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

JUL 31 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of Applications of)	WT DOCKET NO. 02-179
)	
RESORT AVIATION SERVICES, INC.)	File No. 0000628303
)	
For Renewal of Aeronautical Advisory)	
Station WYT9, Coeur d'Alene Airport,)	
Hayden, Idaho)	
)	
and)	
)	
KOOTENAI COUNTY, COEUR D'ALENE)	File No. 0000663272
AIRPORT)	
)	
For a New Aeronautical Advisory Station at)	
Coeur d'Alene Airport, Hayden, Idaho)	

To: Arthur I. Steinberg
Administrative Law Judge

**ENFORCEMENT BUREAU'S OPPOSITION TO
MOTION TO ENLARGE ISSUES**

1. On July 22, 2002, Kootenai County, Coeur d'Alene Airport ("Kootenai County"), by counsel, filed a motion ("Motion") to enlarge the issues in the above-captioned proceeding. The Enforcement Bureau, pursuant to section 1.229 of the Commission's rules, 47 C.F.R. § 1.229, opposes Kootenai County's motion.

2. The *Hearing Designation Order*, WT 02-179, released July 2, 2002, in this proceeding ("*HDO*"), designated the above-captioned applications for comparative hearing to determine which applicant would provide the public with better Unicom service and, in light of the evidence presented, which application, if either, should be

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granted. The *HDO*, at note 4, specifically advised that if any party intended to submit evidence regarding “the unusually good or unusually poor” record of Resort Aviation during its license term, “that party must first file a motion to enlarge issues with the presiding administrative law judge.” The *HDO*, at note 4, also specifically referenced section 1.229 of the Commission’s rules, which describes the procedures for filing a motion to enlarge issues.

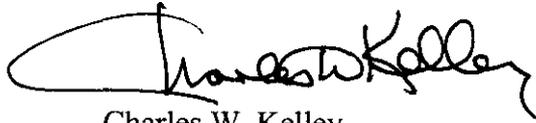
3. Section 1.229(d) of the Commission’s rules states, in relevant part, that a motion to enlarge “shall contain specific allegations of fact sufficient to support the action requested. Such allegations of fact . . . shall be supported by affidavits of a person or persons having knowledge thereof.” 47 C.F.R. § 1.229(d). Despite the rule’s explicit requirement that a motion to enlarge contain specific allegations of fact, Kootenai County’s pleading (which was not directed to the Presiding Administrative Law Judge) is completely bereft of any facts, specific or otherwise, in support of its motion. Indeed, Kootenai County acknowledges that it does not wish “to present evidence at this time, but merely to preserve the opportunity to present such evidence, should the need arise.”

4. Neither the Commission’s rules nor the *HDO* contemplate the option of presenting evidence at a future date to justify a motion to enlarge. To do so would subvert the purpose of the rule, which is to timely identify issues worthy of hearing. Providing parties the option of “reserving” a right to add issues to a hearing based not on facts, but on the expectation of dredging up information at some later date, would unnecessarily complicate the hearing process and undermine the due process safeguards

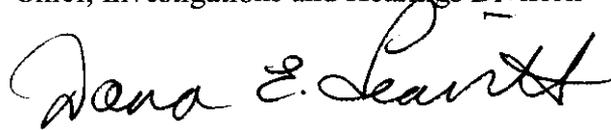
imbedded in the Commission's rules. Kootenai County has presented no facts that warrant granting its Motion, nor has Kootenai County offered any compelling reason to deviate from the Commission's rules.

5. Accordingly, the Bureau opposes Kootenai County's Motion.

Respectfully submitted,



Charles W. Kelley
Chief, Investigations and Hearings Division



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July 31, 2002

CERTIFICATE OF SERVICE

Karen Richardson, a Legal Technician in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has on this 31st day of July 2002, sent by first class mail and facsimile or by hand copies of the foregoing "Enforcement Bureau's Opposition to Motion to Enlarge Issues" to:

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