

ORIGINAL
FILE

OFFICE OF THE GENERAL COUNSEL

MEMORANDUM

Nov 24 '92

TO: Chief, Dockets Branch

FROM: Associate General Counsel, Litigation Division

SUBJECT: Polar Broadcasting, Inc., et al. v. FCC, No. 92-1597.
 Filing of a new Notice of Appeal in the United States
 Court of Appeals for the District of Columbia Circuit.

DATE: November 20, 1992

FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE
 SECRETARY

Docket No(s). MM 87-268

File No(s).

This is to advise you that on November 16, 1992, Polar Broadcasting, Inc., et al., filed with the United States Court of Appeals for the District of Columbia Circuit a:

- Section 402(a) Petition for Review
- Section 402(b) Notice of Appeal

of the following FCC decision: Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, FCC 92-438, released October 16, 1992, which resolves, and in some cases, reconsiders, a number of outstanding issues and solicits further comment on other issues fundamental to the implementation of advanced television service in this country.

Due to a change in the Communications Act, it will not be necessary to notify the parties of this filing.

The Court has docketed the case as No. 92-1597 and the attorney assigned to handle the litigation of this case tentatively is Roberta Cook.

Daniel M. Armstrong
 Daniel M. Armstrong

Daniel M. Armstrong

cc: General Counsel
 Office of Public Affairs
 Shepard's Citations

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**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

POLAR BROADCASTING, INC., ET. AL)
Appellant)
V.)
FEDERAL COMMUNICATIONS COMMISSION,)
Respondent *Appellee*)

Case No. 92-1597
Filed: 11/16/92

NOTICE OF APPEAL

Polar Broadcasting, Inc., et. al ("Polar"), hereby gives notice, pursuant to 47 U.S.C. Section 402(a) and Rule 15 of the Federal Rules of Appellate Procedure, of its appeal of the Memorandum Opinion and Order/Third Report and Order/Third Further Notice of Proposed Rule Making, ("Order") FCC 92-438, released October 16, 1992, by the Federal Communications Commission ("FCC").

The Order holds that there is insufficient spectrum to include LPTV stations in the initial eligibility for Advanced Television frequencies on either a primary or secondary basis or generally to factor in LPTV displacement considerations in making ATV assignments. Furthermore, the FCC held that LPTV stations, as secondary services, must yield to new full-power ATV stations. This decision violates the Appellant's constitutional rights. A copy of said FCC order is attached.

Respectfully Submitted,

POLAR BROADCASTING, INC., ET. AL

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