

Before the  
FEDERAL COMMUNICATIONS COMMISSION

In the Matter of )  
)  
Implementation of Section 309(j) )  
Of the Communications Act -- )  
Bidding for Commercial Broadcast )  
And Instructional Television )  
Service Licenses )  
)  
Reexamination of the Policy )  
Statement on Comparative )  
Broadcast Hearings )  
)  
Proposals to Reform the )  
Commission's Comparative Hearing )  
Process to Expedite the )  
Resolution of Cases )

MM Docket No. 97-234

GC Docket No. 92-52

GEN Docket No. 90-264

To: The Commission

Consolidated Opposition to Motions for Leave to File Replies

Biltmore Forest Broadcasting FM, Inc. ("BFB"), by its attorneys, hereby opposes the Motions filed by Orion Communications, Ltd. and Jerome Thomas Lamprecht, Susan M. Bechtel and Lindsay Television, Inc. ("Joint Movants") for leave to file replies in this matter. Both Orion and Joint Movants requested expedited Commission action on their stay requests although no particular urgency was apparent. The Commission's own rules concerning stay requests establish an expedited and truncated pleading cycle for such requests. Operating under these constraints, BFB had only seven days to file an Opposition to Joint Movants' Motion and it filed no Opposition at all to Orion's Motion. The rule specifically provides that "[r]epplies to oppositions should not be filed and will not be considered." 47 C.F.R. 1.45(d).

Orion and Joint Movants nevertheless proceeded to ignore the Commission's precepts with only the flimsiest pretext – that there were some matters they felt they had to reply to. If that were the standard for accepting replies, the rule forbidding replies under these circumstances

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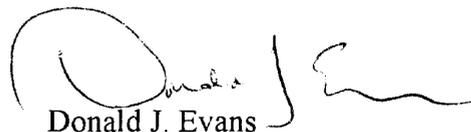
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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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would be meaningless. Orion and Joint Movants have simply seized an unauthorized opportunity to bolster their own sketchy showings on the need for a stay. Orion even had the gall to introduce new material into the proceedings (a supplemental declaration of Betty Lee) which would presumably justify a new evidentiary submission by BFB in surrebuttal and then surrejoinders by Orion and its allies. At this rate, there will be no need for the Commission to issue a stay since the stay proceedings themselves will have extended into the next millennium. This gambit should be rejected, both in fairness to the other parties who abided scrupulously by the Commission's procedural rules and in deference to the integrity of the rules themselves.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Donald J. Evans". The signature is fluid and cursive, with a large initial "D" and a long horizontal stroke at the end.

Donald J. Evans  
Counsel for Biltmore Forest Broadcasting FM, Inc.

cc: Biltmore Forest Applicants

**CERTIFICATE OF SERVICE**

I hereby certify that I have on this 1<sup>st</sup> day of June, 1999 served copies of the foregoing *Consolidated Opposition to Motions for Leave to File Replies* by first-class mail, postage prepaid, on all parties of record on the attached list.

  
Shannon R. Harris

Harry F. Cole, Esquire  
Bechtel & Cole, Chartered  
1901 L Street, N.W.  
Suite 250  
Washington, D.C. 20036

Lauren A. Colby, Esquire  
10 East 4th Street  
Post Office Box 113  
Frederick, MD 21705

Gene A. Bechtel, Esquire  
Bechtel & Cole, Chartered  
1901 L Street, N.W.  
Suite 250  
Washington, D.C. 20036

Barry Friedman, Esquire  
Thompson, Hine & Flory, L.L.P.  
Suite 800  
1920 N Street, N.W.  
Washington, D.C. 20036

Christopher J. Reynolds, Esquire  
Post Office Box 2809  
Prince Frederick, MD 20678

Stephen T. Yelverton, Esquire  
Suite 1250  
1225 New York Avenue, N.W.  
Washington, D.C. 20005

Richard F. Swift, Esquire  
Tierney & Swift  
2175 K Street, N.W.  
Suite 350  
Washington, D.C. 20037

Timothy K. Brady, Esquire  
Post Office Box 71309  
Newman, GA 30271

Robert A. Marmet, Esquire  
Harold K. McCombs, Esquire  
Dickstein, Shapiro & Morin, L.L.P.  
2102 L Street, N.W.  
Washington, D.C. 20037

Barry D. Wood, Esquire  
Wood, Maines & Brinton, Chartered  
1827 Jefferson Place  
Washington, D.C. 20036

Robert Depont, Esquire  
Post Office Box 386  
Annapolis, MD 21404

Thomas A. Hart, Jr., Esquire  
Shook, Hardy & Bacon, L.L.P.  
1850 K Street, N.W.  
Suite 900  
Washington, D.C. 20006

Stephen C. Leckar, Esquire  
Butera & Andrews  
1301 Pennsylvania Avenue, N.W.  
Suite 500  
Washington, D.C. 20004

Katrina Renouf, Esquire  
Renouf & Polivy  
1532 -- 16th Street, N.W.  
Washington, D.C. 20036