

VERMONT ENVIRONMENTAL BOARD
10 V.S.A. §§ 6001-6092

RE: Burlington Broadcasters, Inc.
d/b/a WIZN &

D.R. Request # 322
&

NYNEX Mobile Limited Partnership 1
d/b/a Bell Atlantic NYNEX Mobile

D.R. Request-f: 323

MEMORANDUM OF DECISION
AND ORDER

On August 13, 1996, the Environmental Board ("Board") issued a Memorandum of Decision and Continuance Order in the above-referenced proceedings which granted WIZN and NYNEX Mobile a continuance of six months during which no filings, hearings or argument would occur relative to the above-referenced D.R. requests. On August 22, 1996, Mary Beth and Graeme Freeman ("Freeman?"), parties to both D.R. Request # 322 and # 323, filed a Motion to Alter in which the Freemans correctly point out that the Board, in granting the continuance, relied on the representations made by WIZN's counsel that WIZN had applied for its Act 250 permit. Board staff confirmed that no Act 250 permit had been filed as of August 22, and the Chair requested that the full Board deliberate with respect to the issues raised in the Freeman's Motion to Alter at its next scheduled Board deliberation day.

I. DISCUSSION

On August 28, 1996 the full Board deliberated with respect to the Freeman's Motion to Alter and confirmed by reviewing the record that on June 13, 1996, counsel for WIZN acknowledged that it had gone forward with an Act 250 permit application. Likewise, the Board reviewed a July 2, 1996 letter to Board counsel wherein WIZN's counsel reiterated WIZN's request that the Board stay all activity on D.R. Request # 322 *pending the results of the permit application*. This statement again confirms that WIZN had premised its stay request on the fact that it had filed, or at the very least that it would soon file, an Act 250 permit application. Given these representations and for the reasons set forth in the Memorandum of Decision and Continuance Order dated August 13, 1996, the Board concludes that the granting of WIZN's continuance request shall be conditioned on the District Commission's receipt of WIZN's complete Act 250 application.

In all other respects, the Board finds no basis upon which to grant the Freeman's Motion to Alter.

9/1/96
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Memorandum of Decision and Order

Re: Declaratory Ruling Requests # 322 and # 323

September 9, 1996

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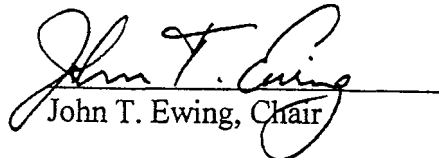
II. ORDER

- (1) The Board requires WIZN to submit a complete Act 250 application for the operation of its radio broadcasting tower located on Pease Mountain in Charlotte not later than Friday, September 13, 1996 with the District # 4 Commission.
- (2) Should WIZN fail to submit its application on or before September 13, 1996, the continuance will be lifted and the Board will proceed with scheduling additional filing dates and/or hearings relative to the above-referenced D.R. Requests.
- (3) Should WIZN comply with this order, the Board maintains that in the interest of administrative efficiency, the postponement of activity on D. R. Request # 322 and # 323 is warranted for a period of six months from the issuance of the August 13, 1996 Continuance Order.

Accordingly, the Freemans' Motion to Alter is denied upon the District #4 Commission's receipt of WIZN's complete Act 250 application pursuant to the terms of this Order. Should WIZN fail to so apply, the Motion to Alter will be granted.

Dated at Montpelier this 9th day of September, 1996.

ENVIRONMENTAL, BOARD


John T. Ewing, Chair