecommunications Bureau's Comments on Time Warner's Motion to Enlarge Issues."¹

In that pleading (and on behalf of the Chief of the Wireless Telecommunications Bureau), you state that you "strongly support[]" the addition of an issue in this proceeding as to whether Liberty "has illegally transferred control of its licensed facilities" and request the addition of a further issue to determine whether Liberty "is the real-party-in-interest behind the captioned applications."² Among other things, you charge that "Liberty has not applied for any transfer of control[;] nor has it notified the Commission of any change in

¹ To the extent that Bartholdi requires leave to file this letter with the Presiding Officer, Bartholdi believes this submission shows good cause for such a filing and hereby requests the same.

² By this letter, Liberty informs the Presiding Officer and the parties to this proceeding that Liberty will treat the Bureau's request as a Motion to Enlarge and, accordingly, will file a response to the issues raised therein in accordance with Section 1.229 of the Commission's rules.

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ownership." You also allege that Liberty has not been "forthright . . . concerning this issue."

The Bureau's comments are as baseless as they are misleading. They simply fly in the face of Liberty's showing that -- far from concealing the transaction at issue -- Liberty met with top-ranking officials of the Wireless Telecommunications Bureau in advance of the transaction and forthrightly disclosed the basic terms of the asset purchase agreement. See Bartholdi's Cable Co., Inc.'s Opposition to Motion to Enlarge dated May 7, 1996 at 3-9. Remarkably, nothing in the Bureau's comments disputes these facts. In this regard, it is absolutely astounding that the Bureau fails to acknowledge that Liberty engaged in preliminary discussions with Bureau officials in advance of the transaction. Rather, the Bureau merely speculates from a variety of SEC filings when the basic facts were within its knowledge.

It is evident that one of two things has happened. First, it is possible that the trial attorneys who filed the Bureau's comments were unaware of Liberty's contact with Bureau officials regarding the Liberty/Freedom transaction. If this is the case, then the Bureau's trial staff failed to apprise themselves of facts known inside the Bureau even though the trial staff had the time and inclination to engage in what the staff describes as an "investigation" of SEC filings.

Second, it is possible that the trial attorneys knew the facts surrounding Liberty's meeting (and their obvious exculpatory nature) but deliberately chose to conceal them.³ Under this scenario, the Bureau's staff attorneys believe that FCC licensees are expected to be forthright with the FCC, but the Bureau's trial staff has no such obligation. See 47 C.F.R. § 1.17. Liberty submits that a willful failure to disclose exculpatory evidence⁴ is simply inconsistent with the duty of all Commission employees to maintain "complete independence [and] impartiality." 47 C.F.R. § 19.735-201a(d).

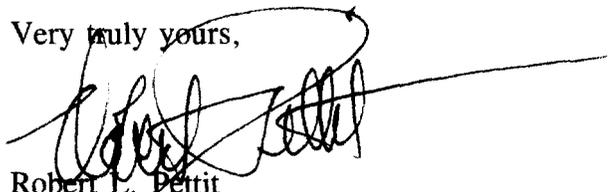
³ Interestingly, this puts the Bureau trial staff in the position of advocating the addition of an issue regarding which other members of the Bureau's staff -- including the Deputy Chief of the Bureau and the Chief of the Bureau's Enforcement Division -- are relevant witnesses.

⁴ Significantly, this is not a case in which the trial staff disagrees with informal advice provided by other Bureau officials. Rather, the trial staff has *utterly failed to disclose* that any such advice was sought and given.

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Whether the Bureau staff's omission is due to a failure to discover the facts or a reckless zeal to prosecute, the Bureau's trial attorneys owe the Presiding Officer and the parties to this proceeding an explanation. Liberty looks forward to this clarification.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert L. Pettit", with a long horizontal line extending to the right.

Robert L. Pettit
Counsel for Bartholdi Cable Co., Inc.

cc: The Honorable Richard L. Sippel
Michele C. Farquhar, Esq.
Arthur H. Harding, Esq.
Christopher A. Holt, Esq.
William Caton, Secretary