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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

MAY - 1 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)	MM Docket No. 99-153
)	
READING BROADCASTING, INC.)	File No. BRCT-940407KF
)	
For Renewal of License of)	
Station WTVE(TV), Channel 51)	
Reading, Pennsylvania)	
)	
and)	
)	
ADAMS COMMUNICATIONS)	
CORPORATION)	File No. BPCT-940630KG
)	
For Construction Permit for a New)	
Television Station to Operate on)	
Channel 51, Reading, Pennsylvania)	

To: The Commission

OPPOSITION TO MOTION FOR EXTENSION OF TIME

1. Adams Communications Corporation ("Adams") hereby opposes the "Motion for Extension of Time" filed by Reading Broadcasting, Inc. ("RBI") on April 24, 2001 ^{1/} in the above-captioned proceeding. RBI proposes that the time for filing exceptions herein be extended by four weeks, thus effectively doubling the allotted time. The laughable basis for

^{1/} Adams notes for the record that, while the certificate of service attached to RBI's Motion reflects service by hand on undersigned counsel, no service -- whether by hand, by mail, or otherwise -- was in fact effected insofar as we have been able to determine. Adams was orally contacted, on or about April 24, by RBI's counsel, who advised that RBI planned to seek an extension. He inquired as to what Adams's position with respect to such a request might be. But no motion was received and, after several days, undersigned counsel contacted counsel for the Enforcement Bureau to see whether the Bureau had received any motion. On April 30, counsel for the Bureau advised undersigned counsel of RBI's motion and telecopied the motion to Adams's counsel.

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List A B C D E

RBI's request is demonstrably unsound.

2. Section 1.46 of the Commission's rules provides unequivocally that

It is the policy of the Commission that extensions of time shall not be routinely granted.

47 C.F.R. §1.46(a). In applying that rule to extension requests in the context of adjudicatory proceedings, the Commission has stated that it will "closely examine the pleadings to determine whether the request is based on a clear showing of good cause." *Proposals to Reform the Commission's Comparative Hearing Process to Expedite the Resolution of Cases*, 6 FCC Rcd 157, 172, n. 34.

3. The basis for RBI's extension request, in its totality, consists of the following:

[RBI's counsel] faces numerous conflicting demands that limit his availability for this matter. ^[*] The only associate counsel with any familiarity with the record is not an FCC practitioner and has never prepared exceptions or appeals pursuant to the Commission's Rules.

[*] In addition to a significant workload for other clients, his availability is limited due to various personal requirements that cannot be postponed (e.g., overseeing and providing child care during spouse's law school exams, overseeing final construction of new residence, preparing existing residence for sale, etc.)

RBI Motion at 2.

4. Putting aside for the moment the footnote concerning counsel's personal schedule, let us look at the only other justification, *i.e.*, that there is only one other lawyer in counsel's firm in a position to assist with the exceptions, and that lawyer "is not an FCC practitioner and has never prepared exceptions or appeals pursuant to the Commission's Rules." ^{2/}

^{2/} Adams believes that this verbiage refers to C. Dennis Southard, IV, who participated in the hearing on behalf of RBI. According to Martindale-Hubbell, Mr. Southard can hardly be
(continued...)

5. As to the availability *vel non* of other counsel who might assist in the timely preparation of RBI's exceptions, Adams refers the Commission to the information which appears in Martindale-Hubbell Law Directory on CD-ROM, Spring I 2001, with respect to the Washington, D.C. office of Holland & Knight. The first sentence of the "Firm Profile" there reads:

Holland & Knight LLP is one of the 20 largest law firms in the world, with more than 1,150 lawyers in 27 cities.

See Attachment B hereto, at 2. That entry further indicates that the D.C. office of Holland & Knight includes 159 attorneys. *Id.* at 3. That entry further states, explicitly, that as of March, 2000, Holland & Knight (with particular reference to its Washington, D.C. office) "became one of the dominant telecommunications firms in the country." *Id.* at 2.

6. So RBI would have the Commission believe that one of the **20 largest law firms in the world**, a firm with more than 1,000 lawyers, including a D.C. office with more than 150 lawyers, is so understaffed as to be unable to meet a routine filing deadline before the Commission. And RBI would have the Commission believe that "one of the dominant telecommunications firms in the country" is unable to assign to this case an attorney who has at some time prepared exceptions or appeals in Commission cases.

7. By any reasonable measure RBI's claims here are incredible. This is especially so in view of the fact that the law firm of Koteen & Naftalin, whose association with Holland & Knight resulted in the latter becoming a "dominant telecommunications firm"

²(...continued)

described as a rookie in the field of litigation. He has been practicing law since 1989 -- more than a decade -- and he is admitted to appear before numerous trial and appellate courts. *See* Attachment A hereto.

(see Attachment A at 2), recently engaged in the litigation of an FCC matter through trial and exceptions. See *Gerard A. Turro*, FCC 00-245, released July 20, 2000. Obviously, Holland & Knight enjoys highly experienced and highly regarded attorneys with recent, successful experience in FCC litigation.

8. Now let's look at the footnote which provides supplemental reasons for the supposed need for an extension. RBI refers broadly to counsel's "workload for other clients", but provides no specific information which might establish what that workload consists of, much less whether any aspect of that workload could legitimately be said to interfere with timely preparation of RBI's exceptions. And the "various personal requirements" which *are* mentioned in the footnote cannot be said to constitute a "clear showing of good cause." Child care is a routine part of the juggling which must be performed by attorneys (or law students) who choose to be parents, or parents who choose to be attorneys. Buying and selling houses are voluntary activities the scheduling of which is largely under the control of the participants. If RBI's showing is deemed to be a "clear showing of good cause", then that term has lost all meaning.

9. Adams is particularly concerned about injecting any delay into the final disposition of this proceeding. As the Commission is aware, Adams's application was filed almost seven years ago. It took five years, and three mandamus petitions by Adams, just to get this two-party comparative proceeding designated for hearing. Once designated, the hearing proceeded with reasonable efficiency thanks to the efforts of Judge Sippel, who imposed deadlines and procedures designed to expedite the trial. Judge Sippel was able to issue his Initial Decision less than six months after the filing of reply findings.

10. RBI has an unmistakable self-interest in asking that the time for filing

exceptions be doubled. In a comparative renewal proceeding, the incumbent renewal applicant benefits from delay because delay prolongs the incumbent's hold on the license.

RBI's awareness of this was demonstrated in comments recently made by Frank D.

McCracken, RBI's Executive Vice President, to the Reading *Eagle*. According to the *Eagle*,

[McCracken] said RBI will continue to operate the station until the appeals process has run its course.

"It'll be years before we stop operating and managing the station," McCracken said. "We'll be here for a while."

See Attachment C.

11. Where, as here, the incumbent has been adjudged the inferior of the applicants vying for the authorization, prolonged operation by the incumbent is contrary to the public interest. As the better-qualified applicant forced to wait in the wings for seven years already, the applicant which has demonstrated its superiority, Adams urges the Commission to reject RBI's Motion in order to assure the earliest possible conclusion to this case and the earliest possible initiation of service by Adams on Channel 51 in Reading.

Respectfully submitted,


/s/ Harry F. Cole
Harry F. Cole

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Counsel for Adams Communications Corporation

May 1, 2001

ATTACHMENT A

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Biography: Member: American Bar Association (Member, Litigation Section).

Educated: University of Michigan (B.A., 1984); Syracuse University (J.D., 1989)

Born: Kansas City, Missouri, December 22, 1961

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ATTACHMENT B

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Lakeland, FL

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Melbourne, FL

Miami, FL

New York, NY

Orlando, FL

Providence, RI

San Antonio, TX

San Francisco, CA

Seattle, WA

St. Petersburg, FL

Tallahassee, FL

Tampa, FL*

West Palm Beach, FL

General Practice including: Administrative and Rulemaking, Admiralty, Agriculture, Aircraft Finance and Leasing, Airline Accident Investigation and Litigation, Alternative Dispute Resolution, Antitrust, Trade Regulation and Competition, Appellate, Appropriations, Asset-based Financing, Aviation, Bankruptcy and Creditors' Rights, Beverage Alcohol, Collegiate Sports Administration and Compliance, Commercial Leasing, Communications, Construction, Consumer Fraud, Corporate, Corporate Finance,

Directors' and Officers' Indemnification and Insurance, Diversity Counseling, Education, Eminent Domain and Condemnation, Energy, Entertainment, Environmental, ERISA, Employee Benefits and Executive Compensation, Financial Institutions, First Amendment, Franchising, Gaming and Sweepstakes, Government Contracts, Government Relations, Grants and Infrastructure, Growth Management and Land Use, Health Care, Hotel, Resort and Timeshare Development, Housing Programs, Immigration, Nationality and Consular, Indian Affairs, Individual and Private Businesses, Insurance, Intellectual Property, Patent, Trademark, and Copyright, International, Internet and E-Commerce, Labor and Employment, Lease Finance, Legislative, Federal and State, Licensing and Distribution, Litigation, Civil and Criminal, Marital and Family Law, Maritime and Shipping, Media, Mergers and Acquisitions, Mining, Minority Business Development, Mortgage Banking, Natural Gas, Personal Injury and Wrongful Death, Power Plant/Transmission Line Siting, Privatization, Product Liability, Professional Liability and Insurance, Project Finance, Public Finance, Public Utilities, Real Estate Investment Trusts, Real Estate Transactions, Development and Finance, Resource Recovery, Securities, Securities Litigation, Securitization of Financial Assets, Sports Representation and Management, Surety and Fidelity, Syndication and Partnership, Taxation, Local, State, Federal and International, Telecommunications, Transportation, Trusts and Estates, Venture Capital, Water/Wastewater, White Collar Crime and Workers' Compensation Law.

Firm Profile: Holland & Knight LLP is one of the 20 largest law firms in the world, with more than 1,150 lawyers in 27 cities.

In July, 2000, Holland & Knight joined with Whitman Breed Abbott & Morgan LLP. This addition marked the firm's move into the Southern California marketplace and added significant commercial litigation and corporate capabilities.

Levine & Associates, a noted Indian law firm with offices in Los Angeles and Seattle, combined its practice with Holland & Knight's existing public law and Indian law group in July.

In July, 2000, six lawyers with nationally renowned experience in diversity counseling and minority business development joined the firm's Washington, D.C., office from Shaw Pittman.

In March, 2000, Holland & Knight joined with the Washington, D.C. telecommunications firm Koteen & Naftalin LLP. As a result, the firm became one of the dominant telecommunications firms in the country.

February, 2000, marked the opening of the firm's Chicago office through a merger with Burke, Weaver & Prell. This addition expanded the firm's capabilities in litigation, real estate, zoning and local governmental law.

Holland & Knight counsels clients whose business interests range from local to international. Their clients include: financial institutions, utility companies, insurance companies, domestic and foreign governments, a variety of media enterprises, passenger cruise lines, several foreign aircraft companies and carriers, land developers, phosphate mining and manufacturing companies, citrus producers and other agricultural enterprises, trade associations and many other companies, institutions and individuals.

The firm conducts its many charitable activities through the Holland & Knight Charitable Foundation. "Opening Doors for Children" and "The Holocaust Remembrance Project" are two of the Foundation's activities.

Firm Size: 159

BIOGRAPHIES: *This Office* *All Offices*

Washington, D.C. Members and Associates

Michael E. Anderson '56 '87
Markham Ball '34 '61 (AV)
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Stephen A. Bogorad '59 '83 (AV)
Jeffrey F. Boothe '55 '87
David W. Briggs '46 '75 (AV)
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ATTACHMENT C

71-5046

BUSINESS

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Chicago firm wins WTVE license

■ A Federal Communications Commission judge rules in favor of Adams Communications, but Reading Broadcasting will continue to operate Channel 61 while it appeals.

From our news staff

After years of wrangling by two firms over the license to operate Reading-based WTVE-TV, Channel 61, a Federal Communications Commission judge has decreed a license reserved for the firm now running the station, and instead awarded the license to a Chicago company.

FCC Administrator Law Judge Richard L. Stippel ruled that the proposal by Adams Communications Corp., Chicago, better met the public interest than that of Reading Broadcasting Inc., which has operated the station since 1988.

Stippel's opinion also found that Michael L. Porter, president of RBI, was unjustifiably content that it creates for numerous reasons, including giving blue answers to questions concerning prior FCC findings of fraud. "His lack of in-

tegrity in his hearing testimony," what the FCC called his "unauthorized taking of control" of the decision, and failure to make required reports timely and accurately.

Porter, who has residences in Washington and in Wyomissing, did not return calls.

Frank D. McCracken, RBI executive vice president, told the firm plans to appeal within 30 days of the decision, and said RBI will continue to operate the station until the appeals process has run its course.

"It'll be years before we stop operating and managing the station," McCracken said. "We'll be here for a while."

"This has been controversial for almost 10 years," he said. "We're still continuing to debate it and litigate it. I don't think there's been a TV station that's had its license for 30 years, and we don't intend to lose ours."

An FCC spokeswoman said she doubted the WTVE decision was the only license denial in 40 years, but added she did not have immediate access to records on the frequency of refusals pending their issuance.

McCracken said that about 85 percent of WTVE's programming is through its affiliation with the Philadelphia Television Network, a

firm that in 1989 had bought an interest in the Reading broadcaster. In a related matter, RBI is being sued by Spanish-language TV firm Telecaribe, which in 1989 signed a 10-year contract to have WTVE air its programming. But a year later, RBI dropped that affiliation when it signed with the Philadelphia network.

Adams had filed for the license in 1994, the same year RBI filed its application for license renewal.

In awarding the license to Adams, the judge dismantled RBI's allegations that Adams planned to engage in "grossly" by using over the license and selling it back to the original owners.

He also found that Adams would provide better signal coverage. Adams had said it plans to serve about 48 million viewers, about a third more than the 31 million RBI reaches.

Adams has proposed broadcasting at a power of 6,000 kilowatts over an area of 14,000 square miles, while RBI broadcast at a range of 1,400 kW over 5,400 square miles.

Although Judge Stippel's opinion raised the possibility of a settlement between Adams and RBI without the participation of Porter, Forward M. Gilbert, Adams vice president, said his firm has no interest in a settlement.

"We're surely not going to sell the

license to them," Gilbert said. "We're a much stronger group economically and have the ability to do better programming."

Adams owns no other television stations, although Gilbert said some of its principals have run radio stations.

Gilbert would not detail what Adams' plans for operating WTVE would be, other than to say the goal has been to provide Latin Broadcasting.

As application started it would provide nationally scheduled news, public affairs and other non-entertainment programming, including locally produced and locally oriented programming and public-service announcements responsive to the needs of Reading and the rest of the station's service area.

He disputed McCracken's claim that RBI would continue to run WTVE for years, saying that the appeals process would probably be long on for more than about 15 months.

"Who knows?" he said. "I'm not sure," he said. "I'm not sure we can get the license, or what the judge says, we will win. It's an extremely strong case."

"First, they didn't provide local service, and secondly, Michael Porter is a hypocrite. He's a dishonest operator for Michael Porter. He's a dishonest operator for the FCC in a hypocrite way."

Washington, D.C., said Stippel's opinion is final unless appealed to the five-member commission. Its ruling could be appealed to a U.S. District Court of Appeals, at which point it leaves the FCC's purview and becomes a legal matter.

Stippel's decision contained numerous references to previous TV-station applications Parker had been involved with, and found that he had attempted to deceive the FCC on numerous occasions.

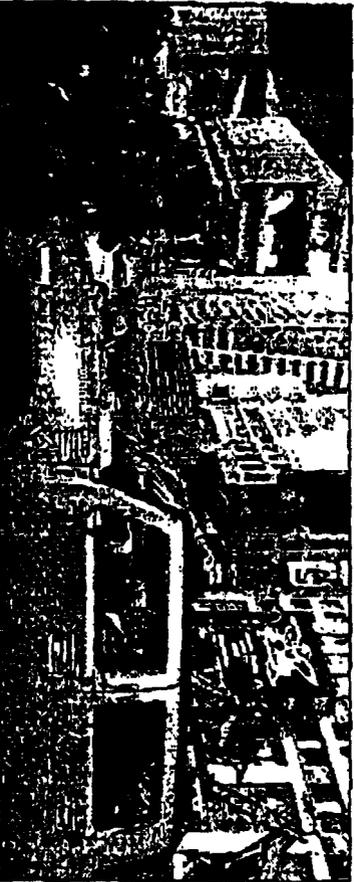
Porter also failed to disclose those prior findings when asked about them in the WTVE matter, Stippel wrote.

Stippel also said that upon taking effective control of WTVE in 1991, Porter on at least two occasions issued a number of shares of stock that did not match the number approved by the FCC. He said that numerous Litchman's Partner had failed to report reporting decisions to the commission, sometimes by years.

Gilbert said that when the appeals are over and if Adams prevails, it would move quickly to provide programming.

"We've got a lot of financial resources," he said. "The question is how long it takes to build the tower and make arrangements to provide Kluge's programming. Our people are action-oriented and committed. Co-operative."

Hummer hype



Bush to cut funds for auto research

■ A broader focus on technologies that can apply to many vehicles rather than just one is sought.

Associated Press

WASHINGTON — The Bush administration wants to overhaul an 8-year-old research program sponsored by former Vice President Al Gore that has produced at-

ter mass production.

Gore called the program in March 2000, saying its research already was being used in other vehicles and predicting that within four years automakers would be mass-producing hybrid vehicles.

"We're redesigning that program," Abraham said as he unveiled the Energy Department budget Monday.

And the industry is headed to file calls, which produce energy from a chemical reaction between

CERTIFICATE OF SERVICE

I hereby certify that, on this 1st day of May, 2001, I caused copies of the foregoing "Opposition to Motion for Extension of Time" to be hand delivered (as indicated below), addressed to the following:

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/s/ Harry F. Cole
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