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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

In re Application of:	)	MM DOCKET NO. 88-577
	)	
LIBERTY PRODUCTIONS, A LIMITED PARTNERSHIP	)	File No. BPH-870831MI
	)	
For Construction Permit for a New FM Broadcast Station on Channel 243	)	
	)	
Biltmore Forest, North Carolina	)	

To: The Commission

REPLY TO OPPOSITION

Respectfully submitted,

YELVERTON LAW FIRM, P.L.L.C.

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July 27, 2001

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REPLY TO OPPOSITION

Willsyr Communications, Limited Partnership ("Willsyr"), by its counsel, pursuant to 47 C.F.R. 1.4 (h) and 1.45 (c), hereby submits this "Reply to Opposition." On June 13, 2001, Sutton Radiocasting Corporation ("SRC"), licensee of Station WPEK (FM), Greenwood, South Carolina, filed a "Petition for Reconsideration and/or Clarification" with respect to the Commission's decision in Memorandum Opinion and Order, FCC 01-129, rel. May 25, 2001. On July 9, 2001, Willsyr filed a motion to dismiss the petition because of a lack of standing by SRC. On July 18, 2001, SRC filed an opposition. In support of its reply thereto, Willsyr submits the following.

In its opposition, at n. 3, SRC again concedes that it has no standing to file a petition for reconsideration in the Biltmore Forest proceeding. Therein, SRC states that it is "aggrieved" solely because the Commission suspended processing of its application to move its tower to Mauldin, South Carolina.

Accordingly, in view of SRC's admission in its petition for reconsideration, p. 8, n. 10, that its proposed tower site is fully-spaced to Liberty's tower site as granted by the Commission, it is evident that SRC's "aggrievement" is not the result of the grant of Liberty application in FCC 01-129. Rather, SRC's remedies lie elsewhere at the Commission within the context of its own proceeding to relocate its tower. There is no legitimate basis for SRC to delay the resolution of the Biltmore Forest proceeding simply because the Commission has not acted in another proceeding.

SRC filed a "Joint Request" on July 10, 2001, that would arguably resolve its hypothetical and imagined problem with respect to Liberty. However, that request may not necessarily moot Willsyr's motion to dismiss the petition for reconsideration. The "Joint Request" appears to allow the petition for reconsideration to remain pending until the Commission grants SRC's application to relocate its tower.

Such an undue delay in resolving the Biltmore Forest proceeding would raise an issue as to whether SRC filed a "strike" petition. It is noteworthy that SRC is under contract (BALH-20001103ABN) to sell its Greenwood/Mauldin station to a company that currently operates at least one FM station (WESC) serving the Asheville/Biltmore Forest market, and thus would be a direct competitor with Liberty.

It would be in the buyer's economic interest to delay or thwart Liberty operating as a Class C3 25,000 watt station. The Biltmore Forest frequency is currently operated as a sub-standard Class A at a 3,000 watt equivalent and provides no meaningful competition to the other FM stations in the market.

SRC contends that Willsyr's motion to dismiss is unauthorized. However, nothing in the Commission's rules prohibits the filing of a motion to dismiss which raises the issue of a lack of standing by the petitioner. In any event, Willsyr's motion to dismiss raises substantial "public interest" issues as to lack of standing by SRC which the Commission must consider.

WHEREFORE, in view of the foregoing, SRC's petition for reconsideration must be dismissed because it has conceded that it would not be technically affected by Liberty's operation as a Class C3 at its authorized tower site. Thus, SRC is not "aggrieved" for purposes of standing. Both SRC and Liberty could construct and operate their proposed facilities with no prohibited signal contour overlap with each other.

Respectfully submitted,

WILLSYR COMMUNICATIONS, LIMITED PARTNERSHIP

By: _____

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July 27, 2001

CERTIFICATE OF SERVICE

I, Stephen T. Yelverton, an attorney, do hereby certify that on this 27th day of July, 2001, I have caused to be hand-delivered or mailed, U.S. Mail, first-class, postage prepaid, a copy of the foregoing "Reply to Opposition" to the following:

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