

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

In re Applications of)
RAINBOW BROADCASTING COMPANY) GC Docket No. 95-172
For an extension of time) File No. BMPCT-910625KP
to construct) File No. BMPCT-910125KE
and) File No. BTCCT-911129KT
For an Assignment of its)
construction permit for)
Station WRBW(TV), Orlando, Florida)
TO: The Honorable Joseph Chachkin
Administrative Law Judge

PRESS BROADCASTING COMPANY, INC.
HEARING EXHIBIT

NO. _____

Application of Rainbow Broadcasting Company
for extension of construction permit of
Station WRBW(TV), Orlando, Florida
(File No. BPCT-891117KE)

<u>Federal Communications Commission</u>	
Docket No. <u>GC 95-172</u>	Exhibit No. <u>11</u>
Presented by <u>Press Broadcasting</u>	
Disposition	Identified <u>X</u>
	Received _____
	Rejected <u>X</u>
Reporter <u>YS</u>	
Date <u>6-27-96</u>	

Kf Kw

APPLICATION FOR EXTENSION OF BROADCAST CONSTRUCTION
PERMIT OR TO REPLACE EXPIRED CONSTRUCTION PERMIT
(CAREFULLY READ INSTRUCTIONS ON BACK BEFORE COMPLETING)

For Commission Use Only

File No. BMPCT-99112 KE

1. Legal Name of Applicant (See Instructions)
RAINBOW BROADCASTING COMPANY
RECEIVED
NOV 17 1989

3. PURPOSE OF APPLICATION:
 a. Additional time to construct broadcast station
 b. Construction permit to replace expired permit

2. Mailing Address (Number, street, city, state, ZIP code)
151 Crandon Boulevard
Apartment 110
Key Biscayne, Florida 33149

4. IDENTIFICATION OF OUTSTANDING CONSTRUCTION PERMIT:
File Number: BPCT820809KF
Call Letters: WRBW
Frequency: UHF
Channel No.: 65

Telephone No. (Include Area Code)
(305) 361-8223

Station Location
Orlando, Florida

5. OTHER:
Submit as Exhibit No. _____ a list of the file numbers of pending applications concerning this station, e.g., major or minor modifications, assignments, etc. N/A

6. EXTENT OF CONSTRUCTION:
(a) Has equipment been delivered? YES NO
If NO, answer the following:
from Whom Ordered (If no order has been placed, so indicate)
No order has been placed

(b) Has installation commenced? YES NO
If YES, submit as Exhibit No. _____ a description of the extent of installation and the date installation commenced.

Date Ordered _____ Date Delivery Promised _____

(c) Estimated date by which construction can be completed.
24 months after completion of judicial review

7. (a) If application is for extension of construction permit, submit as Exhibit No. 1 reason(s) why construction has not been completed.
(b) If application is to replace an expired construction permit, submit as Exhibit No. _____ the reason for not submitting a timely extension application, together with the reason(s) why construction was not completed during the period specified in the construction permit or subsequent extension(s).

Are the representations contained in the application for construction permit still true and correct? YES NO
If NO, give particulars in Exhibit No. _____

The APPLICANT hereby waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)
The APPLICANT acknowledges that all the statements made in this application and attached exhibits are considered material representations and that all the exhibits are a material part hereof and are incorporated herein as set out in full in the application.

CERTIFICATION

I certify that the statements in this application are true and correct to the best of my knowledge and belief, and are made in good faith.

Legal Name of Applicant Rainbow Broadcasting Company	Signature <i>Joseph Fey</i>
Title Partner	Date <u>11/7/89</u>

RAINBOW BROADCASTING COMPANY EXHIBIT 1

The application of Rainbow Broadcasting Company for construction permit for Channel 65, Orlando, Florida was granted by Commission Order, FCC 85-558, released October 18, 1985. By that Order the Commission denied applications for review of a Review Board decision (FCC 84R-85, released December 3, 1984) granting Rainbow's application. The Commission's decision was appealed to the United States Court of Appeals for the District of Columbia Circuit (Case No. 85-1755). After submission of the written briefs but before oral argument, the Commission requested that the Court return the proceeding to the F.C.C. Upon remand (by order of November 5, 1986), the Commission determined that "this licensing proceeding would be held in abeyance pending the outcome of the FCC's proceeding in MM Docket No. 85-484" (Commission Report to the Court, dated February 29, 1988).

Technically, Rainbow did not have a construction permit from November 1986 until June 9, 1988, when the proceeding was ordered returned by the Court of Appeals. The case was decided by the Court on April 21, 1989 and the grant to Rainbow again affirmed. However, on September 20, 1989, Metro Broadcasting, Inc., one of the competing applicants, filed a petition for a writ of certiorari with the United States Supreme Court. Oppositions to that petition

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are due November 20, 1989. It is thus unknown at this time when the Supreme Court will rule on the petition and whether it will grant certiorari.

The foregoing chronology demonstrates that Rainbow has never been in a position to undertake construction on Channel 65, Orlando, absent the threat of judicial reversal of the license award. Moreover, from November 5, 1986 through June 9, 1988, the period during which the proceeding was returned to the Commission and placed in abeyance, Rainbow's construction permit could not be considered to have been "final", i.e., a construction permit upon the basis of which Rainbow would have been permitted to construct and operate on Channel 65, Orlando.

In view of the continuing appellate challenge to the grant of Rainbow's application, Rainbow requests that it be granted the normal period for construction, 24 months after completion of judicial review. Since the Commission is a party to the pending Supreme Court proceeding, Metro Broadcasting, Inc. v. F.C.C., Case No. 89-453, the date of completion of judicial review will be immediately known to the Commission.