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April 8, 1997 **DOCKET FILE COPY ORIGINAL**

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William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

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APR - 8 1997
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: GC Docket No. 95-172

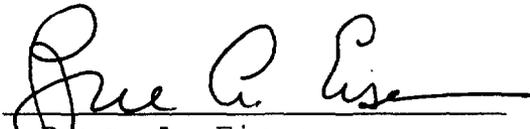
Dear Mr. Caton:

On behalf of Rainbow Broadcasting Company and Rainbow Broadcasting, Ltd., there is transmitted herewith and filed an original and eleven (11) copies of their "Opposition to Separate Trial Staff's Motion for Extension of Time".

Should any questions arise with respect to this matter, please contact the undersigned counsel.

Respectfully submitted,

KAYE, SCHOLER, FIERMAN, HAYS
& HANDLER, LLP

By: 
Bruce A. Eisen

Enclosure

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BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

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APR-8 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In re Applications of)
)
RAINBOW BROADCASTING COMPANY) GC Docket No. 95-172
) File No. BMPCT-910625KP
For an Extension of Time) File No. BMPCT-910125KE
to Construct) File No. BTCCT-911129KT
)
and)
)
For an Assignment of its)
Construction Permit for)
Station WRBW(TV), Orlando, Florida)

TO: The Commission

OPPOSITION TO SEPARATE TRIAL STAFF'S

MOTION FOR EXTENSION OF TIME

Rainbow Broadcasting Company and Rainbow Broadcasting, Ltd. (collectively, "Rainbow"), by their respective attorneys, hereby oppose the April 3, 1997 Motion for Extension of Time filed on behalf of the Separate Trial Staff ("Staff"). In support thereof, the following is shown:

1. The Initial Decision in this proceeding was released on April 2, 1997. See, Rainbow Broadcasting Company, FCC 97D-05. Exceptions in this case are due on May 2, 1997, and the Staff seeks an extension of time in which to file exceptions to and including May 16, 1997. The Staff advances the convenience of counsel and the complexity of the case as reasons which justify

its extension request. Neither contention has merit, and Rainbow would be prejudiced by the delay.

2. In support of its request, the Staff asserts that one counsel assigned to this case is scheduled to present oral argument on behalf of the Commission in the United States Court of Appeals for the District of Columbia Circuit on April 14, and three days later intends to leave for vacation until April 30, 1997. A second counsel assigned to the case is stated merely to be working "on a large number of cases" and to intend, as well, to take vacation during various times in the month of April. The Staff argues that the extension will permit it to better address a case which it believes to be complex.

3. The Motion for Extension of Time should be denied. The public is entitled to a fully licensed television station on Channel 65 at Orlando, Florida. Rainbow first filed its application for such a station in September, 1982, receiving a Commission grant in October, 1985. Notwithstanding that action, and despite affirmance by the United States Supreme Court in 1991, during all the intervening years Rainbow has never been licensed to operate. It has weathered two court remands and two Commission hearings, largely occasioned by the abusive conduct of a competitor, Press Broadcasting Company, Inc. ("Press"), and the

Staff's misguided support of Press' position. See, Initial Decision, page 32, paragraph 14 and footnote 21. The continued cloud on Rainbow's operations has had substantial adverse business consequences. There should be no further unnecessary delay in licensing Station WRBW-TV.

4. The Staff's motion does not justify the requested delay. The fact that counsel have full case loads surely does not distinguish them from anyone else in this proceeding, and an extension simply because its attorneys will be on vacation is premised completely upon its own convenience, an inappropriate factor since filing deadlines may not be routinely extended merely because it is expedient for one or more parties to the proceeding. See, e.g., Mobile Services Division, 43 RR 2d 430 (1978). Even if these recitations evidenced that the present schedule would constitute an inconvenience, as they do not, it is explicit Commission policy that "extensions of time for filing exceptions shall not be routinely granted". 47 C.F.R. §1.276(a)(1).

5. To bootstrap its facially insufficient convenience argument, the Staff contends that the requested extension would permit it "to more carefully prepare its exceptions in a case involving a number of difficult hearing issues and a record

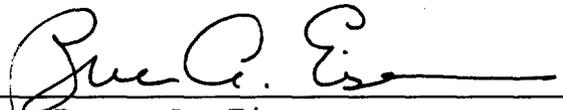
consisting of hundreds of pages of exhibits and hearing testimony". The suggestion that this case presents any but the most routine task on exceptions is entirely erroneous; this was a case with limited discovery and substantial stipulations of fact. The hearing took only five days and involved five witnesses. Three of these witnesses testified only with regard to an ex parte issue and the Administrative Law Judge's favorable resolution of that issue had been urged by the Staff. The evidence on the other three issues was heavily overlapping, and no new, novel or complex issues were presented. Indeed, most of what was involved had already been considered by the Commission, with a remand intended essentially to determine and assess the impact of certain additional facts. In short, nothing advanced by the Staff offers the kind of substantial good cause showing the Commission requires for such an extension, particularly in light of the clear prejudice to Rainbow which would result from any further avoidable delay.

CONCLUSION

For the reasons stated above, the Separate Trial Staff's April 3, 1997 Request for Extension of Time to file Exceptions to the Initial Decision should be denied.

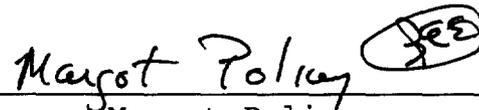
Respectfully submitted,

RAINBOW BROADCASTING COMPANY

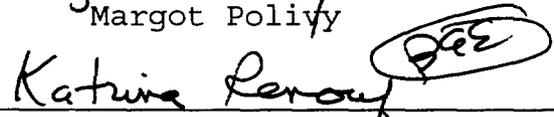
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Their Attorneys

April 8, 1997

CERTIFICATE OF SERVICE

I, Toni R. Daluge, a secretary in the law firm of Kaye, Scholer, Fierman, Hays & Handler, LLP, do hereby certify that on this 8th day of April, 1997, a copy of the foregoing "Opposition to Separate Trial Staff's Motion for Extension of Time" was sent via United States mail, postage prepaid, to the following:

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Toni R. Daluge

* Hand Delivered