

PEPPER & CORAZZINI

ID: 2022965572

MAY 19 '95 17:46

1808 CV

TRANSMIT CONFIRMATION REPORT

NO.	:	014	
RECEIVER	:		2127355678
TRANSMITTER	:	PEPPER & CORAZZINI	
DATE	:	MAY 19 '95	17:46
DURATION	:	01'59	
MODE	:	STD	
PAGES	:	03	
RESULT	:	OK	

TWCV EX. ———

96-41		42
TW/CV		
Disposition	Identified	X
	Received	X
	Rejected	
Reporter	YS	
Date	1-27-97	

017506

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PEPPER & CORAZZINI
L.L.P.

ATTORNEYS AT LAW
200 MONTGOMERY BUILDING
1776 K STREET, NORTHWEST
WASHINGTON, D.C. 20006

TELEPHONE
202-296-0600

TELECOPIER
202-296-5572

SENDER'S INTERNET ADDRESS
mic@commlaw.com

FACSIMILE TRANSMISSION

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DATE: May 18, 1995

TO: BEHROOZ NOURAIN

FAX No: 212/735-5678

FROM: Michael J. Lehmkuhl

No. of pages including cover: 3

NOTES:

CLIENT No.: 1808

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1776 K STREET, NORTHWEST
WASHINGTON, D. C. 20006
(202) 296-0600

GREGG P. SKALL
E. THEODORE MALLYCK
OF COUNSEL
FREDERICK W. FORD
1909-1986
TELECOPIER (202) 296-5572
INTERNET PEPCOR@COMMLAW.COM

VINCENT A. PEPPER
ROBERT F. CORAZZINI
PETER GUTMANN
JOHN F. GARZIGLIA
NEAL J. FRIEDMAN
ELLEN S. MANDELL
HOWARD J. BARR
LOUISE CYBULSKI •
• CHARLES KELLER •
MICHAEL J. LEHMKUHL •
SUZANNE C. SPINK •
• NOT ADMITTED IN D.C.

MEMORANDUM

TO: BEHROOZ NOURAIN
FROM: Michael J. Lehmkuhl, Esq. 
RE: 18 GHz STAs
DATE: May 18, 1995

Attached, per our conversation today, is a list of pending Liberty applications for which we will be requesting Special Temporary Authority ("STA").

In addition to the River Tower path, this list includes the four paths that we spoke of that came off of PN a few days ago. Today we received word that two of the four were petitioned against. Time-Warner did not, however, petition against the other two paths— Stonehenge and Century— which possibly leaves these in the clear.

As I stated, I will file STA requests for five all paths as soon as possible. Please call me in the morning if you have any questions.

**Liberty Cable Co., Inc.
Pending Application Status**

④

<u>File No.</u>	<u>Transmit Site</u>	<u>Date Filed</u>	<u>PN Accept</u>	<u>Path Name</u>	<u>Type</u>	<u>Status</u>	<u>PD Date</u>	<u>STA?</u>
713295	Century	3-24-95	4-14-95	2727 Palisades	Mod	P		
713296	One Lincoln Plaza	3-24-95	4-14-95	<i>11 Riverside</i> 309 West 66th Street	Mod	P	5-15-95	
713297	Milford Plaza	3-24-95	4-14-95	1585 Broadway	Mod	P	5-15-95	
708777	River Tower	11-7-94	12-9-94	220 East 52nd Street	Mod	P	1-9-95	
713300	Stonehenge	3-24-95	4-14-95	Riviera	New	P		

017509

TW CV EX

PEPPER & CORAZZINI

L. L. P.

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L. CHARLES KELLER *
MICHAEL J. LEHMKUHL *
SUZANNE C. SPINK *
* NOT ADMITTED IN D.C.

July 24, 1995

Federal Communications Commission
Feeable Correspondence
P.O. Box 358305
Pittsburgh, PA 15251-5305

Re: Liberty Cable Co., Inc.;
Request for Special Temporary Authority
FCC File No. 713295; FCC Call Sign WNTX889;
2600 Netherland Ave, Riverdale, NYC (Century)

Dear Sir or Madam:

Transmitted herewith, on behalf of Liberty Cable Co., Inc. is an original and one (1) copy of a request for special temporary authority ("STA") for the above referenced facility.

Enclosed is a check made payable to the Federal Communications Commission in the amount of \$45.00 to cover the necessary filing fees.

Questions with respect to this matter should be referred to the undersigned.

Sincerely,

Michael J. Lehmkuhl
Attorney for
Liberty Cable Co., Inc.

Enclosures

Federal Communications Commission	
Docket No. 9641	Exhibit No. 43
Present: TW/ CV	
Disposition	Identified <input checked="" type="checkbox"/>
	Received <input checked="" type="checkbox"/>
	Rejected <input type="checkbox"/>
Reporter: JS	
Date: 1-27-97	

TO BRIARHILL
TO 2500 JOHNSON → PALISADE AVE
TO 3671 HUDSON
Special Temporary Authority
FCC File No. 713295
FCC Call Sign WNTX889

TO 3294 CAMISKILL
TO 2500 JOHNSON
TO 2727 PALISADES
TO 4525 HENRY
TO 3215 ARLINGTON
TO 3001 HENRY
TO 3875 WALDO

Liberty Cable Co., Inc. ("Liberty") respectfully requests special temporary authority ("STA") pursuant to Section 94.43 of the Commission's Rules to operate an 18 Ghz operational-fixed microwave service ("OFS") station at 2600 Netherland Avenue, Riverside, NY (Century) in the manner described below. Given the extraordinary circumstances regarding the need for service, any delay in the institution of temporary operation would seriously prejudice the public interest.

Pursuant to Section 94.43(c) of the Commission's Rules, the following is submitted:

1. Name, Address and Citizenship of Applicant

Liberty Cable Co., Inc.
215 E. 95th Street
New York, NY 10128
ATTN: Behrooz Nourain

New York Corporation

2. Need for Special Action

GRANTED	
SEE ATTACHED: <u>1199</u>	
<u>9/7/95</u>	<u>11/7/96</u>
EFFECTIVE	VALID THROUGH
<i>William B. Stench</i>	
BY: CHIEF, MICROWAVE BRANCH	

On March 24, 1995, (File No. 713295), Liberty filed the above-referenced application to modify its 18 GHz station at 2600 Netherland Avenue, Riverside, NY (Century). On May 19, 1995, Liberty filed an STA request to cover those applications. Liberty now respectfully requests STA for those paths to be added under its latest amendments filed on May 23, 1995, June 13, 1995, and June 22, 1995. The 30 day public notice period expired for the original modification application on May 15, 1995.

Liberty is an alternative multichannel video programming distributor serving approximately 30,000 subscribers who live mainly in buildings in the New York metropolitan area. In the vast majority of cases, Liberty provides service pursuant to the Commission's action in Operational Fixed Microwave Service (Video Distribution System), 6 FCC Rcd. 1270 (1991) ("the 18 GHz Order") through microwave channels in the 18,142 - 18,580 band ("the 18 GHz band").

A series of occurrences where Liberty fails to deliver its service in accordance with contractual requirements or where potential customers cancel their subscriptions to Liberty's service will immeasurably damage Liberty's business and reputation. The paths covered by this most recent amendment-- 3001 Henry Hudson Parkway and 3875 Waldo Avenue-- were contracted for on April 7, 1995 and April 24, 1995 respectively. According

to the terms of the installation contract, Liberty must deliver service within 120 days-- July 7, 1995 and July 24, 1995-- or face cancellation of its service. The July 7 date is fast approaching and no assurance exists that Liberty will be able to meet that or its July 24 deadline.

Accordingly, grant of this STA request will make it possible for Liberty to honor its obligations to its customers and establish effective competition in the Manhattan market. When the 18 GHz Order granted private cable operators access to the 18 GHz band, the Commission voiced its conviction that the public interest was well served by allowing competition in the video services marketplace through wireless cable operators. The Commission said:

After carefully reviewing the record, we conclude that adoption of this proposal, ..., will promote the public interest by encouraging competition in the video distribution marketplace. The need for such action is well documented. This Commission recently conducted a review of marketplace developments in the video distribution industry in which we concluded that cable systems possess a disproportionate share of market power and, therefore, are capable of engaging in anti-competitive conduct. In these circumstances, competition provides the most effective safeguard against the specter of market power abuse. As competition from alternative multichannel providers such as second competitive cable operators, wireless cable multi-point distribution services, SMATV systems, and direct broadcast satellite ("DBS") emerges, we find that it would serve the public interest to enhance their competitive potential. 6 FCC Rcd. at 1271, para. 9.

The Commission also said:

In conclusion, cable systems increasingly dominate the multichannel video delivery services, resulting in criticism of the industry and complaints of anti-competitive conduct. Although rival multichannel providers are emerging in the marketplace, we recognize the need for action designed to encourage these operators to enter the market and to increase their market viability. To improve the competitive potential of alternative multichannel providers eligible to hold licenses in the Operation-Fixed Microwave Service, we take action in this proceeding permitting the use of the 6 MHz wide, point-to-point channels in the 18 GHz band for the distribution of video entertainment material. We also amend our rules to eliminate the restriction on the number of channels that may be

assigned for this purpose. This action serves the public interest by encouraging the growth of competitive alternatives to cable systems and by providing consumers with a diverse range of video distribution service. In addition, the action taken herein furthers the best interests of the public by promoting spectrum efficiency and increasing the flexibility of licenses. 6 FCC Rcd. at 1272, para. 16.

Furthermore, in its 1994 report to Congress on the status of competition in this marketplace, the Commission makes clear that little has changed in the way of competition; cable is still king. In sum, the public interest is well served by the promotion of competition by wireless cable operators in the video services marketplace.

The Commission action in opening the 18 GHz band to wireless cable operators has achieved its goal in that it has stimulated competition to incumbent cable monopolists. To compete effectively with the incumbant cable system, Liberty must convert buildings from that service to Liberty's service after subscribers in those buildings have elected to switch to Liberty. If Liberty cannot meet its potential customers' demand for its service, those potential customers will cancel their contracts with Liberty and remain with the incumbant system. It is hard to blame them.

Time is, therefore, of the essence. Any further delay in the consideration of the aforementioned applications is a disservice to the public interest because it seriously undermines Liberty's ability to deliver service, to compete and to be economically viable. Delay gravely threatens Liberty's ability to remain in business.

3. Type of Operation

Fixed transmission of video and audio signals in the 18 GHz band.

4. Purpose of Operation

The equipment will be used to distribute applicant's own products or services, including video entertainment programming, to private cable buildings on frequencies in the 18,142-18,580 MHz band.

5. Time and Date of Operation Desired

Liberty requests authority for twenty-four (24) hour operation pending action on the application for license and requests that such authority begin on the tenth day following the filing of this request for special temporary authority.

6-12. Technical Information

Liberty will operate the station in conformance with the technical specifications outlined in the referenced application(s).

Liberty certifies that no party to the application is subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, codified at 21 U.S.C. Section 862.

Please address all correspondence regarding this matter to Liberty's counsel, Michael J. Lehmkuhl, Esq., Pepper & Corazzini, L.L.P., 1776 K Street, N.W., Suite 200, Washington, D.C. 20006 as well as the undersigned.

Respectfully submitted,



Peter O. Price
President
Liberty Cable Co., Inc.

Date: _____

7/11/95

(5)

FEDERAL COMMUNICATIONS COMMISSION
FCC REMITTANCE ADVICE

Approved by OMC
 3060-0589
 Expires 2/28/97

PAGE NO. 1 OF

(RESERVED)

(Read instructions carefully BEFORE proceeding.)

*ATA to
 Micro
 7/14/95
 [initials]*

SPECIAL USE
FCC/MELLON JUL 12 1995

FCC USE ONLY

PAYOR INFORMATION

(1) FCC ACCOUNT NUMBER		Did you have a number prior to this? Enter it.	(2) TOTAL AMOUNT PAID (dollars and cents)	
0 1 3 3 6 9 6 8 0 2			\$	45 • 00
(3) PAYOR NAME (If paying by credit card, enter name exactly as it appears on your card)				
Liberty Cable Co., Inc.		cc: Michael J. Lehmkuhl, Esquire Pepper & Corazzini, L.L.P.		
(4) STREET ADDRESS LINE NO. 1		1776 K Street, N.W., Suite 200		
215 East 95th Street, Suite 1A		Washington, DC 20006		
(5) STREET ADDRESS LINE NO. 2		(202) 296-0600		
(6) CITY		(7) STATE	(8) ZIP CODE	
New York		NY	10028	
(9) DAYTIME TELEPHONE NUMBER (Include area code)			(10) COUNTRY CODE (if not U.S.A.)	
(212) 891-7770				

ITEM #1 INFORMATION

(11A) NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR				FCC USE ONLY	
(12A) FCC CALL SIGN/OTHER ID	(13A) ZIP CODE	(14A) PAYMENT TYPE CODE		(15A) QUANTITY	(16A) FEE DUE FOR PAYMENT TYPE CODE IN BLOCK 14
WNTX889		P A O M		1	\$ 45.00
(17A) FCC CODE 1		(18A) FCC CODE 2			
(19A) ADDRESS LINE NO. 1		(20A) ADDRESS LINE NO. 2		(21A) CITY/STATE OR COUNTRY CODE	

ITEM #2 INFORMATION

(11B) NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR				FCC USE ONLY	
(12B) FCC CALL SIGN/OTHER ID	(13B) ZIP CODE	(14B) PAYMENT TYPE CODE		(15B) QUANTITY	(16B) FEE DUE FOR PAYMENT TYPE CODE IN BLOCK 14
					\$
(17B) FCC CODE 1		(18B) FCC CODE 2			
(19B) ADDRESS LINE NO. 1		(20B) ADDRESS LINE NO. 2		(21B) CITY/STATE OR COUNTRY CODE	

CREDIT CARD PAYMENT INFORMATION

(22) **MASTERCARD/VISA ACCOUNT NUMBER:**

Mastercard **EXPIRATION DATE:**

Visa

(23) I hereby authorize the FCC to charge my VISA or Mastercard for the service(s)/authorization(s) herein described.

AUTHORIZED SIGNATURE _____ DATE _____

FEDERAL COMMUNICATIONS COMMISSION
FCC REMITTANCE ADVICE

Approved by OMB
 3060-0589
 Expires 2/28/97

PAGE NO. 1 OF

SPECIAL USE
 FCC/MELLON JUL 24 1995

FCC USE ONLY

(RESERVED)

(Read instructions carefully BEFORE proceeding.)

PAYOR INFORMATION

(1) FCC ACCOUNT NUMBER	Did you have a number prior to this? Enter it.	(2) TOTAL AMOUNT PAID (dollars and cents)
0 1 3 3 6 9 6 8 0 2		\$ 45 • 00
(3) PAYOR NAME (If paying by credit card, enter name exactly as it appears on your card)		
Liberty Cable Co., Inc.		cc: Michael J. Lehmkuhl, Esquire Pepper & Corazzini, L.L.P.
(4) STREET ADDRESS LINE NO. 1	1776 K Street, N.W., Suite 200	
215 East 95th Street, Suite 1A	Washington, DC 20006	
(5) STREET ADDRESS LINE NO. 2	(202) 296-0600	
(6) CITY	(7) STATE	(8) ZIP CODE
New York	NY	10028
(9) DAYTIME TELEPHONE NUMBER (Include area code)	(10) COUNTRY CODE (if not U.S.A.)	
(212) 891-7770	7-27-95	

ITEM #1 INFORMATION

(11A) NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR		FCC USE ONLY	
(12A) FCC CALL SIGN/OTHER ID	(13A) ZIP CODE	(14A) PAYMENT TYPE CODE	(15A) QUANTITY
WNTX889		P A O M	1
(17A) FCC CODE 1	(18A) FCC CODE 2		
(16A) FEE DUE FOR PAYMENT TYPE CODE IN BLOCK 14	\$ 45.00		
(19A) ADDRESS LINE NO. 1	(20A) ADDRESS LINE NO. 2	(21A) CITY/STATE OR COUNTRY CODE	

ITEM #2 INFORMATION

(11B) NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR		FCC USE ONLY	
(12B) FCC CALL SIGN/OTHER ID	(13B) ZIP CODE	(14B) PAYMENT TYPE CODE	(15B) QUANTITY
(17B) FCC CODE 1	(18B) FCC CODE 2		
(16B) FEE DUE FOR PAYMENT TYPE CODE IN BLOCK 14	\$		
(19B) ADDRESS LINE NO. 1	(20B) ADDRESS LINE NO. 2	(21B) CITY/STATE OR COUNTRY CODE	

CREDIT CARD PAYMENT INFORMATION

(22) **MASTERCARD/VISA ACCOUNT NUMBER:**

Mastercard Visa

EXPIRATION DATE: /

(23) I hereby authorize the FCC to charge my VISA or Mastercard for the service(s)/authorization(s) herein describe.

AUTHORIZED SIGNATURE _____ DATE _____