

Before the
FEDERAL COMMUNICATIONS COMMISSION

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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| In the Matter of |) | |
| |) | |
| Implementation of Section 309(j) |) | MM Docket No. 97-234 |
| Of the Communications Act -- |) | |
| Bidding for Commercial Broadcast |) | |
| And Instructional Television |) | |
| Service Licenses |) | |
| |) | |
| Reexamination of the Policy |) | GC Docket No. 92-52 |
| Statement on Comparative |) | |
| Broadcast Hearings |) | |
| |) | |
| Proposals to Reform the |) | GEN Docket No. 90-264 |
| Commission's Comparative Hearing |) | |
| Process to Expedite the |) | |
| Resolution of Cases |) | |

To: The Commission

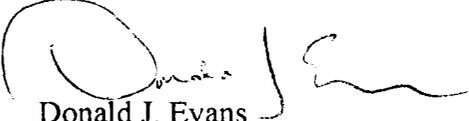
Consolidated Opposition to Motions for Leave to File Replies

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

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 flourish at the end.

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

CERTIFICATE OF SERVICE

I hereby certify that I have on this 1st 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.


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