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ANN BAVENDER\*  
ANNE GOODWIN CRUMP  
VINCENT J. CURTIS, JR.  
RICHARD J. ESTEVEZ  
PAUL J. FELDMAN  
RICHARD HILDRETH  
FRANK R. JAZZO  
ANDREW S. KERSTING  
EUGENE M. LAWSON, JR.  
SUSAN A. MARSHALL\*  
HARRY C. MARTIN  
GEORGE PETRUTSAS  
RAYMOND J. QUIANZON  
LEONARD R. RAISH  
JAMES P. RILEY  
ALISON J. SHAPIRO  
KATHLEEN VICTORY  
HOWARD M. WEISS

\* NOT ADMITTED IN VIRGINIA

FLETCHER, HEALD & HILDRETH, P.L.C.

ATTORNEYS AT LAW

11th FLOOR, 1300 NORTH 17th STREET

ARLINGTON, VIRGINIA 22209-3801

(703) 812-0400

TELECOPIER

(703) 812-0486

INTERNET

www.fhh-telcomlaw.com

FRANK U. FLETCHER  
(1939-1985)  
ROBERT L. HEALD  
(1956-1983)  
PAUL D.P. SPEARMAN  
(1936-1962)  
FRANK ROBERSON  
(1936-1961)  
RUSSELL ROWELL  
(1948-1977)

EDWARD F. KENEHAN  
(1960-1978)

CONSULTANT FOR INTERNATIONAL AND  
INTERGOVERNMENTAL AFFAIRS  
SHELDON J. KRYS  
U. S. AMBASSADOR (ret.)

OF COUNSEL  
EDWARD A. CAINE\*  
MITCHELL LAZARUS\*  
EDWARD S. O'NEILL\*  
JOHN JOSEPH SMITH

WRITER'S DIRECT

703-812-0450

riley@fhh-telcomlaw.com

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

November 1, 1997

HAND DELIVERED

Magalie Salas, Esq.  
Secretary  
Federal Communications Commission  
445 12th Street, SW, Room TW-B204  
Washington, D.C. 20554

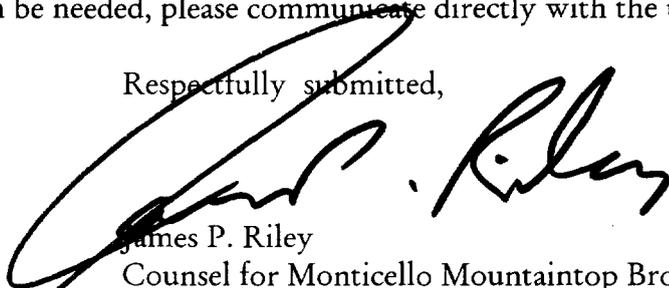
Re: MM Docket No. 97-122

Dear Ms. Salas:

Transmitted herewith on behalf of Monticello Mountaintop Broadcasting, Inc., are an original and fourteen copies of Opposition to Universal's "Renewed Petition for Extraordinary Relief".

Should further information be needed, please communicate directly with the undersigned.

Respectfully submitted,



James P. Riley  
Counsel for Monticello Mountaintop Broadcasting, Inc.

JPR:deb  
Enclosures

- cc: John I. Riffer, Esq. (By Hand w/Enclosure)  
Assistant General Counsel
- James W. Shook, Esq. (By Hand w/Enclosure)
- Michael D. Hays, Esq. (By Hand w/Enclosure)
- Richard A. Helmick, Esq. (By Hand w/Enclosure)
- Charles R. Naftalin, Esq. (By Hand w/Enclosure)

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# ORIGINAL

Before the  
**Federal Communications Commission**  
Washington DC 20554

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**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

In re )  
)  
GERARD A. TURRO )  
)  
For Renewal of License )  
for FM Translator Stations )  
W276AQ(FM), Fort Lee, NJ, and )  
W232AL(FM), Pomona, NY )  
)  
MONTICELLO MOUNTAINTOP )  
BROADCASTING, INC. )  
)  
Order to Show Cause Why the Construction )  
Permit for FM Radio Station WJUX (FM), )  
Monticello, NY, Should Not Be Revoked )

MM Docket No. 97-122  
File Nos. BRFT-970129YC  
File Nos. BRFT-970129YD

To: The Commission

**OPPOSITION TO UNIVERSAL'S  
"RENEWED PETITION FOR EXTRAORDINARY RELIEF"**

On October 20, 1999, Universal Broadcasting of New York, Inc. ("Universal") filed its "Renewed Petition for Extraordinary Relief".<sup>1</sup> Monticello Mountaintop Broadcasting, Inc. ("MMBI"), by counsel, hereby opposes the Renewed Petition.

1. Although bearing the caption of MM Docket No. 97-122, a hearing proceeding to which MMBI is a named party, the Renewed Petition is not a pleading contemplated by the

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<sup>1</sup>The Universal pleading's full title is "Renewed Petition for Extraordinary Relief and Issuance of an Order Requiring Gerard A. Turro to Come Into Immediate Compliance with 47 C.F.R. §74.1232." Herein, it will be referred to as "Renewed Petition".

procedures specified in the Commission's rules for post-decision review in a hearing proceeding. It asks for relief outside of the review process and in advance of a final decision on review. Moreover, it asks again, as its title admits, for relief which it requested of the Commission prior to adoption of the Hearing Designation Order in this proceeding, and which it was not granted in the HDO.

2. Stripped of its heated rhetoric, Universal's Renewed Petition asks that the Commission reverse the Mass Media Bureau's own interpretation of its April 5, 1996, letter ruling, and the affirmation of that ruling and the Bureau's interpretation at pars. 3, 11 and 12 of the HDO. The April 5, 1996, ruling was interpreted by the Bureau as giving Turro the option of coming into compliance with the Bureau's construction of Sec. 74.1232 by divesting his translator stations which rebroadcast WJUX. Turro has undertaken to do just that, and Universal has opposed Turro's divestiture effort. Universal now asks the Commission to give Turro different choices: either immediately terminate his programming service to WJUX, or immediately cease rebroadcasting WJUX on Turro's translators.

3. Universal did not seek a reversal of the Bureau's 1996 interpretation of the April 5, 1996, letter ruling, and Universal did not contest the HDO's affirmation of that interpretation. When the HDO was adopted, the Commission was aware that Turro then provided and was continuing to provide programming to WJUX, and that Turro rebroadcast WJUX's signal over his Fort Lee and Pomona translators. HDO, par. 4. The Commission was also aware that Turro was complying with the Bureau's April 5, 1996, letter, by prosecuting an assignment application to convey the licenses of his Pomona and Fort Lee translators to Press Broadcasting Company

("Press"), an application opposed by Universal. HDO, par. 3, n.3. and par. 13. The HDO expressly deferred action on Turro's application to assign his translator licenses to Press, pending resolution of the issues designated therein. HDO, par. 3.

4. The HDO issues were resolved favorably to Turro and to MMBI in the Initial Decision of Administrative Law Judge Arthur Steinberg, which is now on review before the Commission. Universal has said, in its "Supplement to Petition to Deny and Post-Hearing Statement of Position" ("Supplement") filed October 20, 1999, simultaneously with its Renewed Petition, that it will petition to deny the assignment of Turro's translator licenses to Press, "if Turro is ultimately found qualified to retain the translator station licenses ...." Supplement, pp. 2-3. This is a remarkable threat by Universal to obstruct Turro's compliance with the Bureau's April 5, 1996, letter. And it is particularly out of place for Universal to voice this threat. Universal chastises Turro for never appealing or otherwise contesting the Bureau's 1996 ruling or the 1997 affirmance of that ruling in the HDO. Renewed Petition, p. 5. But Turro has complied with the ruling by prosecuting the Press assignment application. Universal, on the other hand, has itself "never appealed or otherwise sought to contest" the affirmance by the HDO of the 1996 ruling. That is, Universal has not done so until now, after the Initial Decision resolved all issues favorably to Turro and MMBI.

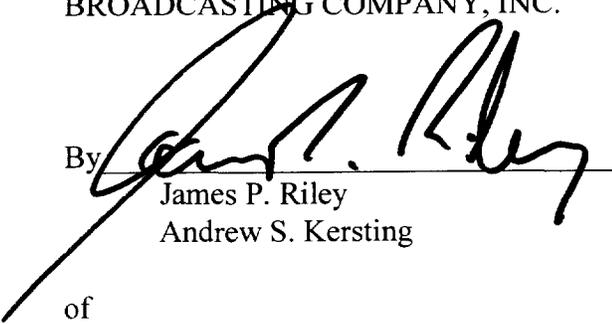
5. MMBI submits that the Commission should not be led by Universal's Renewed Petition into action apart from and outside the review process in this proceeding. Exceptions to the Initial Decision are pending and reply briefs will be filed in the near future. Universal's

Renewed Petition is nothing more than an unwarranted and unsupported distraction from the orderly progress of this case toward its conclusion.

Respectfully submitted,

MONTICELLO MOUNTAINTOP  
BROADCASTING COMPANY, INC.

By



James P. Riley  
Andrew S. Kersting

of

FLETCHER, HEALD & HILDRETH, P.L.C.  
1300 North 17th Street, 11th Floor  
Arlington, VA 22209  
703-812-0400

Its Attorneys

November 1, 1999

CERTIFICATE OF SERVICE

I, Deborah N. Lunt, a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C., hereby certify that I have, this 1<sup>ST</sup> day of November, 1999, by hand delivery, forwarded a copy of the foregoing OPPOSITION TO UNIVERSAL'S "RENEWED PETITION FOR EXTRAORDINARY RELIEF" to the following:

The Honorable Harold Furchtgott-Roth  
Commissioner  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8-A302  
Washington, DC 20554

The Honorable Susan Ness  
Commissioner  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8-B115  
Washington, DC 20554

The Honorable Michael Powell  
Commissioner  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8-A204  
Washington, DC 20554

The Honorable Gloria Tristani  
Commissioner  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8-C302  
Washington, DC 20554

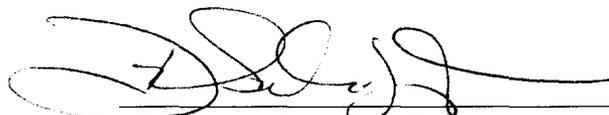
John I. Riffer, Esq.  
Assistant General Counsel  
Administrative Law Division  
Office of General Counsel  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8-A660  
Washington, DC 20554

James W. Shook, Esq.  
Mass Media Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 3-A463  
Washington, DC 20554

Alan Y. Naftalin, Esq.  
Charles R. Naftalin, Esq.  
Koteen Naftalin  
1150 Connecticut Avenue, NW  
Washington, DC 20036  
Counsel for Gerard A. Turro

Roy R. Russo, Esq.  
Richard A. Helmick  
Cohn and Marks  
1920 N Street, NW, Suite 300  
Washington, DC 20036  
Counsel for Universal Broadcasting of  
New York, Inc.

Michael D. Hays  
John S. Logan  
Dow, Lohnes & Albertson  
1200 New Hampshire Avenue, NW  
Washington, DC 20008  
Counsel for Universal Broadcasting of  
New York, Inc.



Deborah N. Lunt