

**BROOKS, PIERCE, McLENDON, HUMPHREY & LEONARD, L.L.P.**

ATTORNEYS AT LAW

RALEIGH, NORTH CAROLINA

MAILING ADDRESS  
POST OFFICE BOX 1800  
RALEIGH, N.C. 27602

OFFICE ADDRESS  
SUITE 1600  
FIRST UNION CAPITOL CENTER  
150 FAYETTEVILLE STREET MALL  
RALEIGH, N.C. 27601

TELEPHONE (919) 839-0300  
FACSIMILE (919) 839-0304

HENRY E. FRYE  
OF COUNSEL

J. LEE LLOYD  
SPECIAL COUNSEL

FOUNDED 1897

AUBREY L. BROOKS (1872-1958)  
W.H. HOLDERNESS (1904-1965)  
L.P. McLENDON (1890-1968)  
KENNETH M. BRIM (1898-1974)  
C.T. LEONARD, JR. (1929-1983)  
CLAUDE C. PIERCE (1913-1988)  
THORNTON H. BROOKS (1912-1988)  
G. NEIL DANIELS (1911-1997)

GREENSBORO OFFICE  
2000 RENAISSANCE PLAZA  
230 NORTH ELM STREET  
GREENSBORO, N.C. 27401

WASHINGTON OFFICE  
601 PENNSYLVANIA AVENUE, N.W.  
SUITE 900, SOUTH BUILDING  
WASHINGTON, D.C. 20004

WRITER'S DIRECT DIAL

WRITER'S EMAIL ADDRESS  
KUSHNER@BROOKSPIERCE.COM

L.P. McLENDON, JR.  
HUBERT HUMPHREY  
EDGAR B. FISHER, JR.  
W. ERWIN FULLER, JR.  
JAMES T. WILLIAMS, JR.  
WADE H. HARGROVE  
M. DANIEL MCGINN  
MICHAEL D. MEEKER  
WILLIAM G. McNAIRY  
EDWARD C. WINSLOW III  
HOWARD L. WILLIAMS  
GEORGE W. HOUSE  
WILLIAM P.H. CARY  
REID L. PHILLIPS  
ROBERT A. SINGER  
JOHN H. SMALL  
RANDALL A. UNDERWOOD  
S. LEIGH RODENBOUGH IV  
MARK J. PRAK  
JILL R. WILSON  
MARC D. BISHOP  
JIM W. PHILLIPS, JR.  
MACK SPERLING  
JEFFREY E. OLEYNIK  
MARK DAVIDSON  
JOHN W. ORMAND III  
ROBERT J. KING III  
V. RANDALL TINSLEY  
JOHN R. ARCHAMBAULT  
S. KYLE WOOSLEY  
FORREST W. CAMPBELL, JR.  
MARCUS W. TRATHEN

JEAN C. BROOKS  
JAMES C. ADAMS II  
ALLISON M. GRIMM  
ELIZABETH S. BREWINGTON  
H. ARTHUR BOLICK II  
J. EDWIN TURLINGTON  
JOHN M. CROSS, JR.  
JENNIFER K. VAN ZANT  
KATHLEEN M. THORNTON  
KEARNS DAVIS  
DAVID W. SAR  
BRIAN J. McMILLAN  
DAVID KUSHNER  
DEREK J. ALLEN  
ELIZABETH V. LAFOLLETTE  
GINGER S. SHIELDS  
HAROLD H. CHEN  
COE W. RAMSEY  
NATALIE KAY SANDERS  
ROBERT W. SAUNDERS  
JENNIFER T. HARROD  
CHARLES E. COBLE  
JOHN M. DEANGELIS  
CLINTON R. PINYAN  
KATHRYN V. PURDOM  
JENNIFER L. DAVIS  
STEPHEN G. HARTZELL-JORDAN  
TIMOTHY W. JONES  
JESSICA M. MARLIES  
TERESA DeLOATCH BRYANT  
ELIZABETH TAYLOR McHAFFEY  
ANDREW J. HAILE

May 31, 2002

RECEIVED

MAY 31 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W., TW-A325  
Washington, D.C. 20544

**Re: Amendment of Section 73.606(b), Table of Allotments, Television Broadcast Stations (Richmond, Virginia)**

**In re Applications of United Television, Inc. and Television Capital Corporation of Richmond for a Construction Permit for a New TV Broadcast Station on Channel 63 in Richmond, Virginia  
File No. BPCT-960920IT  
File No. BPCT-960920WI**

Dear Ms. Dortch:

Enclosed please find, on behalf of Bell Broadcasting, L.L.C., the original and four copies of Opposition of Bell Broadcasting to Motion to Accept Previously Filed Amendment to Petition for Rule Making for filing in the above-referenced matters.

If any questions should arise during the course of your consideration of this matter, it is respectfully requested that you communicate with the undersigned.

Sincerely,



David Kushner

Enclosures

No. of Copies rec'd 014  
List ABOVE

Before the  
Federal Communications Commission  
Washington, D.C. 20554

RECEIVED

MAY 31 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Amendment of Section 73.606(b),	)	MM Docket No. _____
Table of Allotments,	)	RM- _____
Television Broadcast Stations	)	
(Richmond, Virginia)	)	
	)	
In re Applications of	)	
	)	
United Television, Inc.	)	File No. BPCT-960920IT
	)	
Television Capital Corporation of Richmond	)	File No. BPCT-960920WI
	)	
For a Construction Permit for a New TV	)	
Broadcast Station on Channel 63 in	)	
Richmond, Virginia	)	

**OPPOSITION OF BELL BROADCASTING TO  
MOTION TO ACCEPT PREVIOUSLY FILED AMENDMENT TO  
PETITION FOR RULE MAKING**

Bell Broadcasting, L.L.C., licensee of Television Station WUPV, Ashland, Virginia ("WUPV"), by its attorneys, hereby opposes the Motion to Accept Previously Filed Amendment to Petition for Rule Making ("Motion") filed by Television Capital Corporation of Richmond ("TCC") on January 2, 2002, in the above-captioned matters.

**Procedural Statement**

On December 12, 2001, TCC filed an Amendment to its Petition for Rule Making which it had previously filed in connection with the above-captioned matters. However, TCC untimely filed this Amendment after the Commission had already dismissed its pending Petition for Rule Making in a letter dated October 23, 2001. Recognizing the infirmity of filing an Amendment to its dismissed Petition, TCC tendered a Motion to accept the late-filed Amendment.

Later, on March 7, 2002, TCC filed a Supplement to its late-filed Amendment. TCC served

copies both of its Amendment and of its Supplement on WUPV's counsel.<sup>1</sup> However, TCC failed to serve WUPV or its counsel with the Motion.<sup>2</sup> WUPV only discovered the existence of TCC's Motion serendipitously when it found on the Commission's website a Status Report on Petitions to Change NTSC Channels, dated May 16, 2002, which states that TCC's substitution of Channel 39, as set forth in TCC's Amendment and Supplement, from its original request for Channel 52, as set forth in its Petition, has been dismissed.<sup>3</sup> In investigating this "dismissal," WUPV discovered (i) the Commission's October 23, 2001, letter dismissing TCC's original Petition; (ii) TCC's Motion; and (iii) TCC's Petition for Reconsideration, filed January 22, 2002, seeking reconsideration of the October 23, 2001, dismissal letter. None of these documents is contained in the Commission's public files; they were obtained from Commission staff and the Commission's Electronic Comment Filing System. Good cause therefore exists to accept this Opposition as it was filed as expeditiously as possible after discovery of TCC's Motion.<sup>4</sup>

**TCC's Motion Must Be Denied Because  
TCC's Amendment Substitutes One Defect for Another,  
TCC Intentionally Failed to Serve the Motion on WUPV, and  
TCC's Dismissed Petition for Rule Making Cannot Be Reinstated**

TCC's Motion should be denied for three separate reasons. First, TCC's Amendment and Supplement do not cure the defective nature of TCC's Petition. The Commission dismissed TCC's Petition because its "independent engineering review indicates that [TCC's] proposal fails to meet

---

<sup>1</sup> See Exhibit 1 hereto (copies of certificates of service from TCC's Amendment and Supplement showing service upon WUPV's counsel).

<sup>2</sup> See Exhibit 2 hereto (copy of certificate of service from TCC's Motion showing that TCC did not serve WUPV or its counsel).

<sup>3</sup> See Petitions to Change NTSC Channels, May 16, 2002 <<http://www.fcc.gov/mb/video/files/ntscchan.htm>> (last visited May 28, 2002).

<sup>4</sup> To the extent leave to accept this Opposition and a waiver of 47 C.F.R. § 1.106 are deemed necessary, WUPV respectfully requests such leave and waiver for the reasons stated herein.

the interference requirements of Section 73.623(c)(2) of the Commission's Rule[s]. The proposal would cause 1.4 percent interference to the DTV allotment of station WTVD-DT, Durham, NC."<sup>5</sup> But TCC's Amendment and Supplement do nothing more than specify Channel 39, which is short-spaced to WRLH-TV, Channel 35, Richmond, Virginia, which TCC concedes and for which it requests a waiver. Indeed, the Supplement, like the Amendment before it, clearly recognizes that "the proposed reference coordinates will result in the allotment *not being in complete compliance* with FCC Rules and Regulations Sections 73.610 and 73.698."<sup>6</sup> Therefore, TCC's Amendment and Supplement merely substitute one form of interference for another—but both forms are fatally defective.<sup>7</sup> TCC's claim that its "proffered amendment cured the defect upon which the apparent October 23rd dismissal was based"<sup>8</sup> is simply false. Commission precedent is clear that late-filed supplements that merely replace one deficient proposal with another must be rejected.<sup>9</sup>

Second, even if the merits were otherwise, the equities would not favor grant of TCC's Motion, for it has not acted in good faith here. TCC attempts to make much of its counsel's claim that he never received a copy of the Commission's October 23, 2001, dismissal letter. Indeed, the

---

<sup>5</sup> *Letter to Vincent A. Pepper from Clay C. Pendarvis, Chief, Television Branch* (Oct. 23, 2001).

<sup>6</sup> TCC's Supplement, Technical Supplement of William R. Meintel at 1 (emphasis added).

<sup>7</sup> The Mass Media Bureau unequivocally stated that

[a]mendments and petitions for rule making during this window opportunity *must* conform with all pertinent legal and technical requirements, including criteria for interference protection to both NTSC and DTV stations. . . . NTSC allotment proposals made pursuant to this public notice *must* meet the minimum distance separations between NTSC stations (47 C.F.R. Section 73.610) . . . .

Mass Media Bureau Announces Window Filing Opportunity, *Public Notice*, DA 02-270 (released Feb. 6, 2002) ("*Filing Window Public Notice*"), at ¶ 3 (emphasis added).

<sup>8</sup> TCC's Motion at 2.

<sup>9</sup> *See Pathfinder Communications Corp. (WCUZ-FM)*, 3 FCC Rcd 4146 (1988), at ¶ 7.

entirety of the Motion, and an attached affidavit from TCC's counsel, Vincent Pepper, focus on little else. Strange it is indeed, then, that a party claiming a procedural fault on the Commission's part for failure to serve the dismissal letter should, in turn, *intentionally* fail to serve its Motion on WUPV. That TCC *calculated* that it would not serve WUPV with its Motion is made clear both by the certificate of service attached to the Motion, which mentions service only on Mr. Clay Pendarvis (*see* Exhibit 2), and by the certificates of service attached to TCC's Amendment and to TCC's Supplement, which both pre-date and post-date TCC's Motion, both of which were served on WUPV (*see* Exhibit 1). Because WUPV's own Petition for Rule Making is affected by TCC's Amendment and Supplement, service of those two documents on WUPV was appropriate. But, for the same reason, WUPV should also have been served with TCC's Motion. Indeed, the failure of TCC's subsequent Supplement, filed after TCC's Motion, to allude in any manner (i) to the likely procedural defect of the Supplement, and of the Amendment it was supplementing, or (ii) to the already-filed Motion demonstrates that TCC obviously did not want WUPV to become aware of the Commission's dismissal of TCC's underlying Petition. Yet TCC's *purposeful* failure to serve WUPV with its Motion caused WUPV to expend resources unnecessarily in opposing both TCC's Amendment (Opposition filed March 8, 2002) and TCC's Supplement (Opposition filed March 15, 2002). In light of the Commission's dismissal of the underlying Petition, such oppositions would not have been necessary. Clearly, TCC has engaged in a form of litigation gamesmanship that is not countenanced by the Commission's rules or processes.

Third, and finally, the Motion must be denied because TCC's Petition for Reconsideration of the dismissal of its original Petition for Rule Making is defective. Because the Reconsideration Petition must be denied, the underlying dismissal must stand and, therefore, there is no existing timely-filed Petition for Rule Making which TCC's Amendment can amend.

That TCC's Reconsideration Petition is defective is clear beyond purview. By statute, 47 U.S.C. § 405(a), a petition for reconsideration of the Commission's dismissal letter, dated

October 23, 2001, had to be filed by November 23, 2001.<sup>10</sup> TCC claims that it did not receive notice of the dismissal letter until December 21, 2001, 59 days after the date of the dismissal letter. It then filed its Reconsideration Petition on January 22, 2002, 91 days after the date of the dismissal letter. However, it is well-settled that the time to file a petition for reconsideration runs from date of the Commission's letter, not from the date of receipt of the letter.<sup>11</sup> Moreover, this statutory requirement cannot be bent except in the most "extraordinary circumstances"<sup>12</sup> which are not met here. Indeed, in *Gardner*, the case that first held that in "extraordinary circumstances" the Commission could reconsider decisions where a late filing was in some sense attributable to a procedural violation by the Commission, the Court carefully limited its holding:

Out of an abundance of caution, we add this footnote to prevent our opinion from being seized upon to open up excessive collateral controversy on matters of notification. We emphasize that the failure to issue a prompt notification does not affect the validity of the decision made, but only the question of the time allowed to file for reconsideration. Even at that, a defect in mailing notification will have legal consequence only where the delay in notification in fact makes it impossible reasonably for the party to comply with the filing statute. A petitioner has a burden to show (a) when and how he received notice in fact, (b) that the time remaining was inadequate to allow him reasonably to meet the 30-day requirement (from date of issuance) of § 405, and (c) that he moved for reconsideration promptly on receiving actual notice.<sup>13</sup>

TCC cannot satisfy the *Gardner* factors. TCC fails to properly show (i) when and how it received notice in fact and (ii) that it moved for reconsideration promptly on receiving actual notice. Although the Pepper Affidavit attached to TCC's Motion states Mr. Pepper first became aware of

---

<sup>10</sup> The thirtieth day was November 22, 2001, Thanksgiving Day, and so the petition could have been filed on the next business day, which was November 23, 2001.

<sup>11</sup> See, e.g., *Storer Broadcasting Co.*, 41 F.C.C.2d 792 (1973), at ¶ 14 (time to file petition for reconsideration runs from date of Commission letter, not from date of receipt of letter); *Public Communicators, Inc.*, 54 F.C.C.2d 390 (1975), at ¶ 10 (same).

<sup>12</sup> *Gardner v. FCC*, 530 F.2d 1086, 1091 (D.C. Cir. 1976).

<sup>13</sup> *Id.* at 1091 n.24.

the dismissal letter through another attorney in the firm, Mark Blacknell, and although Mr. Blacknell signed the Motion as an attorney for TCC, there is no affidavit from Mr. Blacknell attesting to when he first received notice of the dismissal letter.<sup>14</sup> Therefore, there is no evidence, based on personal knowledge, before the Commission upon which the Commission could conclude when and how TCC's counsel received notice in fact of the dismissal letter. It was TCC's heavy burden to provide such evidence, and, given that Mr. Blacknell signed the pleading, he was plainly available to have submitted his own affidavit based on personal knowledge. Mr. Pepper's statement does not meet that burden.<sup>15</sup> All that Mr. Pepper's Affidavit really states, presumably based on personal knowledge, is that "[t]here is no copy of the October 23rd letter in our files." This, too, is plainly insufficient to satisfy TCC's burden of proof.<sup>16</sup>

Moreover, TCC has failed to show that it *promptly* filed for reconsideration upon receiving actual notice. TCC treated its alleged date of actual notice as the beginning of the 30-day period in which to file its Reconsideration Petition. But that has never been the Commission's procedure since *Gardner*. It was TCC's duty to file as promptly as reasonably possible, not to extend the time for filing until the latest, conceivably possible date. Indeed, TCC managed to file its Motion to have its untimely Amendment accepted just 12 days after allegedly having received actual notice of the underlying dismissal—and this over the Christmas and New Year holiday period. Yet it waited

---

<sup>14</sup> See TCC's Motion, Pepper Affidavit at ¶ 4.

<sup>15</sup> See *PDB Corp., State College*, 11 FCC Rcd 6198 (1996), at ¶ 7 (stating that "self-serving statement" that petitioner had not received Commission letter does not substantiate claim of failure to receive letter).

<sup>16</sup> See *Stephen E. Powell*, 11 FCC Rcd 11925 (1996), at ¶ 6 (stating that statement that petitioner does not recall receiving Commission letter is insufficient to raise an issue of Commission error). The Pepper Affidavit does also state that "[t]o my knowledge, Mr. [Marvin J.] Diamond[, counsel to United Television, Inc., 'whose client is a party to the Settlement Agreement regarding the pending applications that are the subject of the rule making and thus party to this proceeding,'] did not receive notice from the Commission of the October 23, 2001, dismissal." TCC's Motion, Pepper Affidavit at ¶ 2. But, again, there is no affidavit from Mr. Diamond himself.

another 20 days to file its Reconsideration Petition. But this was putting the cart before the horse, for the Motion is wasted paper and resources if the Reconsideration Petition is not procedurally proper and ultimately granted on the merits. In any event, it is abundantly clear that TCC did not act promptly to file for reconsideration. TCC's Reconsideration Petition is nothing but a rehash of its Motion, its vast majority (9 of its 11 numbered paragraphs) verbatim copying of its Motion filed 20 days earlier,<sup>17</sup> and the Pepper Affidavit attached to the Reconsideration Petition is the same as that attached to the Motion. TCC has made no showing—in fact, it has not even attempted to make any showing—that it needed the extra 20 days to draft two numbered paragraphs and one unnumbered introductory paragraph and to obtain a three paragraph engineering statement from an engineer employed by ACME Television, the white knight to TCC and United's proposed Settlement Agreement. Commission precedent is clear that *Gardner's* prompt filing requirement

---

<sup>17</sup> The Reconsideration Petition copies verbatim the paragraphs of its Motion as shown below:

Reconsideration Petition Paragraph	Motion Paragraph
2	3
3	4
4	5
5 (part)	6
7	1
8	2
9	8
10	10
11	11

has not been satisfied in this circumstance.<sup>18</sup>

TCC, therefore, has failed to meet its heavy burden with regard to two of the three *Gardner* factors and has failed to show, or even attempt to show—TCC cites nary a Commission case—that the statutory deadline should be bent on account of “extraordinary circumstances”—and all this from a “sophisticated business concern represented all the while by distinguished Washington, D.C. counsel.”<sup>19</sup>

In any event, even if TCC had satisfied the *Gardner* factors—which it clearly has not—the Commission would still be barred from considering TCC’s Reconsideration Petition. The D.C. Circuit in *Gardner* made it clear that the Commission’s authority to bend the mandatory language of Section 405 of the Act in “extraordinary circumstances” only lasted as long as the Commission retained jurisdiction over the matter:

The Commission retains jurisdiction over matters before it until the time for judicial appeal has expired. During that time, it is obligated to reconsider, on its own motion if necessary, decisions which appear questionable in light of subsequent developments. We see no reason why the Commission’s *continuing jurisdiction* ought not also support

---

<sup>18</sup> See *Metromedia, Inc.*, 59 F.C.C.2d 1189 (1976), at ¶ 5 (holding, where petitioner received personal notice of underlying decision and still had 24 days before statutory deadline in which to file petition for reconsideration but failed to do so, that petitioner had had “reasonable time” to file and had not satisfied *Gardner* burden); *Chapman Radio and Television Co.*, FCC 79-743, 46 Rad. Reg. 2d (P & F) 752 (Nov. 9, 1979), at ¶ 5 (holding, where petitioner’s counsel did not receive copy of underlying decision until the last day for seeking reconsideration and where petitioner filed its petition for reconsideration one day later (and, thus, only one day late) but where it appeared petitioner had actual notice substantially earlier and proffered no reasons as to its delay in attempting to obtain an actual copy of the decision, that *Gardner* barred an extension of time in which to seek reconsideration); *Westinghouse Broadcasting Co.*, 75 F.C.C.2d 736 (1980), at ¶ 2 (holding, where petitioner filed its petition for reconsideration nearly one month late and over a month after it had notice of the underlying order, that it had not satisfied *Gardner* burden); see also *Richardson Indep. Sch. Dist.*, 5 FCC Rcd 3135 (1990), at ¶¶ 6, 8 (consolidating cases).

<sup>19</sup> *Reuters Ltd. v. FCC*, 781 F.2d 946, 952 (D.C. Cir. 1986) (refusing to “cut *Gardner* from its express moorings” and reversing Commission decision to consider late-filed petition for reconsideration that did not strictly satisfy *Gardner*).

rehearing on the untimely petition of a party, where the late filing is in some sense attributable to a procedural violation by the Commission.<sup>20</sup>

Obviously, the Commission's continuing jurisdiction does not last forever. In this case, the Commission itself could have moved on its own motion for review within 40 days after the date of the dismissal letter, i.e., by December 3, 2001,<sup>21</sup> *see* 47 C.F.R. § 1.117(a), and TCC could have filed a petition for review of the dismissal letter within 60 days after the date of the dismissal letter, i.e., by December 24, 2001,<sup>22</sup> *see* 47 U.S.C. § 402(a); 28 U.S.C. § 2344. Therefore, the Commission's jurisdiction over this matter would have expired at the close of business on December 24, 2001. TCC's filing of its Reconsideration Petition a month later, on January 22, 2002, is far beyond the expiration of the Commission's jurisdiction, and, therefore, the Commission is without any authority to act on TCC's Reconsideration Petition. It is worth noting that, even crediting the Pepper Affidavit, TCC and its counsel had actual notice of the dismissal letter by December 21, 2001, which is within the period of the Commission's continuing jurisdiction. Therefore, if TCC satisfied the *Gardner* factors—which it does not—TCC could have filed a petition for reconsideration while the Commission still retained jurisdiction to act on it. But TCC's failure to file its untimely Reconsideration Petition before expiration of the Commission's jurisdiction forecloses any action by the Commission on it now. Even if TCC had proven that the Commission was grossly negligent in failing to ever mail the dismissal letter to its addressee—which it has not—*Gardner* permits no reconsideration beyond the expiration of the Commission's jurisdiction, and, jurisprudentially, it

---

<sup>20</sup> *Gardner*, 530 F.2d at 1091 (emphasis added).

<sup>21</sup> The fortieth day was December 2, 2001, a Sunday, and so the Commission could have moved for review on the next business day, which was December 3, 2001.

<sup>22</sup> The sixtieth day was December 22, 2001, a Saturday, and so TCC could have filed a petition for review on the next business day, which was December 24, 2001.

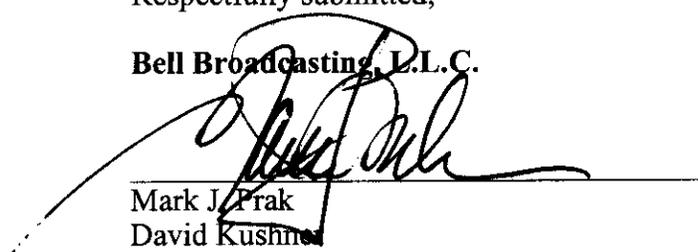
cannot be otherwise.<sup>23</sup>

### Conclusion

For the foregoing reasons, TCC's Amendment does not cure the defect upon which the Commission's dismissal letter is predicated. TCC's Motion has indicia of bad faith about it. And TCC's Reconsideration Petition, which must be acted upon favorably in order for there to be anything to amend, was filed fatally out of time. Therefore, WUPV respectfully requests that the Commission deny TCC's Motion.

Respectfully submitted,

**Bell Broadcasting, L.L.C.**



Mark J. Prak  
David Kushner  
Coe W. Ramsey

BROOKS, PIERCE, McLENDON,  
HUMPHREY & LEONARD, L.L.P.  
First Union Capitol Center, Suite 1600  
150 Fayetteville Street Mall (27601)  
Post Office Box 1800  
Raleigh, North Carolina 27602  
Telephone: (919) 839-0300  
Facsimile: (919) 839-0304

Its Attorneys

May 31, 2002

---

<sup>23</sup> Cf. *National Black Coalition v. FCC*, 760 F.2d 1297, 1299 (D.C. Cir. 1985) (Scalia, J.) (stating that adjudicative body is bound by terms of its jurisdictional grant and cannot create otherwise nonexistent jurisdiction in a fashion that cannot be grounded in the statutory text); *id.* at 1300 (stating that "lack of jurisdiction means [] an inability to act").

### Certificate of Service

The undersigned, of the law firm of Brooks, Pierce, McLendon, Humphrey & Leonard, L.L.P., hereby certifies that s/he has caused a copy of the foregoing **Opposition of Bell Broadcasting to Motion to Accept Previously Filed Amendment to Petition for Rule Making** to be placed in the U.S. Mail, first-class postage prepaid, addressed as follows:

Vincent A. Pepper  
WOMBLE CARLYLE SANDRIDGE &  
RICE, PLLC  
1776 K Street, N.W.  
Suite 200  
Washington, D.C. 20006

Marvin J. Diamond  
HOGAN & HARTSON, L.L.P.  
555 13th Street, N.W.  
Washington, D.C. 20004-1109

Lewis J. Paper  
DICKSTEIN SHAPIRO MORIN &  
OSHINSKY LLP  
2101 L Street, N.W.  
Washington, D.C. 20037

Robert L. Olender  
KOERNER & OLENDER, P.C.  
5809 Nicholson Lane, Suite 124  
North Bethesda, MD 20852

Barbara A. Kreisman, Chief  
Video Division  
Media Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Room 2-B616  
Washington, D.C. 20554

Clay Pendarvis, Chief  
Television Branch  
Media Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Room 2-B616  
Washington, D.C. 20554

This the 31<sup>st</sup> day of May, 2002.

Sandra S. Keps

## **Exhibit 1**

*Certificates of Service from*

TCC's "Amendment to Petition for Rule Making" (December 12, 2001)

TCC's "Supplement to Petition for Rule Making (March 7, 2002)

## CERTIFICATE OF SERVICE

I, Lisa A. Blackburn, a secretary in the law firm of Pepper & Corazzini, L.L.P., do hereby certify that on this 12th day of December 2001, copies of the foregoing "Amendment to Petition for Rule Making" were mailed, postage prepaid, to the following:

Robert L. Olender, Esq.  
Koerner & Olender, P.C.  
5809 Nicholson Lane  
Suite 124  
North Bethesda, MD 20852  
(Counsel for Community Television Educators)

Mark J. Prak, Esq.  
David Kushner, Esq.  
Brooks, Pierce, McLendon, Humphrey & Leonard, L.L.P.  
P.O. Box 1800  
Raleigh, N.C. 27602  
(Counsel for Bell Broadcasting, L.L.C.)

  
Lisa A. Blackburn

CERTIFICATE OF SERVICE

I, Lisa A. Blackburn, a secretary in the law firm of Womble Carlyle Sandridge & Rice, PLLC, do hereby certify that on this 7th day of March, 2002, copies of the foregoing Supplement to Petition for Rule Making were mailed, postage prepaid, to the following:

Clay Pendarvis, Esq.\*  
Chief, Television Branch  
Video Services Division  
Mass Media Bureau  
Federal Communications Commission  
The Portals  
445 12th Street, S.W., Room 2-A662  
Washington, DC 20554

Robert L. Olender, Esq.  
Koerner & Olender, P.C.  
5809 Nicholson Lane  
Suite 124  
North Bethesda, MD 20852  
(counsel for Community Television Educators)

✓ Mark J. Prak, Esq.  
David Kushner, Esq.  
Brooks Pierce McLendon Humphry & Leonard, L.L.P.  
P.O. Box 1800  
Raleigh, NC 27602  
(counsel for Bell Broadcasting, L.L.C.)

\*Indicates Hand Delivery

  
\_\_\_\_\_  
Lisa A. Blackburn

**Exhibit 2**

*Certificate of Service from*

TCC's "Motion to Accept Amendment to Petition for Rule Making" (January 2, 2002)

**CERTIFICATE OF SERVICE**

I, Lisa A. Blackburn, a secretary in the law firm of Pepper & Corazzini, L.L.P., do hereby certify that on this 2nd day of January 2002, copies of the foregoing "Motion to Accept Amendment to Petition for Rule Making" were hand delivered to the following:

Clay Pendarvis, Esq.  
Chief, Television Branch  
Video Services Division  
Mass Media Bureau  
Federal Communications Commission  
The Portals  
445 12th Street, S.W., Room 2-A662  
Washington, DC 20554

  
\_\_\_\_\_  
Lisa A. Blackburn