

M E M O R A N D U M

January 29, 1962

TO: MR. E. W. CRAIG

FROM: JOHN H. DEWITT, JR.

Last week in Washington Ward Quaal and I, singly or together, saw the following people in Congress in connection with the several bills which would stabilize the clear channel situation: Senators Gore and Kefauver, Senators Talmadge and Russell (Ga.), Senators Dirksen and Douglas (Ill.), Congressmen Oren Harris, Dingell, Peter Mack, John Bennett and Roman Pucinski, also Mr. Bobby Baker, secretary to the majority leader of the Senate.

Our two Tennessee senators promised their full support for the bills when they came up in the Senate and I might add that I was received most cordially by them. Ward and I saw Senator Paul Douglas of Illinois who seemed greatly impressed by our story about the Air Force use of our channels. At our request Senator Douglas called Congressman Peter Mack of Illinois and the two are expressing themselves to the Secretary of the Air Force asking that Lt. Colonel Frank I. Adams be sent over to the Hill this week to give testimony to the effect that the Air Force is interested in maintaining the clear channels. I talked with Colonel Adams who told me that he would be delighted to accede to these orders from his Commanding General when they came down.

We gave Senator Dirksen a memo on the Air Force BRECUM project. He volunteered to hand it to President Kennedy and ask that he talk with his naval aide about it (Commander Tazewell Shepard). Our friends in the FCC Engineering Department who know Commander Shepard well will tell him about Senator Dirksen's contact.

We had hoped to get the bills in the House heard before the entire Interstate Commerce Committee headed by Congressman Oren Harris. Soon after we met with Mr. Harris and Mr. Moulder (Chairman of the Sub-committee) it was announced that the bills would be heard by the Sub-committee. Mr. Moulder is the only Congressman of the membership of the Interstate Commerce Committee (31 members) who voted against asking the FCC to hold up the clear

MEMORANDUM

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channel decision until the Congress could have hearings on these bills. The hearings are scheduled under Mr. Moulder's direction beginning Wednesday, January 31st. Roy Battles and I will testify for CCBS and I hope Colonel Adams will be with us.

Our impression of Mr. Oren Harris was that while he is with us he is almost completely preoccupied with his re-election in Arkansas. His district has been enlarged to the point where it almost encompasses half the state. A personable, intelligent young woman is running against him and I believe he will concentrate on matters before the Committee which will give him publicity which will help in his campaign. Certainly the clear channel issue will not do this. I noticed a picture of him recently taken with a pinball machine. Apparently he is taking the same line that Kefauver did with crime and drugs.

JHD:am

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Earl Wilson

Kenneth Sprankle, Clerk and Staff Director



Clear Channel Broadcasting Service

Shoreham Building
Washington 5, D. C.

January 4, 1962

Roy Battles
Director

Mr. John H. DeWitt, Jr.
President & General Manager
WSM, Inc.
301 - 7th Avenue North
Nashville 3, Tennessee

Dear Jack:

Following your telephone conversation, I had a long talk with Congressman Dingell who is now back in Washington.

The conversation revealed:

1. His enthusiasm for our Bill and a strong determination to seek its passage.
2. There is much he does not know and understand about the clear channel issue.
3. He is anxious to see us on January 22, 23 or 24, 1962, when you plan to be here to see Chairman Oren Harris and others.
4. We can set the date to see him after you receive your appointment with Congressman Harris so as not to run into conflicts. Therefore, please let us know the date and hour Mr. Harris selects as the time he would like to see you so that we can arrange to have other sessions on the Hill.

Congressman Dingell will also want to know, among other things, the name of the Defense Department person or persons who you deem it wise for him to request through Mr. Harris to appear before the Committees at the time of the hearings -- either in open session or closed session.

I am leaving Washington on Saturday, January 6, to take in the following jaunt: WGN, WHO, The National Farmers Organization, The Colorado State Grange, Colorado Farm Bureau, The American National Cattlemen's Association, The National Farmers Union, The National Wool



Sponsored by Independently Owned
Clear Channel Radio Stations

January 4, 1962

Growers Association, KSL, KFI, the Sunkist people, The National Council of Farmer Cooperatives, California State Grange, California Farm Bureau, WFAA, WBAP and WOAI.

I will arrive home either Friday, January 19, or Saturday, January 20, and will be ready to work with you on the 22nd, 23rd and 24th.

Many pressures are working to bring about our hearings for the first two or three weeks of February, that is, the hearings in the House. Mr. Harris, however, at this time has not decided just when he will have the hearing. One thing is certain and that is that we have all got to move rapidly to be ready for them.

Rollo, Eagan and I got together yesterday to plan our CCBS testimony and strategy. Also we formulated many suggestions for CCBS stations. Letters to station managers will leave here in the next day or two. You will receive a copy.

Apparently, Mr. Reinsch is closer to the White House than to Messrs. Russell and Vinson.

Best wishes.

Sincerely yours,

A handwritten signature in dark ink, appearing to be 'Roy Battles', written over a circular scribble.

Roy Battles

RB/bh

cc: Mr. Rollo
Mr. Eagan
Mr. Quaal

Unfriendly Questions Which May Be Asked of Mr. Battles or Mr. DeWitt

Would
offer the
interference small
increase and

just not
in clear
would destroy
my + clear

1. If 775 fulltime regional stations can operate at night and protect each other by means of directional antennas, why can't the additional some 1,000 daytime only stations also operate at night and protect each other and the 775 fulltime stations by means of directional antennas?

2. The pending bills would require that all of the 25 channels now classified as I-A be kept free of duplication. Yet, your testimony indicates that one of these 25, 770 kc, is already broken down. Do I understand you then to recommend that the bills be amended so as to exclude the frequency 770 kc?

3. Exactly what do you mean when you say that the requirement of operating Clear Channel stations is sometimes without economic advantage?

4. If Clear Channel stations would not be economically hurt if they were duplicated, why are Clear Channel stations opposing duplication?

5. If the Commission should authorize power in the order of 750 kilowatts, how many of your members station would spend the amount of money involved to increase power to 750 kilowatts?

WGN WFLA
WISN WCAI
KEP WIAS
WHAQ

\$150,000
\$150,000

6. How much would it cost from a capital investment viewpoint to increase power to 750 kw? How much would this amount of power increase operating costs? Would you be able to increase your advertising rates sufficiently to pay the added capital and operating costs?

} 1/2 of 25

not good
protection

7. If the duplications proposed by the Commission were effectuated, isn't it true that the nighttime skywave service of the Class I-A stations concerned would be protected to a distance of some 700 miles? Do you agree with the Commission's statement that there are no persons living beyond the range of 700 miles who listen to Clear Channel skywave service?

} 1/2 of 25

8. If the duplication proposed by the Commission were effectuated, could not the Class I-A stations be authorized to operate with higher power at a later date?

No
develop full
answer

9. Isn't it true that on each of the 16 former Clear Channels which were duplicated, the dominant Class I-B stations still render a large amount of skywave service at night? Could not the Commission authorize these I-B stations to operate with power of 750 kilowatts if it were determined that this would serve the public interest?

*This may
be done
if stations
would suffer
power*

10. I take it that you agree that the entire country now receives satisfactory groundwave service during the daytime, is this correct? Isn't it also true that if each of the existing AM stations were replaced with FM stations, a superior groundwave service would be provided during the daytime to all of the United States? If this is so, then isn't the use of FM the correct answer to providing satisfactory service during the nighttime to all of America?

No

*Neither day
nor night
need classes*

11. Don't you believe that this complex subject is the exact type of matter which the Commission was created to resolve? In other words, should not this problem be left to the informed judgment of the Commission? As a matter of fact, I understand that CCBS has taken such a position in the past. Why have you changed your views?

*FCC should
decide on
+ not political*

12. Arent you really arguing that the allocation pattern established more than 30 years ago should be maintained without change? Don't you think that the passage of the years has brought about different conditions that require different treatment? If higher power is authorized for Class I-A stations, why shouldn't additional fulltime stations be assigned on the frequencies?

13. You take the position that the crux of the problem is to improve nighttime skywave service. Couldn't this be done best by means of duplication? Why can't more fulltime stations on the Clear Channels provide more and better service to these areas which you now say must depend on skywave service from Clear Channel stations -- even better service than would be provided through higher power on Clear Channels?

14. I take it that you agree that the present system of Clear Channels and 50 kilowatts of power is not an efficient utilization of the frequencies?

15. Don't you believe it would be dangerous to have 20 or ~~30~~ ^{SOME} stations in the country authorized to operate with power of 750 kw? Wouldn't this concentrate an enormous amount of power in the hands of a few individuals who could easily abuse it?

- 16. Isn't it a fact that because of atmospheric noise, static and other effects, that an increase in operating power to 750 kw would not result in a satisfactory signal to large portions of the white areas? Even if the power of Clear Channels is increased, their service to the presently underserved areas would still be skywave service, would it not? And that skywave service would still be unreliable -- a second class service -- would it not?
- 17. If the Commission has been wrestling with the problem of higher power since at least 1936 and has not been able to come up with an answer, how do you expect Congress to reach a solution during this session?
- 18. The Commission takes the position that its proposed duplication will result in rural areas in the West gaining a valuable primary service from the new assignments. Do you dispute this?
- 19. Isn't it a fact that adjacent channel problems are serious and that potential service gains resulting from the use of 750 kilowatts would be diminished to a large extent because of domestic and international adjacent channel interference? What does the term adjacent channel interference mean? As among Clear Channel stations only, would there be any adjacent channel interference problems, either groundwave or skywave, created by 750 kw in any of the following situations?

Adjacent channel interference is a function of receiver or channel function

- WNBC - 660 kc and WMAQ - 670 kc
- WLW - 700 kc and WGN, - 720 kc
- WABC - 770 kc and WBBM - 780 kc
- WCCO - 830 kc and WHAS - 840 kc
- WCBS - 880 kc and WLS - 890 kc
- KDKA - 1020 kc and WBZ - 1030 kc
- WSB - WJR*

Would Clear Channel stations operating with 750 kw involve any adjacent channel interference problems, either groundwave or skywave, with regional or I-B stations, e. g., KFI - 640 and stations on 620 kc and 630 kc in California and Nevada?

- 20. What do you think of Commissioner's Lee's proposition that all Class I-A stations should be given a year's time to increase power to 750 kw with the provision that if this is not done the channel will be duplicated?

Good solution apply within 1 yr.

No

21. Do you disagree with Commissioner Ford's position that the question of higher power should be confined to the channels that would not be duplicated under the Commission's decision?
22. What do you think of Commissioner's Ford's position that the Commission should have more flexibility with respect to the granting of higher power? For example, under the bills as worded (H. R. 8210 and H. R. 8228), the channels would be kept clear and Class I-A stations would not be required to increase power to 750 kw. Don't you think that if the channels are kept clear that the I-A stations should be required to increase power to around 750 kw?
23. Do you think that the question of whether or not power should be authorized with respect to any one Class I-A station should be resolved solely, as proposed in the pending bills, on the basis of whether service would be improved significantly to white areas? Don't you think there are other factors that should be considered?
24. Would you object to the suggested revision advanced by Commissioner Ford with respect to the higher power aspect of the pending legislation? (Ford suggests that Section 303(c) be amended to provide that "stations may be authorized to operate with power which the Commission determines will best serve the public interest, convenience and necessity.")
25. Mr. DeWitt, I notice that your station, WSM, operates on one of the frequencies which the Commission does not propose to duplicate. Why then does WSM oppose the duplications proposed by the Commission?
26. Isn't it true that existing international treaties limit the degree to which several Clears can increase power (e. g., WJR, KFI)?
27. What showing is your group making as to the program service rendered by Clear Channel stations designed to meet the needs and interests of the residents of white areas?
28. Isn't it a fact that most of your agricultural shows are carried during daytime hours and that during the nighttime when your skywaves are the only service received by millions of farmers, you do not provide any agricultural programs?

29. One of the duplications proposed by the Commission to which you object is to allow a station in Alaska to operate on 750 kc. Isn't it true that under the present rules of the Commission, stations in Alaska, Hawaii and any of the territories are authorized to operate fulltime on any of the Class I-A frequencies?
30. Will not increased power cause severe interference problems to Central and South America? We certainly don't want to get into an interference war with our neighbors to the south of us, do we? Do I understand that you are advocating higher power on U. S. Clears in order to force Central and South American stations off the clear channels on which our stations operate? If so, would that not lead to further power increases by the Central and South American stations, thereby destroying the benefits of higher power for everyone concerned? Are you advocating such a policy for the United States in dealing with its Central and South American neighbors?
31. Doesn't television provide service to all these residents of the white and red areas? In the case of an enemy attack, don't you believe that it is likely that AM transmitters will be knocked out just like power lines and other sources of communication? Isn't it true that during an enemy attack all stations will operate on one of two frequencies so that there will be no Clear Channels during the time of an attack? How then, will Clear Channels provide any source of "back up" communications for the military during an attack?
32. Explain why "radio transmission across the North Atlantic is extremely poor because of the proximity of transmission paths in the auroral zone? What is the "auroral zone"?
33. Is radio transmission across the Pacific Ocean poor? If not, would not higher power on the U. S. Clears cause interference to stations to the west of the U. S. ? Philippines, Japan, Outer Mongolia, Siberia, Australia -- even Alaska?
34. What is your source for your statement that over 96% of U. S. homes are radio equipped? How many of them are in working order?
35. Is it your opinion as an engineer that the usefulness of BRECOM would be destroyed if the FCC's proposal to add one unlimited time station under controlled conditions to each of several Clear Channels were implemented? Is it a fact, Mr. DeWitt,

that the proposed duplication of some Clear Channels would have no adverse effect on BRECOM?

36. Just what does the term "co-channel interference" mean? (20:1 ratio) It follows then, does it not, that if the pending bills are enacted then there would be no problem of co-channel interference on the existing Clear Channels?
37. Who owns each of the true Clear Channel stations listed on page of your statement?
38. How can WSM serve the local needs of persons located 700 miles from Nashville? Don't we need local stations to meet local needs?

SUBCOMMITTEE ON COMMUNICATIONS AND POWER
HON. MORGAN M. MOULDER (Mo.), CHAIRMAN

PUBLIC HEARINGS

TIME: 10:00 A.M., Friday, February 2, 1962

SUBJECT: H.R. 8210 (Dingell, Mich.), H.R. 8211 (Flynt, Ga.),
H.R. 8228 (Bennett, Mich.), and H.R. 8276 (Loose, Tenn.) -
to amend the Communications Act re clear channel stations

WITNESSES:

Major General John Bestie
United States Air Force
Department of Defense
Washington 25, D. C.
(accompanied by:
Lt. Colonel Frank I. Adams)

Glen A. Wilkinson, Esquire
Wilkinson, Cragun & Barker
1616 H Street, N.W.
Washington 6, D. C.
representing
Radio Service Corporation of Utah
licensee of KBL
Salt Lake City, Utah

Mr. Frank Lynn, Jr.
Harvey Radio Laboratories
WTAO
Cambridge, Mass.

Mr. Marshal D. Newsom
Master
National Grange
1616 H Street, N.W.
Washington, D. C.

Mr. Kit H. Haynes
Director of Information
National Council of Farmer Cooperatives
1616 H Street, N.W.
Washington, D. C.

EIGHTY-SEVENTH CONGRESS

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ABNER W. SIBAL, CONN.
VERNON W. THOMSON, WIS.

W. E. WILLIAMSON, CLERK

Congress of the United States
House of Representatives
Committee on Interstate and Foreign Commerce
Room 1334, House Office Building
Washington, D.C.

Jack Keel

Date January 24, 1962

NOTICE OF PUBLIC HEARINGS

Honorable J. Carlton Loser, M.C.
House of Representatives
Washington, D.C.

There will be a meeting of the ~~Committee~~
Subcommittee on Communications and Power
PROMPTLY at 10:00 o'clock A.M., January 31, February 1, & 2, 1962, ~~1961~~

Business to be considered: Public hearings on H.R. 8210 (Dingell, Mich.),
H.R. 8211 (Flynt, Ga.), and H.R. 8228 (Bennett, Mich.), and H.R. 8274
(Loser, Tenn.)--To amend the Communications Act re clear channel stations.

The "Legislative Reorganization Act of 1946" Sec. 133(e) reads as follows:

"Each such standing committee shall, so far as practicable, require all witnesses appearing before it to file in advance written statements of their proposed testimony, and to limit their oral presentations to brief summaries of their argument. The staff of each committee will prepare digests of such statements for the use of the committee members."

It is requested that each witness file five (5) days in advance with the Committee Clerk five (5) written copies of his statement, and furnish at least forty-five (45) additional copies at the time of his appearance, for the use of the Committee and the Press.

Please advise whom you represent, if you wish to appear as a witness or file a statement for the record, and, if so, whether you are for or against the proposed legislation, and, if you desire to testify, the amount of time required.

By direction of the Chairman.

W. E. Williamson
W. E. WILLIAMSON
Clerk.

STATEMENT
of
THE NATIONAL GRANGE
before
HOUSE SUBCOMMITTEE ON COMMUNICATIONS & POWER
Interstate and Foreign Commerce Committee
H. R. 8210 and Similar Bills
by
HERSCHEL D. NEWSOM, MASTER

February 2, 1962

The National Grange, at its 95th Annual Session at Worcester, Massachusetts, in November, 1961, passed the following Resolution relative to the Radio Clear Channel issue now before the Congress.

"The National Grange strongly reiterates its long-standing position in favor of clear channels with added power, as the only way of bringing adequate nighttime radio service to the remote rural regions of the United States. These regions involve well over 50% of the country geographically, and over 25 million people.

"We deplore the fact that the Federal Communications Commission proposes to further reduce radio service to these areas by creating interference on several clear channels, thereby precluding improvement of radio service on these channels through use of higher power.

"We urge the Commission and the Congress to establish a permanent policy preserving existing clear channels and authorizing higher power where necessary to bring all rural people adequate nighttime radio service."

The Grange supports the enactment of legislation such as is proposed in H. R. 8210 and similar Bills. The more thickly populated areas of this country are well served both day and night with many strong and satisfactory radio signals.

This is not true, particularly at night, in many of the nation's thinly populated rural areas. Yet the people who live in these rural

areas are entitled to good radio service, even though their choice of stations is limited, just as other Americans in the more populous areas are entitled to such service.

Actually, people in these "rural areas" where the population or "market" is not sufficient to provide the amount of income necessary to adequately support local radio or TV service, rely much more upon radio than do most other Americans nowadays.

The simple problem of distance from the larger metropolitan centers increases the reliance of rural people upon radio for music, drama, educational, cultural and religious activities. It is in many of these same rural areas that television reception is less satisfactory - and in many areas it is virtually nonexistent.

It would seem, therefore, that a prime objective of U.S. radio policy should be to improve rural radio service, especially at night when it is often far from satisfactory because of "interference."

It is the position of the National Grange that such improvement is long overdue. It is hard to understand that in today's age of electronic marvels that public policy would stand in the way of reasonably adequate radio service to all citizens regardless of where they live.

Farmers, furthermore, use radio today in their business more than ever before. They rely upon it for market information of many types. They rely upon it also for up-to-the-minute short range and long range weather information, and for the news of food and farming, as well as the news of the world about them. Numerous

farm programs on radio today bring to them the latest in production and marketing practices as well as other information and entertainment.

Often, also, it is necessary for farmers to obtain important information by radio before the hour of sunrise and after the hour of sunset in order for it to be of the most value to them.

Actually radio has played an important role in the agricultural revolution - a revolution which has brought the huge benefits of research and science to U.S. producers and consumers of food and fiber.

This is another way of saying that adequate radio signals are of great importance to our people, and that the benefits of this service are reaped in turn by all Americans.

It is the opinion of the National Grange that the preservation of all present Clear Channels has added purpose now arising from their possible use in the case of a national atomic emergency. I understand that other witnesses are presenting the facts with reference to this subject. Grange interest, however, in these Americans and their welfare prompts my mention of this possibility.

We commend this Committee for its interest in the possibility of improved rural radio service. Clear Channel radio stations are the key to adequate rural radio service at night.

All radio stations, of course, play vital roles in the sum total of radio on this continent. Local stations provide local farm and non-farm service. The regional stations provide similar services for a larger area and the Clear Channel stations provide service in the way of radio signals of sufficient strength, particularly at night, for

coverage of the vast remote far-flung regions of our country.

And the simple truth is that some of these Clear Channel stations require more power than is currently authorized to reach these distant points of rural America. That is why we urge the Congress at this time to remove all barriers that stand in the way of the Federal Communications Commission authorizing the use of higher power where it is needed to bring rural families adequate radio service at all times.

This is the reason also that we oppose adding additional full-time stations to the 13 or more present Clear Channels, as proposed by the Federal Communications Commission for such "duplication."

Fifteen of our original Clear Channels have already been destroyed; many of them in areas where they were needed much. There was, in our opinion, full justification for the 40 Clear Channels. Now, however, we have only 25. The Commission proposal to further reduce this number to 12 is not acceptable in terms of the just and legitimate Rights of thousands of Americans who, at best, can never have the extensive radio and TV service of most of their fellow Americans, who surely are justified in supporting this kind of legislation to prevent the loss of the limited service now available to them - when such loss would, at best, only add one more station to the several now available to most of their fellow Americans in whose interest this proposal is presumably made.

Since 1945 (when we had less than 1,000 radio stations) nearly 2,500 additional stations have been licensed to operate. These stations

have been largely put on the air in the more thickly populated areas, where radio service was already comparatively "plentiful."

The areas dependent upon Clear Channel stations for nighttime radio service have remained relatively unchanged even though we have added roughly 2, 500 additional radio stations during these 15 or 16 years.

As is stated above in our quotation from the Journal of Proceedings of the National Grange "over 50% of the land area of this country" is dependent upon Clear Channel Stations for its nighttime service. Something over 25 million people live in these areas. How, then, can the dozen or so additional stations that the FCC proposes to place on Clear Channels be of any such value to the "many" as to justify ignoring the rights of the "few"?

These 13 stations (the present ones now Clears) would not then be Clear Channel stations. They would become local stations. Their nighttime signals, beyond the local area, would be impaired or destroyed even though they would then bring good radio service to a very small area where other service is already available. Such action would also prevent higher power from ever being used on those 13 Channels proposed by the FCC for the "breakdown."

History clearly demonstrates that when the Clear Channel is duplicated by one station, many more stations are gradually added to that channel, thus totally destroying it for long distance radio signal transmission.

The Grange has, upon numerous occasions, petitioned the Federal Communications Commission to give rural people - - even though they are a minority numerically - - the opportunity to listen to at least one, preferably three or four, satisfactory, dependable, interference-free ~~reliable~~ radio signals at night.

Having failed in this objective over a period of nearly 20 years, and now facing the possibility of a further breakdown in the number of Clear Channel stations, we come to the Congress to safeguard the rights and opportunities of these Americans, even though they are a minority.

Instead of reducing the number of Clear Channels, we should be opening two or three somewhere in the West. Yet, I am told that to remove the many stations now operating on any one of the previously "broken down" Clear Channels is next to impossible. This is understandable. It is all the more reason to prevent further "breakdown" of existing "Clears."

I am not technically qualified to discuss why two or more radio stations cannot operate on the same channel at night without generating the interference and cross-talk arising a few miles distant from either station, but I know from my personal experience at my home in Southern Indiana that my only adequate, dependable nighttime radio service in that area is from the Clear Channel stations. And this is true even though Indianapolis and Louisville are 50 and 60 miles away respectively from home. The local and regional stations at Indianapolis

and Louisville are doing an excellent job but they simply do not get dependable nighttime signals to me a few miles South of Columbus, Indiana.

It is for these reasons, Mr. Chairman, that we strongly urge the Committee to approve and the Congress enact H.R. 8210 or a similar measure.

STATEMENT BY GLEN A. WILKINSON
ON BEHALF OF RADIO SERVICE CORPORATION OF UTAH (KSL)
BEFORE SUBCOMMITTEE ON COMMUNICATIONS AND POWER
OF HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE
DEALING WITH H.R.8210, 8211, 8228 AND 8274

My name is Glen A. Wilkinson. I am a lawyer, a member of the firm of Wilkinson, Cragun & Barker, Washington, D.C. I appear on behalf of Radio Service Corporation of Utah, Salt Lake City, Utah, in support of the objectives of the bills being considered. Radio Service Corporation of Utah is the licensee of KSL, a Class I-A clear channel standard broadcast station operating on 1160 kc, with power of 50 kilowatts, unlimited time. KSL has operated in Salt Lake City since 1922.

Reasons for KSL Objections to
Commission Action

The Commission report and order of September 13, 1961, proposes to leave KSL as it is now operating - 50 kilowatts of power, unlimited time, and the only station operating on 1160 kc during nighttime hours.^{1/} In other words, the KSL authorization is not affected by the Commission proposal. Why, then, the Subcommittee might ask, is it appearing in support of the bills which would prevent duplication of frequencies assigned to Class I-A stations during nighttime hours? There are two reasons, one unselfish and one selfish: (1) KSL believes that the

^{1/} WJJD, Chicago, is authorized to operate with 50 kilowatts until sunset in Salt Lake City.

underserved rural areas of the United States will suffer if the Commission's proposal becomes final, and it believes it has an obligation to make these views known to the Subcommittee. (2) Although not affected by the present proposal, KSL could, if the trend indicated by the FCC proposal continues, be included in the next group of clear channel stations to be duplicated. It thinks that the listening public in the United States, as well as that portion of our population in the intermountain west, which it knows and serves, should be protected against such an eventuality and that the erosion should be stopped at the first line of defense.

History of Decrease in Clear Channels

When, in 1928, the Federal Radio Commission allocated radio frequencies to various classes of stations, 40 of the 107 frequencies available for standard broadcasting were allocated for clear channel use. By 1941, largely because of pressure from large cities for more stations, the number had decreased to 26. Two of the 26 have since been changed in character so that 24 now remain for Class I-A use. The Commission proposal, which prompted the legislation before the Subcommittee, would decrease this number to 12.

Why Skywave Service Must be Protected

The Subcommittee is well aware of the distinguishing characteristics of groundwave and skywave signals.

According to determinations of the Federal Communications Commission, more than 25,000,000 persons living within approximately one-half of the land area within the United States are entirely dependent on skywave service.^{2/} Such service is provided by clear channel stations and no others.

It is therefore necessary, for the protection of 25,000,000 residents of the United States, that skywave service be protected. This can be accomplished effectively only by keeping an adequate number of frequencies cleared, and by allowing only one station with adequate power to operate on each cleared frequency at night. Addition of new stations to frequencies now occupied by clear channel stations would add groundwave service to very small "white" areas, but the addition of new stations would seriously interfere with the skywave service now furnished by Class I-A stations.

The Commission Recognizes That
Duplication of Clear Channels
Will Degrade Skywave Service

The FCC has repeatedly recognized that duplication of clear channels will degrade skywave service. It

^{2/} In its Third Notice of September 22, 1959, Docket No. 6741, the Commission said:

"The skywave (long range) service furnished by clear channel stations is the only nighttime standard broadcast service now available to approximately 25,631,000 persons in an area of an aggregate of about 1,725,000 square miles, which comprises somewhat more than half the land area of the continental United States, with the exception of Alaska and Hawaii."

Paragraphs 10 and 33 of the April 15, 1958 notice are to the same effect.

seems pertinent to recall only a few.

Attached to the September 18, 1959 Third Notice of Further Proposed Rule Making issued by the FCC in Docket 6741 are eleven maps, comprising Exhibit C, which show the new service to be gained from hypothetical stations in western states if clear channels are to be duplicated in accordance with the determination the Commission proposed at that time. Those maps show the limitations on the skywave service areas of the clear channel stations to the east, and large areas between the two service areas where both signals will be lost because of mutual interference. Although these maps are predicated on the assumption that new Class II stations would operate with power of 10 kilowatts, the pictures they present would not be substantially different with Class II stations operating with 50 kilowatts. This pictorial evidence convincingly demonstrates that the September 13, 1961, Report and Order of the Commission does not contribute to the over-all public interest. The Commission proposal merely furnishes, generally speaking, additional service to areas already well served, and deprives rural areas which are dependent on skywave signals of much of their service.

New Stations Do Not Furnish
the Answer

The history of authorization and construction of additional standard broadcast stations in the United States demonstrates that little, if any, so-called "white area" decreases as the number of stations increases. The Commission itself has recognized this. In its April 15, 1958 Notice,

it stated:

"The increment, meanwhile [since World War II], of nearly 2,000 additional standard broadcast stations, appears to have reduced the nighttime white areas only to a minor extent." 3/

Recognizing that authorization of new daytime only and unlimited time stations has not reduced the white areas, the Commission went on to point out that there are severe limits on the possibilities for reducing white areas by creating new groundwave coverage from new or expanded standard broadcast stations. It concluded:

"It follows that improvement of service throughout most of the existing white areas must be provided, if at all, by new or improved skywave service." 4/

The KOA Case Demonstrates the Need for Retaining Clear Channels

Situated as it is in the intermountain west, KSL is particularly aware of the public need for clear channel skywave service in sparsely settled areas. It is the only Class I-A clear channel station remaining in the Rocky Mountain area. It might be assumed, at first blush, that this is an enviable position. On the contrary, KSL believes that the intermountain west has deserved better treatment. KOA in Denver was once the only station operating on 850 kc. In about 1938, a station in Boston was authorized to use

3/
Paragraph 38, April 15, 1958 Notice.

4/
Paragraph 41, April 15, 1958 Notice.

the frequency during daytime hours. This authorization was expanded to full time about 1941. An assignment that great distance away degraded and limited the skywave signal of KOA, but that was only the beginning. By 1958, nine other stations were operating during nighttime hours on 850 kc.^{5/} This history demonstrates three points: (1) the breakdown or duplication of clear channels does not stop with the assignment of one other station to the frequency; (2) the new stations are inevitably located in urban areas already well served; and (3) the areas which lose service, through the degradation of skywave signals, are the rural areas.

Experts Have Long Recognized
the Need for Clear Channel
Service

This problem is virtually as old as radio broadcasting itself. It has been considered by many expert bodies. Throughout broadcasting history, the need for clear channels during nighttime hours has been recognized. As long ago as 1933, the Committee on Broadcasting of the Institute of Radio Engineers published a report on "The Clear Channel in American Broadcasting." That report said:

"Decreasing the number of clear channels by assigning additional stations (for nighttime operation) to channels now used by only

^{5/} New stations were authorized to operate on 850 kc in Birmingham, Gainesville, Palm Beach, Boston, Muskegon, Raleigh, Cleveland, Reading, Norfolk and Tacoma. Birmingham has 10 standard stations, Gainesville 3, Palm Beach 4, Boston 11, Muskegon 3, Raleigh 4, Cleveland 8, Reading 3, Norfolk 4, and Tacoma 4.

one station at a time would have the effect of affording additional services to certain localized urban groups but at the expense of decreasing the service to rural listeners and to those at remote points."

What that learned Institute said in 1933 remains applicable today. This Subcommittee and Congress should, in the judgment of KSL, prevent further degradation of radio service "to rural listeners and to those at remote points."

Congress Must Protect the
Public Interest

KSL submits that it is unfortunate, from the viewpoint of the listening public, that the number of clear channel stations has heretofore been reduced from 40 to 24. To continue this trend will result in more service for urban areas and less for rural areas. It is frequently said that the Federal Communications Commission, an administrative agency, is an arm of the Congress and should be controlled by the Congress on questions of broad public policy. We submit that this is such a case, and that this Subcommittee should report favorably on a bill which will prevent duplication of the remaining clear channels.

Respectfully submitted,

RADIO SERVICE CORPORATION OF UTAH

By _____

Glen A. Wilkinson

of

WILKINSON, CRAGUN & BARKER
1616 H Street, N.W.
Washington 6, D. C.
Its Attorneys

February 2, 1962

FCC Clear Channel decision gives many words to needs - admits inadequacy of service to 25 million people. Then ~~and~~ makes conclusions which will do nothing to alleviate situation.

18 million people East of Mississippi. Admit possibility of more than one channel assignment to D-A channels.

Gives no reason for turning down high power proposal which only way to improve service to people in White areas.

Opponent questions

1. Not economically feasible for ductwork
2. Bill says except to extent authorized July 1, 1961
Wald likes to see it cleared up.
(FCC wants both 1-Bs ductwork)
3. Economic advantage of class if any.
Smaller margin of profit
4. America has right to good night time radio service - We obligated to furnish sky wave service
Duplication starts serious process
Steps higher power
5. at practically every meeting of CCBS this has been discussed. We have consistently favored high power. Sharp action has always been toward high power.
6. \$1 per watt. \$150,000 extra
7. Not good protection. erosion. precludes higher power. interference is used as excuse to create more.
8. ~~NO~~ FCC asserts there is little if any listening beyond 700 miles
8. NO FCC says this does not preclude higher power
9. a certain amount but there are vast gaps
10. Yes - auto - continuous service
Higher power needed for rural areas

11.

Congress must protect minority

FCC has done nothing about higher power. Proposal of FCC does not solve problem.

Courts - beyond province of appellate review. Court will ask whether FCC acted within constitutional authority. Court

12.

Problem has not changed - Want authority for improved power

13

14.

15 No.

16. Want be best but need whatever we can provide & improve.

17.

17.

Under FCC proposed deflection only 23,000 additional people will be served. Our engineer took most ^{reliable} ~~optimum~~ location in each of Commission cases.

No sky wave produced
230,000 groundwave added

18,000,000 East of Mississippi received no help
FCC admits there are 25×10^6 people

" can't get g.w. to them
Admit sky wave need.

Do nothing to meet admitted needs

19.

Answer OK

21. No

22. Should be required ~~yes~~. We have always been eager to go to higher power

25. Public interest prevent chairman of eng committee

26.

29. Yes rules do ~~prohibit~~ allow Alaska
- WSB Alaska station would put higher station at border

WSB has offered - (Dow Jones + Alutian)

34

Broadcasting yearbook

As of 29 Jan only station application pending is from San Diego on 760 K.C.

How much does additional stations reduce white area?

WSB's specific concern is that FCC decision may have placed 750 K.C. in category of 1-A frequencies for which duplication rather than high ^{potential} power has been proscribed

RICHARD B. RUSSELL
GEORGIA

File to Wash **CCBS**
EARL T. LEONARD, JR.
PRESS SECRETARY

United States Senate
WASHINGTON, D.C.

January 8, 1962

Mr. John H. DeWitt, Jr.
WSM Incorporated
301 Seventh Avenue, North
Nashville 3, Tennessee

Dear Mr. DeWitt:

Your letter of January 5th is in hand and I appreciate your reply together with some background as to the nature of the conference you wish with Senator Russell.

Upon your arrival in Washington later this month, please give us a call here and I feel sure that an appointment can be arranged on one of the three days of your proposed trip.

Again with every good wish, I am

Sincerely,



CCBS

OREN HARRIS
4TH DIST., ARKANSAS

HOME ADDRESS:
EL DORADO, ARKANSAS

CHAIRMAN:
COMMITTEE ON INTERSTATE
AND FOREIGN COMMERCE

SECRETARIES:
WILLIE HARRIS
CHRISTINE CHRISTIE
RUTH COLLINS

Congress of the United States
House of Representatives
Washington, D. C.
January 15, 1962

Mr. John H. DeWitt, Jr
President
WSM, Incorporated
Nashville 3, Tennessee

Dear Mr. DeWitt:

This will acknowledge your letter of January 5, in further reference to our telephone conversation advising that you will be in Washington the week of January 22.

I shall be glad to see you during the time. Although I will be having important committee hearings you can call me at the office and arrange a convenient time. I will look forward to seeing you.

With kind regards,

Sincerely yours,


OREN HARRIS, M. C.

OH:rc

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington 25, D. C.

B
 FCC 61-1106
 7705

In the Matter of)
)
 Clear Channel Broadcasting) Docket No. 6741
 in The Standard Broadcast Band)

REPORT AND ORDER

By the Commission: Commissioner Lee dissenting and issuing a statement;
 Commissioner Cross concurring in part and dissenting in
 part and issuing a statement.

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COOPER-TRENT, INC.
 1130 - 19th Street, N.W.
 Washington 6, D.C.
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Introduction

1. The basic question in this proceeding is whether and in what manner it would serve the public interest to amend the rules governing the use of the standard broadcast frequencies designated as "clear channels." The proceeding was instituted by the Commission on February 20, 1945, largely as a result of insistent claims that the clear channel concept of permitting only one station to operate at night on 24 of the 107 channels available for standard broadcasting is wasteful of valuable spectrum space and otherwise not in the best interests of efficient utilization of the frequencies involved. Resolution of the matter has been complicated during the intervening years by changing treaty obligations, the necessity for disposing of precedent collateral problems, themselves difficult of settlement, and by marked changes in the socio-economic climate for a standard broadcast medium beset by the emergence of television as a vigorous competitor for audience, program material, and advertiser support. Proposals for settlement have been narrowed by the Commission's "Further Notice" of April 15, 1958, and a "Third Notice" adopted September 18, 1959. The course we take today marks our best judgment of the most practicable manner in which the clear channels can, at this stage, be better utilized to improve service in the standard broadcast band.

History of the Proceeding

2. Pursuant to long-standing practice and international agreement for the North American region, all United States standard broadcast stations are assigned to 107 channels, each 10-kilocycles wide, in the frequency range 535-1605 kilocycles. Unlike television, where channels were from the outset tied to specific cities, the practice of assigning standard broadcast stations to meet random demand emerged early in the development of the medium. Fixed by usage, the practice has been perpetuated under rules later developed to direct, along general lines and without reference to specific localities, the placement of stations on the 107 available frequencies in a manner designed to achieve as fully as possible the continuing objectives of

providing: (a) some service of satisfactory signal strength to all areas of the country, (b) as many program choices to as many listeners as possible, and (c) service of local origin to as many communities as possible.

3. However, the compatibility of the objectives is confounded by the physical behavior of radio signals. Part of the energy radiated from the transmitting antenna of a broadcast station is called a groundwave and travels closely along the earth's surface where its intensity, although diminishing rapidly with distance, remains relatively constant at any location day and night and from season to season. The portion of the energy which travels upward and outward from the transmitter into the upper atmosphere from which it is reflected back to earth at distances much greater than the reach of groundwave signals is called a skywave signal. Skywave propagation is effective chiefly during the hours between sunset and sunrise and is present, to a lesser degree, during a 2-3 hour pre-sunset buildup and a similar post-sunrise period of waning intensity. Less constant in intensity than groundwave signals, skywave signals are nevertheless capable of providing service wherever they have sufficient average field intensity above noise levels and are free from excessive interference by other stations on the same or adjacent channels. While power output and other factors affect the range of useful signals, one of the principal restrictions on a station's service area at night is the number of stations on the same frequency. It follows that a duplication of stations on the same channel to meet demands for local and multiple services dilutes the effective range of nighttime skywave propagation to distant rural areas where it may not be economically feasible to provide local transmitters.

4. The circumstance that any plan for allocating the use of a standard broadcast channel must accommodate divergent purposes led at an early stage of radio regulation to the classification of standard broadcast frequencies into several categories, each primarily directed to the achievement of one or another of the conflicting objectives. An early action of the then newly-created Federal Radio Commission was the institution in 1928 of a division of the standard broadcast spectrum into clear, regional, and local channels. Although the description "clear" was not officially applied to the unduplicated channels until the Radio Commission's 1932 allocations rules, the clear channel concept is recognizable as early as 1923 when 40 frequencies were set aside by the Secretary of Commerce for the exclusive use of single stations. The channel classification technique survived and was perpetuated in the Federal Communications Commission's 1938 allocations plan which has endured and become the touchstone of the entire standard broadcast structure.

5. The existing classification of channels specifies three groups of frequencies, each with different rules for the assignment of stations depending upon the purpose for which each class of channel was established. The three groups are clear channels, which are the subject of this proceeding, regional channels on which stations are assignable under conditions permitting service to large metropolitan areas, and local channels for the assignment of large numbers of stations serving as local outlets for numerous smaller communities. In the case of regional (Class III) stations and local (Class IV) stations, which broadcast on frequencies shared with other Class III and IV stations operating in other cities and communities, protection of service is confined to their groundwave signals. Skywave or secondary service free from objectionable interference is provided only by Class I stations assigned to the clear channels, and this service is made possible only by rigid restrictions on the number of stations which may be assigned to the clear channels at night and by limitations on the radiations of the secondary stations assigned to those channels. Twenty-four U.S. clear channels are now reserved for the exclusive use at night of a single Class I-A station. On the remaining twenty-three United States clear channels one or two United States

Class I-B stations are assigned under conditions requiring mutual protection through the use of directional antennas. The assignment of secondary, Class II, stations is permitted on the clear channels under conditions and restrictions which recognize that the primary purpose to be served by the frequencies is the widespread service provided by the Class I station occupying the channel. Class II stations are expected to provide only a groundwave service and are required, by use of a directional antenna, limitations on antenna height and power, or other means, to protect the wide area service of the Class I station. The scheme for tailoring a station's facilities to conform to the purpose of its class is carried out in a variety of restrictions imposed on the class. These restrictions include maximum power limitations of 1 kilowatt for local stations, 5 kilowatts for regionals and 50 kilowatts for Class I and Class II stations.

6. A persistently plaguing deficiency in the allocation plan that has otherwise provided a plenitude of signals to populous centers has been the scarcity of service in the sparsely-settled areas of the country. In the face of a 50% increase in the total number of fulltime stations in operation during the 10-year period 1947 - 1957, the extent of land area and population receiving no nighttime groundwave service from any stations was only insubstantially altered. More than half the total land area of the United States and perhaps as many as 25,000,000 people principally in northern New England, the more mountainous regions of the Middle Atlantic states, much of the South, the northernmost part of the Great Lakes area, within the Great Plains and the mountainous areas of the West, and in Alaska are estimated to be outside the range of usable nighttime groundwave service.

7. Since domestic and international use of other frequencies preclude any realistic prospect for increasing the size of the standard broadcast band of frequencies, improvement in rural service must be sought from existing or newly-assigned stations within the present band. Little improvement may be expected from Class III or Class IV stations because of unavoidable limitations on their nighttime interference-free

service range. Thus such improvement as may be achieved must be provided on the clear channels.

The Basic Conflict

8. Two basically divergent views have persisted as to the measures best calculated to make more efficient use of the clear channel frequencies. On one side, it has been urged that the principal objective of providing satisfactory nighttime service to areas lacking such service is most likely to be attained by improvement in the capacity of the clear channel stations, particularly the Class I-A stations, to provide a good skywave signal to wide areas, this to be accomplished by permitting those stations to operate at substantially increased power and by limiting, and at night excluding, co-channel stations. The conflicting view has contended for an increase in the number of unlimited time stations on the clear channels. The clear channel inquiry was instituted against this background of conflict between the basic alternatives of higher power versus duplication.

9. The Commission's Order of February 20, 1945, instituting this proceeding, was so extensive as to open the way for consideration of solutions ranging all the way between the extremes of exclusive nighttime use of selected clear channels by single stations operating at substantially higher power than the present maximum of 50 kilowatts and the reclassification of selected clear channels to local channels on which it would be possible to assign over 150 stations each, at a maximum power of 250 watts. Testimony was taken during extended hearings during 1946 and 1947 and a voluminous record compiled. At the same time, orders were issued freezing action on certain types of applications, grant of which appeared likely to conflict with reasonable settlement of the proceeding. In late 1947, the "daytime skywave" proceeding (Docket 8333), which had earlier that year been separately initiated to determine whether and the extent to which limitations should be imposed upon daytime skywave radiations toward Class I-A and Class I-B stations, was joined with the clear channel proceeding, and extensive oral argument before the Commission was held early in 1948 on the consolidated record. The daytime skywave phase was severed in 1953 and terminated in 1959 with the issuance of a Report and Order which adopted limits of permissible radiation toward Class I clear channel stations which were to be protected against objectionable skywave interference from further grants for daytime or limited time stations authorized to operate on those channels. Immediately prior to this decision, however, the Commission on April 15, 1958, reopened the clear channel record and narrowed the proceeding for its second phase.

The Further Notice

10. The Further Notice of Proposed Rule Making of April 15, 1958, invited comments on proposals to open twelve specified Class I-A channels for additional unlimited time assignments, to reserve for later determination proposals to increase power on the remaining Class I-A channels, and to leave undisturbed the Class I-B channels. On five of the twelve channels suggested for additional assignments it was proposed that there be placed a new directionalized Class I station and that the existing Class I station be required to directionalize, with the result that each station would afford mutual protection from interference to the areas served by the other. On the other seven channels, unlimited time Class II stations were proposed to be assigned in underserved areas. Comments in response to the Notice persuaded the Commission that its proposal for the licensing of such stations, because of the requirement that certain existing Class I stations directionalize their operations, would be accomplished only at the inordinate expense of substantial dislocations of existing skywave service and the unwarranted creation of new white areas. The Commission then decided to seek additional comments on a proposal to duplicate all the Class I-A channels without the objectionable requirement of directionalization by the Class I stations. The proceeding entered its third phase, thereafter, with the release on September 22, 1959, of the Commission's redefined proposal for settlement.^{1/}

The Third Notice

11. The Third Notice of Further Proposed Rule Making, released September 22, 1959, invited comments on a proposal to provide for the assignment of new Class II stations on 23 clear channels,^{2/} the new stations to be located in certain selected and designated states. The existing Class I-A stations would continue to operate with 50 kilowatts of power, but each would share operation with one new Class II station which would be located in a designated area and would operate directionally with not less than 10 kilowatts of power in order to secure maximum coverage. Although not persuaded on the state of the record at that point that higher power would be in the public interest, the Commission also provided opportunity in the Third Notice for parties to update the record on proposals to increase maximum power for Class I-A stations.

^{1/} To restate in detail the considerations which have led up to the Third Notice would unduly lengthen this Report and Order. Persons desiring additional details of the historical progression of this proceeding, and who are not already familiar with the record, may consult the Further Notice of Proposed Rule Making adopted April 15, 1958 (FCC 58-350) and the Third Notice of Further Proposed Rule Making adopted September 18, 1959 (FCC 59-972).

^{2/} This includes 22 of the 24 Class I-A frequencies excluding 660 kc and 770 kc, and also includes 1030 kc, presently a I-B frequency.

12. Many parties took advantage of this invitation and in the more than 100 comments and more than 40 replies filed pursuant to the Third Notice, the basic dispute continues to be whether the additional needed service can better be supplied by permitting clear channels to operate at higher power or by permitting operation of an additional unlimited time station or stations on the clear channel frequencies. Recognizing that half the land area of the United States (excluding Alaska and Hawaii) remains nighttime white area, dependent upon skywave service, with little prospect of large-scale improvement in primary service, one view holds that much needed improvement in standard broadcast service to these areas can be achieved only through improved and increased skywave service and that this, in turn, requires an increase in maximum power for clear channel stations to 500 or 750 kilowatts. Others contend that since many Class I-A clear channel stations are clustered in the eastern portion of the country (a natural result of the greater population density and the superior capacity of such communities to provide economic support for such stations), with 50 kw power and a nighttime skywave service range of about 700 miles, the needed improvement should come from the assignment of unlimited time stations on the Class I-A clear channel frequencies which now have only one station operating nighttime. We will direct our attention to this basic dispute after noting briefly one preliminary matter.

Shortcomings of Present Clear Channel Allocations.

13. As noted in our opening paragraph, we are concerned with whether and in what manner to amend the rules governing clear channels. Whether to amend them is comparatively simple to resolve. The proceeding was instituted because of insistent demands that present utilization is not adequate. That assumption underlies the entire proceeding. However, we must now look to the validity of that assumption and in doing so we conclude it has not only stood the test of time but that the situation has, if anything, become worse. We have noted that a great increase in the number of stations has only insubstantially reduced nighttime white area. Moreover, with our population growth, the number of people in white areas is growing. ^{3/} There is substantial support in the comments for a conclusion that the exclusive nighttime use of a channel by a single station limited to 50 kw is less justifiable now than it was when clear channels were first allocated in this way. Since that time techniques have been established and highly developed for directional transmission of signals, with a high degree of suppression now possible to protect the service areas of co-channel stations. In addition, heterodyne interference resulting from uncontrolled deviations from the assigned frequency has been substantially eliminated. Thus it is now possible, particularly in the case of Class I-A stations located in or near the northeast portion of the country, to assign additional co-channel unlimited time stations to provide needed service

^{3/} Based on the 1940 Census a population of 23,252,000 lived in white areas. By 1957 the white area population had grown to an estimated 25,630,000.

at distant locations, while preserving the capacity of the present station to provide a usable signal over wide primary and secondary service areas. In these circumstances there is serious question whether the most efficient use of the Class I-A clear channels can be achieved under the long-standing rules which, on the one hand, preclude power above 50 kw, and on the other hand, bar co-channel unlimited time assignments in distant areas which the present station cannot effectively serve, and where a new station could be operated so as to afford reasonable protection to the areas the present station does effectively serve at 50 kw. Almost without exception the commenting parties either note the need for additional service or at least do not attack the underlying assumption of such need. There were, however, a few comments to the effect that maintenance of the status quo would be preferable to adopting the alternative which the commenting party opposed.

Resolution of The Issues

14. Our review of the record and our analysis of the numerous substantive, procedural, and administrative questions which it raises make it convincingly clear that it would be undesirable to set in motion the simultaneous reallocation of all the Class I-A clear channels. The enormity of the consequent administrative burden alone would further glut our license processing and hearing resources and delay not only the achievement of improved service on the clear channels, but additionally delay our strenuous efforts to reduce the excessive and persistent backlog of pending standard broadcast applications.

15. Quite apart from these considerations, which in our considered judgment would alone warrant progressive rather than simultaneous approaches to reallocating the Class I-A clear channels, we find compelling reasons for avoiding a course which would precipitate changed modes of utilizing the Class I-A clear channels without opportunity to review and evaluate, as we go along, the effectiveness of such reallocations as we herein accept for some of the channels.

16. Both in the Further Notice of April 15, 1958 and in the Third Notice of September 18, 1959 the Commission invited comments on proposals to remove the heretofore total exclusivity of nighttime use of the Class I-A channels by a single station. The Third Notice contemplated additional unlimited time station assignments on substantially all of the Class I-A channels. The earlier Further Notice had looked toward this step on half of them. The underlying justification, in each case, was the compelling need to go as far as possible toward reducing the vast areas which lack any nighttime primary service. The record is replete with data demonstrating that, to an extent, this can be done with resultant increments of nighttime primary service to persons now lacking it without undue interference to the wide area service rendered by the Class I-A stations. This possibility derives from a combination of factors including directionalization of new unlimited time stations on

these channels, the long distances between their prescribed locations and the transmitter sites of the existing co-channel I-A stations and the numbers of other services available in limited areas where interference from the new station may to a limited extent interfere with present reception of skywave service from the existing Class I-A station. Moreover, the limited amount of skywave service which would be so subjected to interference is of a low order since new unlimited time stations will be required to protect the 0.5 mv/m 50% skywave contour of the Class I-A station—generally located approximately 700 miles from its transmitter.

17. These basic considerations, in our considered view, strongly underscore the desirability of permitting the establishment of new unlimited time stations on at least some of the Class I-A channels, and we make appropriate provision therefor, in the accompanying rule amendments, on 13 of the Class I-A channels: i.e. 670, 720, 750, 760, 780, 880, 890, 1020, 1030, 1100, 1120, 1180, and 1210 kc.

18. There is support, recognized in our Third Notice in this proceeding, for the similar treatment of additional Class I-A clear channels. To pursue that course at this time would, however, be subject to the grave objections already noted. It would, moreover, in one stroke crystallize a particular pattern of clear channel usage which would at least limit and at worst frustrate the future possibilities for employing other techniques of clear channel utilization. One of these is the use of higher power to improve the nighttime range of and, within existing service areas, the quality of skywave service reaching into the vast land areas where this is the only available technique for improving service since much of those areas lie beyond the foreseeable range of the primary service of any new stations which could be fitted into the crowded standard broadcast spectrum. Whether the public interest would be served by the authorization of higher power, whether, on the channels at this time left in status quo, duplication in the manner here adopted for 13 channels would serve the public interest, or whether any other alternatives including possible combinations of these techniques would best serve to improve service on these channels, we do not now decide.

19. At earlier stages of this proceeding strong objection to the authorization of higher power was expressed not only by interested parties but also by Congress. It is evident that in considering a question of the consequence of higher power, which would in any case be necessarily limited to a relatively few stations, the policy of the Congress should be accorded due recognition. The Senate of the United States on June 7, 1938, adopted a resolution (S. Res. 294, 75th Cong., 3rd Session) characterizing the use of power in excess of 50 kw by standard broadcast stations as "definitely against the public interest" and expressing the sense of the Senate that the Commission "should not adopt or promulgate rules to permit or otherwise allow any station operating on a frequency in the standard broadcast band...to operate on a regular or other basis with power in excess of fifty kilowatts."

20. Some parties have throughout the long history of this proceeding forcefully urged strenuous objection against the use of higher power which, it is asserted, would give vastly undue competitive pre-eminence to the very few stations to whom in any case powers on the order of 500 kw to 750 kw could conceivably be authorized. The Commission, while aware of the strength of these contentions, cannot on the other hand ignore the potential for significant additions to service which the employment of higher power on even a few stations could make possible. Our close scrutiny of the portions of the record going to the issue of higher power fails to persuade us that, whatever the merits of the pending proposals for higher power, the objections listed against it have been sufficiently met. Upon careful consideration of the question, we conclude that there is insufficient basis before us for a finding that the public interest would be served by authorizing higher power, but that at the same time the question warrants further consideration in the light of such improvements and changes in service as may result from the action we now take to authorize additional unlimited time stations on 13 of the Class I-A clear channels.

21. We thus leave open and unprejudiced the question of whether, and if so how, the public interest would be served by changing the rules affecting the use of the 12 Class I-A channels now left in status quo. At such time as further developments, including progress under the changes we now adopt, provide needed additional light on the question we will give further consideration to how best to utilize the 12 clear channels not now disturbed. It is manifestly desirable to do so on the basis of then current data and not to hold the instant proceeding open for the purpose. Much of the record herein was compiled years ago under different circumstances which have since changed markedly, and which may be expected to undergo further change. However, in any subsequent proceedings which may be held on the disposition of the twelve channels now left in status quo, parties will be permitted to incorporate by reference specifically designated pleadings herein, or designate portions thereof, as may be relevant to matters then under consideration.

22. In pursuing this course we follow certain basic features of the pattern proposed in our Further Notice, while departing from some elements of that proposal to which objection, which we find meritorious, was advanced. We follow that pattern to the extent that it envisaged the establishment of additional unlimited-time stations, capable of providing primary service in white areas, on about half the channels, while leaving open for future consideration and decision action on the remaining Class I-A channels.

23. The primary feature of the Further Notice which evoked critical comment from the industry, and which was a factor in our determination to consider in the Third Notice a somewhat different allocations plan, was the suggestion that certain Class I stations be required to directionalize. This factor, in the language of the Third Notice:

"would result in substantial reduction of the existing ground wave and skywave service, with the result that substantial new 'white areas' would be created in which no ground wave service would remain available from any station and that other areas would be reduced in the number of services received from four, three or two ground wave services to a single ground wave service. In addition, substantial dislocations would obtain of present skywave service which would not be fully compensated by new operations."

In the approach we adopt herein the requirement of directionalization by the Class I stations has been eliminated and the undesirable results noted above would not occur. 4/

24. We now have the benefit of updated comments directed to the two approaches of the Further Notice and the Third Notice. The course we take is consistent with both of these proposals in the basic sense that both proposals envisage the nighttime sharing of at least 12 of the Class I-A clear channels by more than one station. In addition, the Further Notice would reserve for future determination the use to be made of the remaining I-A channels. The method of duplication we adopt is that proposed in the Third Notice for 23 channels and proposed

4/ That we do not follow the Further Notice approach generally does not alter the validity of our conclusion that in case of one particular I-A channel — 770 kc — directionalization of the existing Class I station so as to afford mutual protection to a similar operation in New Mexico would best serve the public interest. We note herein the special circumstances pertaining to that channel.

in the Further Notice for 7 channels. As noted, we have (except on 770 kc) removed the directionalization requirement for Class I stations. Since the two approaches do contemplate duplication of up to 12 frequencies, we have reexamined each of the 24 Class I-A channels, plus 1030 kc which is reclassified herein as a I-A clear channel. We discuss later our reasons for selecting the 13 channels which we earmark in this proceeding for duplication by a Class II unlimited-time station. Channel sharing on the selected 13 clear channel frequencies, as has been amply demonstrated in the comments, will not frustrate the achievement of the primary objective of clear channel allocation, i.e., to render wide area service to the residents of less densely populated portions of the country which are beyond the effective reach of interference-free nighttime service from other classes of stations. The conditions projected in the Third Notice for the operation of additional stations afford a high degree of protection to the 50 kilowatt Class I-A stations now occupying these channels i.e. to their 0.5 mv/m 50% skywave contour. Such interference as our action herein would permit to minor, fringe reception beyond the 0.5 mv/m 50% skywave contour of those stations is, in our judgment, acceptable in view of the additional services which are thereby made possible from new stations in underserved areas.

25. While we do not now reach a decision either for or against the use of higher power, and while we thus leave entirely open the question of what station assignment plans would best serve the public interest on the 12 Class I-A clear channels left in status quo at this time, we recognize the critical importance of so tailoring the partial reallocation as to avoid undue prejudice to practical latitude for future decision. Our review of the comments persuades us that such undue restriction would have resulted from adoption of the proposal in the Third Notice to place additional unlimited-time stations on virtually all of the Class I-A clear channels.

26. Implementation of our judgment that we should at this time refrain from permitting shared nighttime use of all the Class I-A channels poses the problem of selecting, on a suitable basis, those channels on which we open the way to additional unlimited-time stations and those reserved for future decision. Numerous considerations bear on such a selection. The basic determinant is the question of whether, taking into account the numerous circumstances affecting each channel and the resultant overall pattern of service, it is best suited to shared use or to the preservation of possibilities of wider service from the existing Class I-A station through utilization of higher power. Key factors having a bearing on this judgment include:

- a. Location of needful white areas.

b. The possibilities for providing a primary nighttime service in those white areas at sufficient distance from the Class I-A station to permit requisite protection of the generally usable portion of the existing station's skywave service -- i.e., the service area within its 0.5 mv/m 50% skywave contour.

c. Due protection to existing co-channel U.S. daytime stations and to U.S. stations on adjacent channels.

d. Consideration of adjacent channel interference to stations located in neighboring countries, and to foreign co-channel stations to which the United States is committed, under international agreements, to afford a stated degree of protection.

e. Avoidance of adjacent channel interference among new unlimited-time stations assigned to the Class I-A clear channels.

f. The location of white areas apparently beyond the reach of foreseeable new stations which could provide a nighttime primary service.

g. Existing skywave services in the foregoing areas and the consequent benefits from improved additional skywave services.

h. The location of Class I-A stations so situated -- with reference to geographic relationships to the needful areas and co-channel and adjacent channel domestic and foreign interference considerations -- as to indicate that they would be best adapted to the provision of additional and improved skywave services to the needful areas.

27. In the case of no single channel would all of the foregoing determinants uniformly indicate that it be earmarked for additional unlimited time assignment or that it be held in status quo for future consideration of alternative action. In each case we have arrived at our judgment by the painstaking process of determining and evaluating all the pertinent factors and deciding, on net balance, which course would best serve the public interest both in usage of the individual channel and in terms of the resultant assembled pattern of additional nighttime primary services on the one hand, and the potential for additional and improved skywave services in needful areas on the other hand. In weighing our choices of channels to be left at this time in status quo we have taken into account the desirability of endeavoring to preserve the potential of at least four reasonably reliable and satisfactory skywave services throughout all white areas.

28. In arriving at the selection of Class I-A clear channels for duplication and for status quo, we have scrutinized with great care the entire record of this proceeding, including testimony, exhibits, briefs, oral argument, comments and other pleadings which, as we have noted, have included diverse alternatives and counter proposals.

29. Considering all pertinent factors, and submissions, and taking into account the skywave services presently received, we have determined that the public interest will be served by deferring action at this time on the following frequencies: 640, 650, 660, 700, 770, 820, 830, 840, 870, 1040, 1160 and 1200 kc. The potential for widespread improvement in skywave service is thus preserved for future evaluation.

30. In selecting 640, 820, 1160 and 1200 kc for inclusion in this group, we have noted that these are the only I-A channels (other than 1040 and 1120 kc discussed below) serving the West; that the west is characterized by vast regions of low population density where skywave signals afford the only nighttime broadcast service; that a choice among skywave signals is not generally available to a substantial part of the West; and that acceptable locations for assignment of new unlimited time stations on these channels would, in general, be limited to eastern areas already receiving abundant service. Accordingly, at this stage, we preserve the potential for improving skywave service which these channels afford.

31. On 660 and 770 kc, unlimited time assignments, in addition to the Class I-A stations, are already operating. For this reason, as we state in the Third Notice, no additional assignments on these channels is deemed warranted at this time. Similarly, we do not at this time take any action with respect to 830 kc because of the pendency of an adjudicatory proceeding involving WNYC's use of that frequency during nighttime hours.

32. The potential for improved skywave service which arises from the location of 650 kc at Nashville, 700 kc at Cincinnati, 840 kc at Louisville, and 870 kc at New Orleans warrants inclusion of these channels in the group as to which no action is to be taken at this time. We have examined the feasibility of duplication on these channels and, while we recognize that duplication on these channels is possible, we are reluctant to take any action at this time which would limit the potential of these stations for providing improved skywave service in underserved areas of the Southeast.

33. Of the group on which action is deferred, there remains only 1040 kc to be discussed. The Class I-A station on 1040 kc is located at Des Moines, Iowa. Both 1040 kc and 1120 kc, on which KNOX, St. Louis, Missouri, is the Class I-A station, are somewhat centrally located and those channels could be used either to provide nighttime ground-wave service to white areas in the West or to provide some improved skywave service. We have concluded that, in attempting to achieve a proper balance between the immediate benefits of duplication and retaining a potential for improved skywave service, it is preferable to defer action on 1040 kc but to permit an additional station on 1120 kc. An important factor in making this choice was a realization that the potential of 1120 kc for providing improved skywave service is considerably limited in all directions by adjacent channel operations at Omaha, Nebraska, Charlotte, North Carolina, Shreveport, Louisiana, Minneapolis, Minnesota, and New York, New York.

34. Turning now to the remaining Class I-A channels, we have determined that they can best be utilized by permitting operation of an unlimited time Class II station on each, thereby serving the important and immediate objective of providing nighttime primary service to white areas. This is not to indicate that other channels, among the group not presently duplicated, could not be duplicated and provide valuable service to white areas. As we have indicated, our action here leaves to future determination, in the light of future developments, the decision as to what use should be made of those channels on which the status quo is presently retained.

35. We conclude that the proper balance between immediate objectives and possible future goals is best achieved by deferring action on the channels noted above and by permitting one new unlimited time operation on the following: 670, 720, 780, 880, 1020, 1030, 1100, 1120, 1180 and 1210 kc. In addition 750 and 760 kc will be duplicated but in a way designed to meet special situations arising out of the entry into force of the United States/Mexican Broadcasting Agreement.

36. Class I-A stations on 880, 1020, 1030, 1100, 1180 and 1210 kc are located at or near the northern or eastern boundaries of the country thereby affording maximum opportunity for assignment of unlimited time stations in the West where serious deficiencies in present service exist and the corresponding need for improvement is great. Such location permits flexibility in meeting the required spacing between co-channel Class I-A and unlimited time Class II stations. Moreover, the impact of the new unlimited time Class II stations on the present skywave service of these Class I-A stations will be at a minimum because the useful skywave service these stations render is generally confined to the extreme northeastern portion of the country.

37. The Class I-A stations on 670, 720, 780, and 890 kc are located in Chicago and, while they are, of course, west of the group just discussed, they still offer useful opportunity for assignment of unlimited time stations in the far West. Several western states will meet spacing requirements and, additionally, the useful skywave service provided by the Chicago I-A stations is confined to the region of the Great Lakes which insures a minimum impact by the new co-channel unlimited time Class II stations to their skywave service. An added consideration in selecting the Chicago I-A frequencies for duplication is the limited potential which they have for improving skywave service in areas which need it. Adjacent channel Class I operations in New York would limit radiation to the east and requirements of protection to stations in Cuba and Mexico would limit radiation to the south. Their potential for improving skywave service to the west, moreover, is not so great as that of the Class I-A channels on which we are presently retaining the status quo.

38. We have already discussed 1120 kc. The special considerations concerning 750 and 760 kc are treated separately in subsequent paragraphs of this Report and Order.

39. Our decision to permit nighttime sharing of 13 of the Class I-A clear channels could be implemented in several ways. If we were to follow the practice heretofore established in assigning new standard broadcast stations, applications meeting announced interference criteria and other technical standards would be accepted and processed without confining such applications to designated areas. This would not be practicable here. The acceptability of any location proposed for new unlimited stations on clear channels depends not only upon requisite protection to existing stations but also upon avoidance of undue interference among the new stations so assigned. This means that if we followed the general basis for standard broadcast station assignments we could expect to receive considerable numbers of mutually exclusive applications which conflict either because they propose mutually inconsistent uses of the same frequency or because they propose conflicts as to acceptable locations of new adjacent channel assignments on Channels 10, 20, and 30 kilocycles removed from the channel applied for. For these reasons the hitherto customary approach to new station assignments could be expected to require numerous complicated and interrelated hearings which would be vastly and unnecessarily time consuming.

40. Much of this impediment and delay can be avoided by the system we here adopt—of designating the particular state or states within which each of the I-A channels to be duplicated will be available for an additional unlimited time station. The states so designated have been selected with a view to making the most fair, equitable and efficient use of the frequency taking into account limitations imposed by the need to protect existing co-channel and adjacent channel stations, the areas of greatest need for additional nighttime primary service and the avoidance of undue mutual interference among the new stations themselves. Due regard has additionally been given requisite protection to stations in neighboring countries.

41. In the interests of fulfilling to the greatest possible extent the prime objective of the new unlimited time stations on the Class I-A clear channels -- i.e. to create new primary services in white areas -- we propose, as detailed below, to give preference to those applications which most fully serve this objective; and we will not consider any application for a new unlimited time station on one of the Class I-A channels unless it meets a specified minimum criterion for new primary service to white areas.

42. For the foregoing reasons we reject proposals that we fix by rule the specific communities in which these frequencies may be so used. It would not be possible to anticipate, in advance of the filing of specific station assignments, the finite circumstances of principal city and radiation pattern which could best serve the objective of clear channel duplication. We leave this for decision on the basis of applications to be submitted in accordance with the rules herein adopted.

43. As to the suggestion that more than one unlimited time Class II station be authorized on the same Class I-A channel, we deem it preferable at this time to permit only one unlimited time Class II station on the channels selected for such use. After we have the benefit of the manner in which the new unlimited time Class II stations are utilized, and details of actual performance, interference, etc. become available, we will be in a position to determine whether the public interest warrants assignment of additional unlimited time facilities on these channels, and, if so, to determine under what conditions they should be permitted. We are convinced, however, that such a decision should await further developments and that extension of the plan adopted herein to include such multiple use is not warranted at this time.²

44. The record also reveals that many of the comments requesting Class II facilities come from parties seeking to improve their existing service—which is all too often in the areas of concentrated population where little "white area" would be served. We have emphasized our aim of securing standard broadcast radio service to those areas which lack nighttime primary service. The standards we adopt herein are directed toward the achievement of that end and represent our considered judgment of the best way to fill these gaps in service at this time. In considering applications for Class II facilities on these clear channels we shall look closely at the applicants' plans for serving such "white area". The extent to which the facilities thus made available are ultimately utilized is, and necessarily so under our free competitive system, dependent upon the business judgment of prospective applicants and licensees. The fact that the theoretical optimum of service is unlikely of practical attainment due to such considerations as population distribution does not preclude our adopting a solution which more nearly achieves the objectives of broadcasting in the standard band than does the present utilization of Class I-A clear channels at night by only one station. The net result of the action we take today is to open the way for additional nighttime primary service to the public, especially in those areas where such service is needed, while at the same time holding to a minimum any loss of existing service to the listening public.

5/ In this connection, Argonaut Broadcasting Company, Standard Broadcasting Company, and Seattle, Portland and Spokane Radio filed a joint petition for acceptance of supplemental comments on July 7, 1961, seeking consideration of multiple nighttime use of the channels on which they operate limited time stations. The comments were filed more than one year after the record in the proceeding had been closed. Moreover, they came after public announcement of instructions by the Commission to its staff. The orderly processes of rule making required that petitions so filed be denied. In any event, as noted in the text, it has been decided that multiple use (i.e. nighttime sharing of the frequency by more than the Class I and a single Class II station) is not warranted at this time but should await further developments. The petition for acceptance of late comments filed by John Poole Broadcasting Co., Inc. is also denied. That petition was also filed more than a year late and is an attempted reargument of matters already presented in timely comments and considered by the Commission. Several oppositions were filed to each petition.

45. Moreover, it is expected that, upon final resolution of this proceeding, applications may be forthcoming from parties who have not commented in this proceeding and that additional sites within the states selected, will be proposed. We can in a comparative hearing consider, inter alia, the white area population expected to be served under the various proposals. Indeed, prospective applicants should be aware that we intend, absent decisive countervailing circumstances, that as between fully qualified applicants complying with all our Rules, the one who will serve the largest white area population will receive the grant. Parties are thus forewarned that white area population served rather than total population served is of prime importance herein. We can foresee at this time only one kind of circumstance in which it may be anticipated that the grant should not necessarily go to the qualified competing applicant proposing the first primary service to the largest number of people. Under Section 3.182(g) of the rules, primary service is not considered to exist in towns with a population from 2,500 to 10,000 if available groundwave service has a field intensity of less than 2 mv/m. It is possible that one applicant for an unlimited time Class II station may be in a position to show that he would provide a first nighttime primary service to more people than a competing applicant, in reliance upon his provision of groundwave service with a field intensity of 2 mv/m or better to persons living near enough to an existing unlimited time station, so that they now receive service of 0.5 mv/m or better, although less than 2 mv/m. Some usable groundwave signals, although not of the standard contemplated in Section 3.182(g), are thus available to persons so situated. A competing applicant, on the other hand, may be in a position to demonstrate that he proposes a first groundwave service to a larger number of people who do not now have an 0.5 mv/m groundwave signal or better available to them. Considering the objectives of our rule changes herein, it would be appropriate, in reaching our decision in such case, to take this circumstance into account and not necessarily to grant perfunctorily an application which reflects a first primary service to the largest number of people by virtue of including in the count persons who, although they do not receive the 2 mv/m signal prescribed in Section 3.182(g), are nevertheless able to receive a signal of at least 0.5 mv/m.

Standards Governing New Station Assignments

46. In light of the fundamental concepts which we have enunciated above — and considering that the I-A channels are those which must be primarily looked to for the improvement of overall standard broadcast service — we adopt the following allocation standards, looking toward the assignment of unlimited-time stations herein classified as II-A stations. The Class I stations now licensed to operate exclusively in the United States on these channels, listed in the Table in Section 3.22 of the Commission's Rules, will continue to operate with 50 kilowatts of power but will share operation on the channel with one newly licensed station located in the designated area. These additional assignments are those which, from a careful analysis of the entire allocation picture, we have determined will go furthest toward achievement of our objective, provided they meet certain standards as to power and service to "white areas". The applicable standards are:

(1) The application must be for assignment to a community within the state or states specified in the Table in new Section 3.22 of the Rules.

(2) The application must be for unlimited time operation with no less than 10 kw nighttime power. A few parties have suggested that lower power should be considered. Minimum power as herein specified is necessary if a substantial amount of badly needed nighttime primary service is to be provided and we affirm our earlier judgment in this respect. While it is anticipated that these stations would also operate ordinarily with at least 10 kw power daytime, in some cases requirements of protecting existing nearby daytime stations may require that the new station operate with lower power daytime, and accordingly, to provide more flexibility with respect to the new assignments, we do not impose such minimum requirement as to daytime power.

(3) At least 25% of the area or 25% of the population within the station's nighttime interference-free service contour must not receive nighttime interference-free primary service from any other station.

Applications not meeting all of these standards will not be in compliance with our Rules and will not be accepted, but will, if tendered, be returned.

47. Additionally, the new Class II-A stations will be required to observe the following protection requirements:

(1) Daytime protection standards for existing Class I-A stations will be as prescribed in the present rules.

(2) Nighttime standards will require that the existing Class I-A station normally be protected to its 0.5 mv/m, 50% skywave field strength contour.^{6/} The location of this contour will be determined in accordance with procedures specified in the present rules for Class I-B stations and the 10% skywave signal from an interfering station on the same channel shall normally not exceed 25 uv/m at this contour.

(3) In addition to providing protection to the existing Class I-A stations, the new Class II-A stations will be required to afford protection to existing stations of other classes, as prescribed for Class II stations in accordance with present rules, except to facilities granted after October 30, 1961.

Determination of service and interference with respect to Class I-A Stations

48. In order to implement the assignment plan and to insure that the Class II-A stations provide needed service while imposing a minimum impact on the service of the existing Class I-A stations, the Commission, in its "Second Supplement to the Third Notice" released February 19, 1960, sought comments concerning proposed engineering standards for the limitation of nighttime co-channel interference to Class I-A stations. Almost without exception, the comments and engineering statements which have been submitted proposed adoption of standards which are based either on the definitions of service given in Exhibit 109 of this proceeding or on the present Commission Rules relating to operation of stations on Class I-B frequencies.

49. The Commission has previously recognized Exhibit 109 as "the most comprehensive and realistic tool yet devised for evaluation of standard broadcast service" (emphasis added). A number of comments noted however, and we agree, that adoption of standards based upon definitions of service given in this Exhibit would not lend themselves to convenient administration. We are disposed to assign considerable weight to the requirement that standards be susceptible of practical administration, in order to facilitate implementation of the allocation plan we adopt with minimum procedural delays. Observing this criterion, and giving due consideration to all comments filed, we have determined that the new assignments on Class I-A channels provided for herein shall be based on somewhat simpler concepts along the lines presently embodied in our Rules -- i.e., protection of the Class I-A stations normally to their 0.5 mv/m 50% skywave contours. However, location of 50% and 10% time skywave contours will be determined by a method slightly different from that now used on clear channels--i.e., by use of skywave curves contained in a new Figure 1a of Section 3.190, which are the same as those contained in Appendix E to Annex 2 of NARBA; and, as to pertinent angle of departure, use of present Figure 6a of Section 3.190, which is now used for frequencies other than clear channels (as to which Figure 6 is used), and which is the same in pertinent part as Appendix F to Annex 2 of NARBA. The location of the 50% time contour will be determined by the use of Curve number one of Figure 6a, with the title of that figure modified accordingly. For the time being, assignments on Class I-B channels

^{6/} We recognize the importance of clear channel service to national defense communications and in emergencies, and find substantial support in the comments to the effect that if there is to be duplication the existing Class I-A stations should be protected to their 0.5 mv/m 50% skywave contour.

will continue to be based on Figure 1 and Figure 6 of that section. 6a/

50. Use of the new Figure 1a and Figure 6a, the NARBA curves, instead of present Figures 1 and 6, has several advantages. First, it makes more uniform the treatment of applications from a domestic and from an international standpoint. Second, as a step toward elimination of Figures 1 and 6, it works toward simplifying the Commission's rules by providing for only two standards instead of the present three. Third, use of the NARBA skywave curves and the more refined Figure 6a, angle of departure curves, will give somewhat more realistic results in terms of extent of service, interference, and protection. Fourth, the computation process involved in using new Figure 1a and Figure 6a is somewhat simpler. Lastly, use of these figures -- especially 6a instead of 6 -- will result in more complete protection of the I-A station to its 0.5 mv/m 50% sky-wave contour, the desired objective. We have also considered the use of the latitude-corrected curves contained in Figure 2 of Section 3.190, which are the same as the 10% time curve contained in Exhibit 109; but we conclude that the considerations of simplicity mentioned above make preferable the use of the standards adopted here.

Service to nighttime "white areas"

51. We have set forth above a minimum standard which the proposed new Class II-A assignments must meet in order to be entitled to consideration under our new rules -- that at least 25% of the area or population within its nighttime interference-free service contour must not now receive any nighttime interference-free primary service from another station. We adopt this minimum criterion because obviously a proposed operation which would not add this much service to present "white" areas would not greatly serve to fulfill our objective, and at the same time would probably, if not certainly, block a later operation which would be of more value in this connection. We believe that prospective applicants in each case can and should be expected to pick locations and design operations which will meet this criterion.

Application Processing

Applications for Class II-A assignments will not be placed in our normal processing line, but will be processed immediately. This is necessary if our objective, which these are the chief and first means of fulfilling, is to be attained with reasonable promptness. We disfavor exceptional priorities in license processing except where the most compelling circumstances call for them. It is unquestionable, in our considered judgment, that the public interest in improved and increased AM broadcast services will be far better served by proceeding with the least possible delay to deal with Class II-A assignments, than by requiring them to wait until many hundreds of more routine applications which were previously filed have first been disposed of.

6a/ Because of the large distances involved between co-channel stations, the use of the frequencies 660 kc (New York City and Fairbanks, Alaska) and 770 kc (New York City and Albuquerque) will not be affected by the substitution of Figures 1a and 6a for Figures 1 and 6. This is primarily because at the distances between one station and the 0.5 mv/m 50% skywave contour of the other (more than 1400 miles) the pertinent angle of departure is virtually zero under either Figure 6 or Figure 6a.

53. We will, however, allow a period of 90 days after the effective date of the rule amendments herein for the filing of applications for Class II-A stations before acting upon any of them, in order to afford reasonable opportunity for the submission of other applications which may more effectively serve the major objective of reducing nighttime white areas. Where more than one application for an assignment provided for herein is filed, a comparative hearing will, of course, be required.

Prohibition of new daytime assignments on Class I-A channels

54. For a number of years, we have been concerned with the crowding, and indeed over-crowding, of the daytime standard broadcast spectrum, which has not brought a corresponding gain in service. Not only has such intensive crowding of stations into the spectrum not brought the amount of needed additional service which had been hoped for, but it has been argued that economic limitations on programming for very limited audiences in very small interference-free service areas have prevented individual stations from rendering the quality of broadcast service which they might otherwise provide. It is the I-A channels to which we must look primarily for achievement of our overall allocations objectives. Therefore, for these and related reasons, we have concluded that the I-A channels should not be opened for the assignment of stations on the same uncontrolled basis prevailing in the AM service generally, where each application is considered separately except with respect to conflicting applications or objectionable interference to specific existing stations. Further assignments on the I-A channels should be made in accordance with an overall plan which will achieve our various objectives, including provision of maximum service to underserved areas, provision of local outlets for the maximum number of communities, and others.

55. We have achieved such plan with respect to the making of the Class II assignments provided for herein. After the specific location and facilities of the Class II stations have become established, the way would be open for consideration, in subsequent rule making proceedings, of any further proposals which may be submitted for additional unlimited-time Class II assignments on the Class I-A channels in question. As in the case of the Class II-A assignments for which we now provide, any such rule making proposals would be examined in the light of the prime objective of further reducing nighttime white areas while at the same time affording due protection to the co-channel Class I-A station.

56. In the circumstances we are amending the rules to remove provision for new daytime stations on the 25 Class I-A clear channels. Pending applications therefor will be dismissed. It is evident that

the assignment of new daytime stations on the Class I-A channels could in many instances frustrate the future optimum use of these channels for additional unlimited-time stations. Considering the potential reach of co-channel interference, the making of numerous daytime assignments on these channels could seriously impair the value of the new Class II-A assignments through extensive daytime interference to the new Class II-A station and by imposing protection requirements which the new Class II-A station would have to meet. Moreover, new daytime stations on the 12 Class I-A channels now held in status quo could hinder or obstruct whatever further use of the channels -- higher power and/or additional unlimited-time assignments -- may later be found appropriate in furtherance of our objective of improved overall radio service.

Adjacent Channels

57. Our Rules take into account objectionable groundwave interference not only between co-channel stations but also between stations 10 kc and 20 kc removed. As to skywave interference the Rules (Section 3.182) take into account objectionable skywave-to-groundwave interference co-channel and between stations 10 kc removed. 7/ The Rules (Section 3.37) also provide that two stations will not be authorized 10 or 20 kc removed when the 2 mv/m groundwave contour of one would overlap the 25 mv/m contour of the other, or 30 kc removed where the 25 mv/m groundwave contours would overlap.

58. Aside from some of the Class I-A channels themselves (as to which, since there will for the time being be no further applications other than those specifically provided for herein, no further consideration need be given in this connection), there are a total of 33 frequencies which are located adjacent to -- i.e., within 30 kc of -- one or more Class I-A channels. These include 14 I-B channels (other than 1030 kc, herein reclassified as I-A), 10 channels on which Canada or Mexico has priority for Class I-A use, 7 regional channels, and the two local channels 1230 and 1240 kc. In our judgment, it is obvious that we should not proceed to grant applications for these frequencies where the operation proposed would have a substantial impact on future optimum use of the Class I-A channels, either the specific use provided herein for 13 of them, or possible future uses of the other 12 which are to be the subject of continuing study.

7/ Objectionable interference exists where the ratio between desired and undesired groundwave signals is less than: (1) co-channel, 20 to one; (2) 10 kc apart, one to one; (3) 20 kc apart, one to 30 (Section 3.182(w)). Adjacent channel (10 kc removed) skywave-groundwave interference exists where the ratio is less than one to five. The rules also recognize adjacent channel (10 kc removed) groundwave-to-skywave interference; but since only Class I stations are generally regarded as rendering skywave service, this problem does not arise here.

59. The problem of protecting against such adverse impact from adjacent channel operations has two parts:

(1) protection of the new unlimited time Class II assignments on 13 Class I-A channels from new or changed operations on adjacent channels which would thwart such new Class II assignments or jeopardize their value because of interference caused or received, or involve prohibited contour overlap;

(2) protection of the future use to be decided upon for the remaining 12 Class I-A channels upon which the status quo is retained for the present.

Different kinds of restrictions are necessary with respect to frequencies adjacent to the two groups of Class I-A channels involved in (1) and (2) above. Since some frequencies are adjacent to Class I-A channels in both groups, it will be necessary (with the exceptions noted below) to impose both kinds of restrictions as to the adjacent frequencies so situated.

Protection with respect to New Class II Unlimited Time Stations

60. The frequencies which are adjacent to the Class I-A channels on which we now permit new Class II unlimited time assignments are:

680, 690, 710, 730, 740, 790, 800, 810, 850, 860, 900,
910, 920, 990, 1000, 1010, 1050, 1060, 1070, 1080, 1090,
1110, 1130, 1140, 1150, 1170, 1190, 1220, 1230 and 1240 kc.

We find that in order to avoid undue risk of mutual interference or prohibited overlap between stations on these frequencies and the new unlimited time Class II stations, which would seriously impair the value of the latter, it will be necessary to process applications on the above-listed frequencies in accordance with the provisions of paragraph (a) of the appended revision of Section 1.351 of the rules. When it appears that the adjacent channel facilities requested would involve undue risk of objectionable daytime or nighttime interference to, prohibitive daytime or nighttime interference from, or prohibited overlap with, a possible Class II assignment as provided herein, the possibly conflicting application will not be granted but will be held pending until the location of the new Class II station and its mode of operation are determined. If a hearing on the possibly conflicting application is in progress or is ordered for other reasons, the hearing will include an issue as to effect to or from the new Class II assignment. When the location and facilities of the new Class II station are determined, the other application will be: (1) granted (or otherwise acted upon independently of the new Class II assignment), if it appears that interference or overlap conditions as mentioned would not exist; or (2) designated for hearing, where it appears that such conditions would exist. The hearing will not be comparative, but will be upon the issue of whether, with the Class II station operating as proposed, grant of the other application would serve the public interest, taking into account the extent of interference or overlap between the two operations.

61. In giving the foregoing priority to Class II assignments over conflicting assignments on adjacent channels we depart from long established bases for comparative consideration in such cases. We do so with full awareness of the requirements under Section 307(b) of the Communications Act for fair, efficient and equitable distribution of radio facilities. After the most painstaking consideration we conclude that, in view of the paramount importance of enabling the new Class II-A stations to achieve -- to the greatest extent possible -- the primary objective of reducing nighttime white areas, for which Class I-A frequencies are best suited, it could only frustrate the effective implementation of Section 307(b) and invoke wasteful hearing processes to no useful end, to apply here the long established route of the comparative routines which have hitherto been generally followed. In our judgment, the public interest will be much better served by giving the Class II-A stations the protection discussed above. Such action, although not conforming with past routines, is not unprecedented. It is basically similar to the precedence given Class I-A assignments over conflicting applications in the interest of service to areas which it is impracticable to reach with other classes of stations. Similar precedence in the case of the Anchorage and San Diego assignments is required in order to effectuate adjustments necessary to meet this nation's international obligations.

62. It is apparent from the foregoing that we do not contemplate grant of any applications for facilities which would prevent making the new unlimited time Class II assignments established herein, or which could not co-exist with them. It is possible, however, that some assignments on adjacent frequencies may receive interference from these subsequently authorized Class II stations. Therefore, in order to provide the greatest opportunity for these new Class II assignments in furtherance of our objectives, and in order that, where appropriate, such assignments may be implemented without the cumbersome and time-consuming adjudicatory processes often involved in new AM assignments, we will impose, as a condition on any grant of an application for new or changed facilities on one of the frequencies listed in paragraph 60, the condition that the grant is subject to whatever objectionable interference may be received from any of the new Class II unlimited time stations provided for herein. Our rules are amended so as to provide that all grants involved are so subject, and every authorization on any of the indicated frequencies will carry this condition.

Protection with respect to Class I-A channels left in status quo

63. The following frequencies are adjacent to the 12 Class I-A channels which for the time being we leave in status quo:

610, 620, 630, 680, 690, 710, 730, 790, 800, 810, 850,
860, 900, 1010, 1050, 1060, 1070, 1130, 1140, 1150,
1170, 1190 and 1220 kc.

We find that in order to avoid undue risk of frustrating future improvements to service on the 12 Class I-A channels now left in status quo (whether by possible future authorization of higher power, by possible future Class II unlimited time assignments, or by possible combinations of these techniques) it is necessary to apply to applications on the above listed adjacent frequencies the restrictions set out in paragraphs (b) and (c) of Section 1.351, as herein amended. We have omitted from the foregoing list two frequencies (740 kc and 1230 kc) notwithstanding the fact that, like those listed, they also are adjacent to Class I-A channels now held in status quo. 8/

64. The restrictions we impose on the adjacent frequencies listed in paragraph 63 will be maintained until September 1, 1964, by which time it is expected that we will be able to decide the future use of the 12 Class I-A channels now left in status quo. Should earlier decision be reached, it will be possible to shorten this period. In the interim we deem it necessary to defer the processing of all applications for new facilities on the listed frequencies, or for the change of existing stations to these frequencies. Only by this means is it possible to safeguard effectively against the assignment of new stations which could obstruct the possibilities for meaningful improvement of service by whichever of the techniques it may be found best to employ in improving service on the Class I-A channels now left in status quo. Additionally, as provided in the appended amendment to Section 1.351, we will examine requests for modifications of outstanding authorizations on the frequencies listed in paragraph 63, with a view to insuring that those which propose increases of power, or which seek authorization to operate existing stations during nighttime hours not now authorized, will not prejudice the effectuation of service improvements on the 12 reserved Class I-A channels. Action will be deferred until September 1, 1964, on applications which we find would jeopardize such improvements.

65. It is because of the relative degree of possible impact that, in the restrictions summarized in paragraph 64, we have made a distinction between applications for new facilities and those for certain major changes. The effect of a change in facilities (without change of frequency) is more predictable in terms of possible impact on adjacent Class I-A channels, if for no other reason than that the station whose

8/ Despite these adjacencies, it is not appropriate to subject 740 kc and 1230 kc to the same restrictions which are applied to the other frequencies listed in this paragraph. 740 kc is adjacent to 770 kc. The limits of future use of 770 kc are sufficiently defined by previous Commission decisions as to establish the degree of protection required to be provided to stations assigned to this channel. The special circumstances pertinent to 1230 kc are noted below in paragraph 67.

facilities are to be changed is already in existence, radiating and entitled to protection, and therefore -- whatever may ultimately be determined as the optimum use for the Class I-A channel -- the inhibiting effect on such use from the proposed change in facilities will often be inconsequential. In the case of a new station, on the other hand, the facilities would represent, almost by definition, a substantial new factor on the frequency which would have to be reckoned with in deciding the ultimate use of the adjacent Class I-A channel. This is true both because of the interference potential of the new operation, involving radiation in an area of the country where usually it did not exist before on that frequency, and because the new operation would be entitled to some degree of protection and would thus impose a limitation on use of the adjacent I-A channel in that area. Thus, until final decisions are reached as to the future uses of these Class I-A channels, any new station on an adjacent channel is quite likely to have a damaging adverse impact. We must, therefore, defer action on all such applications for the three-year period mentioned, i.e., until September 1, 1964, unless appropriate over-all decisions can be made earlier.

Protection with respect to adjacent Class IV channels

66. We recognize the need for exceptional treatment of 1230 kc and 1240 kc, which are Class IV channels. Both are adjacent to 1210 kc on which a new Class II-A station is proposed. Under separate rule amendments previously adopted the Commission has increased the daytime maximum power of Class IV stations from 250 watts to 1 kilowatt. There is strong reason for keeping the way open to the prompt processing of applications for such daytime power increases, in order that, insofar as possible, Class IV stations still operating with less than 1 kw daytime may have the opportunity to offset the interference effects of power increases by other Class IV stations. Since the power increase is confined to daytime hours, since there is a maximum limit of 1 kilowatt, and further, in view of the fact that the adjacencies here involved are 20 and 30 kc removed from the pertinent Class I-A channel, the regular processing and grant of these applications may not be expected to interfere unduly with the assignment of a Class II-A station on 1210 kc. Applications on 1230 and 1240 kc other than for daytime power increase will be considered in the light of possible impact on the Class II-A assignment, as provided in the revised Section 1.351 of the rules.

67. For similar reasons, we refrain from imposing further restrictions on the use of 1230 kc, notwithstanding the fact that it is additionally adjacent to 1200 kc, one of the Class I-A channels on which we now preserve the status quo. Owing to the remoteness of the adjacency involved (30 kc removed), and the limitations otherwise imposed by our rules on the use of Class IV frequencies, we find that no useful purpose would be served by barring new Class IV assignments on 1230 kc, or by otherwise limiting the use of this channel.

Resultant Revision of Freeze Rule

68. Hitherto, under a blanket freeze imposed by Section 1.351 of the rules, the processing of all applications of designated types on all Class I-B channels within 30 kc of Class I-A channels has been deferred. Under Section 1.351 as herein amended, the processing of applications on frequencies adjacent to the Class I-A channels will, with one exception, no longer be deferred. Instead, (with the one exception of applications for new stations on designated adjacent frequencies) processing of applications will proceed in the normal course. Only where it is determined that the grant of an application would jeopardize improvement of service on Class I-A channels as contemplated herein will we defer action on the adjacent channel application until further developments make it possible to evaluate the matter definitively.

69. While we thus moderate the former freeze, we at the same time have found it necessary, for reasons already stated in some detail, to extend to additional adjacent frequencies the remaining restrictions applied to preserve due latitude in making the most fair, efficient and equitable possible use of the Class I-A channels. Specifically, we now bring within the purview of the amended Section 1.351 frequencies which, like those formerly included, are within 10, 20 or 30 kc of a Class I-A channel. Although the rule had formerly applied only to Class I-B channels so situated, it has frequently been pointed out that, so limited, the rule hazarded damaging assignments on other classes of similarly adjacent channels. Since the only "freeze" (i.e., deferrment of application processing) now retained has been narrowed to new assignments on channels adjacent to 12 of the Class I-A channels, Section 1.351, as amended to include additional adjacent channels, will have less restrictive effect than if these channels had been so included when the "freeze" provisions applied to frequencies adjacent to all of the Class I-A channels. The fact that, animated by the desire to restrict the freeze, we formerly confined it to adjacent Class I-B channels, did result in assignments on similarly adjacent frequencies of other classes which to an extent have hampered and limited our efforts to make optimum use of the Class I-A channels on which we have found it desirable to permit new unlimited time Class II stations. This experience has demonstrated that continued omission of some adjacent frequencies from the restrictions imposed under Section 1.351 is bound to create progressively serious jeopardy to the realization of the vital and basic objectives of the best utilization of the Class I-A clear channels. We thus have found it imperative to adjust section 1.351 in the manner described above. We do so with regret that it will create some delays, and only after reaching the considered judgment that, taking all pertinent factors into account, the public interest will be best served by the course here adopted.

Some Specific Problems

70. A few specific problems and areas of comment should be noted at this point. As we noted in our Third Notice, the operations of KFAR, Fairbanks, Alaska, on 660 kc and of KOB, Albuquerque, New Mexico, on 770 kc, have caused us to conclude that no additional assignments on these two channels are warranted at this time.

71. One specific proposal for use of 770 kc was received but it was a proposal for multiple use of the frequency. We have already denied requests for multiple use at this time. Meredith Engineering Co., National Weekly, Inc., and Sky Broadcasting Service all sought multiple use of 660 kc in various diverse locations.

72. One other related proposal is the suggestion by WJR, The Goodwill Station, Inc., Detroit, the I-A station on 760 kc, that the use of 760 kc by KGU, Honolulu, Hawaii, should be considered as the duplication of that frequency and no further assignments made thereon. We cannot agree. In the case of 660 kc, we have recognized that because of the paucity of radio facilities operating in Alaska, it would be inadvisable to permit the same amount of interference to reach that area as we do in the remaining states where some 3400 radio stations are in operation. Alaska, with its vast remote area, is highly dependent upon its radio services. KFAR can serve most of Alaska, which obviously does not receive services from other states, but could not do so if we authorized another station on 660 kc somewhere in the Southwest. We are motivated in this regard by the need for protection against the potential interference which would be caused to the Alaska station by a new Class II station so located that it would protect the dominant station and also comply with restrictions caused by operation of a co-channel station in Cuba. There is no similar need to protect 760 kc in Honolulu, several thousand miles from the mainland. Moreover, it is WJR, the I-A station on the frequency, which makes the suggestion -- and not KGU. WJR, along with all other Class I-A stations, will be protected to its 0.5 mv/m 50% skywave contour.

640 kc and 830 kc

73. While neither 640 kc, on which KFI operates as the I-A station at Los Angeles, nor 830 kc, on which WCCO operates as the I-A station at Minneapolis, is authorized for use by a Class II-A station, both of these frequencies should be given special attention here because of pending hearings which involve the question of additional use of those frequencies.

74. On 640 kc, Station WOI, Ames, Iowa (which is regularly licensed to operate on this frequency daytime with 5 kw non-directionally), operates with 1 kw power from 6:00 a.m. (C.S.T.) to sunrise at Ames, which is during nighttime hours when sunrise is later than 6:00. Notwithstanding the fact that this operation does not meet the conditions of Section 3.78 of the Rules concerning pre-sunrise operation of daytime stations on clear channels, the Commission has, since 1944, authorized such

pre-sunrise operations by WOI under a series of Special Service Authorizations (and more recently under other temporary authority), a type of authorization employed in exceptional circumstances to permit uses of AM frequencies for which provision is not made in the general rules. There is currently pending an adjudicatory proceeding, Docket No. 11290, in which there is at issue the basic question of whether the public interest would be served by continuing to authorize WOI's pre-sunrise operation.

75. Since 1943, WNYC, a municipally owned and operated station at New York City, has been permitted under a series of temporary authorizations to operate on 830 kc during certain nighttime hours: 6:00 a.m. (E.S.T.) to local sunrise and from sunset at Minneapolis to 10:00 p.m. (E.S.T.), with power of 1 kw. (WNYC's regularly licensed limited time operation on 830 kc is at 1 kw power, with a different directional antenna). Notwithstanding the directional antenna employed, WNYC's operation during nighttime hours causes interference within the secondary service area of WCCO at Minneapolis. In a pending adjudicatory proceeding (Docket No. 11227) consideration is being given to the question of whether, balancing the interference caused to WCCO against the service WNYC renders during nighttime hours, the public interest would be served by continuing to permit WNYC's nighttime operation, for which no provision is made in the AM rules governing the use of Class I-A frequencies.

76. We do not here decide upon or prejudice the decision in those adjudicatory proceedings. In one pertinent respect, however, it is appropriate to take action in this proceeding by way of amending the clear channel rules to establish the basis for the regular licensing of WOI's pre-sunrise operations and WNYC's nighttime operations so that in the event it is decided in the adjudicatory proceedings that such operations are in the public interest the way will be clear procedurally for applications to be filed for such operations on a regular basis.

750 kc and 760 kc

77. In two instances we have provided for a solution to special problems arising by virtue of the entry into force of the United States-Mexican Broadcasting Agreement, by allocating 750 kc to Anchorage, Alaska for use by station KFQD and 760 kc to San Diego, California for use by station KFMB.

78. The Agreement between the United States of America and the United Mexican States Concerning Broadcasting in the Standard Broadcast Band signed in January, 1957, gives Mexico a Class I-A priority on 540 kc and thus precludes its continued use at San Diego. While discontinuance of this particular use of 540 kc in the United States is offset by advantages deriving from the provisions of the Agreement for reciprocal protection on all AM broadcast frequencies, the problem remains of finding a suitable frequency on which the service heretofore provided by KFMB at San Diego may continue to be rendered to that community and adjacent areas. It is appropriate that use be made of the relatively uncluttered spectrum

space still open on the Class I-A clear channels, and that provision be made in this proceeding -- which embraces the allocation questions pertaining to all Class I-A frequencies -- for a substituted assignment to San Diego. A painstakingly careful review of all the availabilities persuades us that 760 kc is the preferable choice, taking into account requirements of protection to Mexican stations on other Class I-A channels, the availabilities of some other Class I-A clear channels for new Class II-A stations at other places in the United States, domestic and Canadian co-channel and adjacent channel limitations on the allocation of individual Class I-A clear channels, and related considerations. We accordingly herein assign 760 kc for use for a Class II unlimited time operation at San Diego. Exceptionally, in this instance, we confine the assignment to a specific city instead of making it available generally throughout one or more states in conformity with the general pattern of clear channel reallocations adopted herein.

79. In reaching this decision, we have given consideration to all comments relating to KFMB's request for shift to 760 kc or other frequency, and to possible alternative solutions. These include comments by Stations KFSD, San Diego, WJR, Detroit and other comments bearing on this problem. We note the interest of KFSD, a station operating at San Diego on 600 kc, in shifting to a Class I-A frequency if any should be made available. Parties interested in securing a Class II-A operation in California may apply for 1120 kc which is herein made available for application in California or Oregon. The interests of any other parties in the use of 760 kc at San Diego can, of course, be considered in connection with renewal of KFMB's license on that frequency. We are not, however, using 760 kc to solve the main issues of the clear channel proceeding but for this special limited purpose. Therefore, it will not be available under the criteria governing Class II-A stations but will be authorized to operate with 5 kw of power, the power presently used by KFMB on 540 kc. Finally, we recognize that an authorization under this rule will require waiver of Section 3.37 of our rules because of a 2 mv/m and 25 mv/m overlap with Station KBIG, Avalon, California (740 kc).

80. In like manner, we are reserving 750 kc, herein assigned to Alaska, for use at Anchorage by KFQD, which must vacate 730 kc under the terms of the Mexican Agreement. This special need results in the use of 750 kc in Alaska, rather than in Arizona as proposed by the Third Notice. Moreover, our careful search has disclosed no other frequency which, under the general allocation plan we adopt, could be allocated to Arizona. However, the comments received under the Third Notice show that 750 kc would have been "unworkable" in Arizona in any event. Use of 750 kc in Arizona is undesirable because it would present serious adjacent channel problems and the assignment could not be used in wide areas of the state. The necessity of avoiding interference to KUEQ (740 kc, Phoenix), coupled with its central location in Arizona, constitutes a formidable bar to the flexible use of the frequency within the state. Other substantially limiting factors to such assignment would be the necessity of protecting co-channel

Station KMMJ, Grand Island, Nebraska, and an adjacent channel station (740 kc) at Cortez, Colorado. These stations would probably forever limit an Arizona station on 750 kc to a power of 10 kw and would seriously restrict its location. We note, in passing, that no specific proposals were received requesting 750 kc for Arizona. We have given the parties comments and proposals careful consideration and agree that 750 kc is not a desirable assignment for Arizona. Because of the special use made of 750 kc, it will not be governed by the criteria applying to Class II-A stations. Its use at Anchorage will be limited to 10 kw, the power presently used by Station KFQD on 730 kc.

81. We note with respect to both the Anchorage and San Diego assignments made herein on 750 kc and 760 kc, that neither serves the primary objective of the clear channel reallocations adopted in the appended rule amendments: i.e., the provision of primary service to white areas. Were it not for the special and compelling circumstances which justify the exceptional use of these frequencies as herein provided for, we would have preferred to allocate them for stations which would provide a first primary service in white areas. We nevertheless conclude, after a painstaking balancing of all pertinent considerations, that it is appropriate and desirable to make the exceptional provisions for 750 kc and 760 kc which we here adopt. As to both, we impose a requirement that they protect the 0.5 mv/m 50% skywave contour of the Class I-A station operating on the same channel. In addition, they will, of course, be required to meet the daytime protection standards presently contained in the Rules.

KOB (770 kc)

82. The special circumstances relating to 770 kc and 1030 kc relate largely to the "KOB problem".^{9/} In 1940, as in prior years, Stations WJZ, New York City (now WABC) WBZ, Boston, and KOB, Albuquerque, operated as Class I stations on the clear channels 760 kc, 990 kc, and 1180 kc, respectively, Section 3.25 (a) of our Rules then providing that 760 kc and 990 kc were I-A clear channels, and 1180 kc was a I-B clear channel. Under the reallocations effected in late 1940 and early 1941 to implement the first North American Regional Broadcasting Agreement, all of these stations were required to change frequency. WABC (WJZ) was shifted to 770 kc, and under the rule amendments effective March 29, 1941, that frequency became a I-A clear channel. As part of the overall reallocation (in which many stations were moved to higher frequencies) it was necessary to remove KOB from 1180 kc, and no frequency could be found on which that station could retain its I-B status. Accordingly, WBZ and KOB were both assigned to 1030 kc, WBZ as a Class I-B station and KOB as a Class II station, and began operation on this frequency March 29, 1941. The rule amendments effective the same date made 1030 kc a Class I-B frequency. Because of the limited service KOB could render on 1030 kc, efforts were made to find a frequency on which its service area would be larger. Accordingly, in October, 1941, KOB received a Special Service

^{9/} For a more complete history of this matter, see the Commission's decision in Albuquerque Broadcasting Company, Appendix A, 25 FCC 683, 794; 16 RR 765, 883 affirmed 280 F. 2d 631, 20 R.R. 2001 (1960).

Authorization to operate on 770 kc with 50 kw day and 25 kw night, non-directionally. Since October, 1941, KOB has operated on 770 kc, under a series of SSA's and most recently under temporary authority. 10/

83. Early in 1944 KOB applied for modification of construction permit and license to operate on 770 kc with 50 kw power, unlimited time and non-directionally. It was the hearing proceeding on this application (Dockets 6584 and 6585) which ultimately resulted in our decision of September 1958 (25 FCC 683, 16 RR 765), in the "KOB case". This hearing, after an extensive inquiry into 10 possible modes of operation by KOB (4 on 770 kc and 6 on 1030 kc) resulted in a determination that the public interest would best be served by KOB and WABC both operating on 770 kc as Class I stations, affording each other mutual protection by directionalizing their operations at night. The Commission accordingly amended its Rules to permit assignment of two Class I stations on 770 kc. Of great importance in reaching this conclusion was the fact that KOB would render a much larger nighttime primary service 11/ under this mode than under any other mode, as well as some secondary service, including secondary service to an area in the West which receives only two other secondary service and has no nighttime primary service (See 25 FCC 771-782, 16 RR 859-873). The decision took into account the loss of service from WABC which would be entailed by requiring that station to directionalize (which would occur largely in the East, where service is substantially more abundant); and there was specific comparison of the mode finally selected with operation by KOB as a Class II station protecting WABC's present service. (See 25 FCC 778, 16 RR 866-867). The decision outlined various procedural steps designed to implement this conclusion; KOB, as permitted by the decision filed an amendment to its 770 kc application looking toward the operation decided upon. Pending action on this application, KOB continues to operate on 770 kc under its temporary authority, with 50 kw daytime and 25 kw, directionalized to protect WABC, at night. WABC has consistently opposed KOB's assignment to 770 kc, and in its presently pending application for renewal of license indicated that it does not acquiesce in our conclusion that its nighttime operation should be directionalized to afford KOB mutual Class I protection. Since the rule amendment is phrased in permissive rather than mandatory terms, WABC's renewal application is not technically in conflict with the amended rules. KSTP, Inc., the licensee of KOB, has filed an application for facilities on 770 kc at New York City, directionalized as set forth in our KOB decision, obviously in conflict with WABC's renewal application.

10/ In 1957, pursuant to an Order of the Commission following a mandate of the Court of Appeals for the District of Columbia, KOB's nighttime operation was directionalized so as to substantially protect WABC from objectionable interference within that station's 0.5 mv/m 50% skywave contour, and it presently operates on that basis. However, KOB has continued to be licensed for operation on 1030 kc, presently holding a renewal of license until 1962 on that frequency, even though it does not operate thereon.

11/ Under this mode of operation KOB can provide a nighttime primary service to 156,275 persons who lack any such service from other stations as compared to only 37,483 persons who would be so benefitted if KOB should operate as a Class II station protecting WABC.

84. ABC appealed our decision to the United States Court of Appeals for the District of Columbia, which in May 1960 affirmed the Commission. (American Broadcasting Company v. FCC, 280 F.2d 631 20 R. R. 2001.) However, the Court added:

"At the same time, we do not think that the position of ABC as a network should be permanently prejudiced by forcing it to share a channel if other networks are given full use of clear channels. This inequity, if it exists or is permitted to exist, should be cognizable by the Commission in a proper proceeding brought before it by ABC, even though the assignment of KOB to 770 kc is permitted to continue. In other words, the Commission should seek to provide channel facilities to the ABC network on a basis which is fair and equitable in comparison with other networks. Whether this is to be done by permitting ABC to intervene in the clear channel proceedings now pending, or through some other means, is not for us to say. It may be that ABC can raise its claims in this regard by filing competitive applications when present licensees on other frequencies seek renewal or by seeking modification of existing licenses held by others. Perhaps the Commission will afford, sua sponte, some other procedural remedy. Thus, we do not believe that ABC has been or should be precluded from a hearing on its claim that the public interest requires that the loss of service in the East, which Class I broadcasting from Albuquerque produces, be absorbed by some eastern broadcaster other than WABC. Any failure by the Commission to give due consideration to ABC's claim for treatment comparable to that accorded to other networks, when raised in an appropriate manner, may be brought to the courts for review."

85. In view of the above language of the Court of Appeals and the need for further hearings concerning some or all of the three pending applications mentioned above, it is not appropriate here to determine finally the exact form of operations which will be permitted on the channel 770 kc. However, we have in our deliberations herein reviewed the disposition to be made of all of the clear channels, including that frequency, and certain conclusions as to the "KOB problem" and 770 kc are required and appropriate at this point. These, which are discussed in more detail below, are as follows:

(a) For reasons stated at length in the KOB decision, and in line with our general conclusions reached herein concerning the need for using I-A channels to provide a first nighttime primary service in underserved areas, the public interest requires the establishment of a major unlimited time facility in New Mexico. This is particularly true in the unique "KOB case", where the area once had Class I service and was deprived of it because of the reallocations required in 1941 in connection with the first NARBA.

(b) The frequency 1030 kc, being greatly inferior to 770 kc for such operation for reasons stated in the KOB decision, can no longer be regarded as involved in the "KOB problem", and is available for other use. Its utilization is discussed below.

(c) The frequency 770 kc is the one most suitable and appropriate for such operation by KOB. We did not consider alternative frequencies other than 770 kc and 1030 kc in the KOB proceeding, and we should not and indeed cannot consider them further — e.g., on the basis of an evidentiary record as requested by ABC — either here or in whatever hearings may take place with respect to the 770 kc applications mentioned above.

(d) Whatever may be the ultimate decision as to operation by New York and Albuquerque stations on 770 kc, we conclude with respect to this channel, for the same reasons discussed above with respect to the I-A channels generally, that multiple breakdown thereof, with more than two stations operating at night, is not in the public interest at this time. Therefore pending applications for unlimited time operations by other stations on this frequency will be dismissed.

86. The only one of these points requiring further discussion is the selection of 770 kc as the frequency for the New Mexico unlimited time assignment, without further consideration of other frequencies on the basis of an evidentiary hearing as requested by ABC. This channel was selected in the KOB case as one of two for consideration, because of the historical association of that frequency with the "KOB problem". Of the two channels so studied, 770 was selected as greatly preferable to 1030 kc. The Court of Appeals affirmed our actions in both respects. Upon further examination of all of the channels, we find 770 kc to be the appropriate one for use in New Mexico. It must be borne in mind that the overall allocation scheme adopted herein was carefully worked out, as it had to be, to take into account the numerous problems involved in making the new assignments on the I-A channels — protection of Canadian and Mexican stations, protection of our own co-channel and adjacent channel assignments, placing the new stations far enough from the co-channel Class I-A stations so that the former can render a reasonable amount of service, and avoidance wherever possible of having the new unlimited time stations in adjacent states on channels only 10 kc apart. The assignment of 770 kc for use in New Mexico meets these requirements, and permits the rendition of a large amount of much-needed service in that area. Our decision affirming that assignment is based upon what we deem best for the public with due regard for present and potential service in the standard broadcast medium. Whatever significance considerations relating to "networking" and network competition may have in other contexts — a matter we do not decide here — we cannot conclude that the public interest would be served by attempting to redesign the entire nationwide allocation of frequencies adopted here solely in order to alleviate whatever adverse

situation may confront ABC in these respects. 12/ Consideration of this character, which are subject to frequent change, cannot be of great consequence in deciding wide-ranging, basic, and relatively permanent allocations questions such as those involved here.

87. For these reasons, ABC's request for evidentiary hearing on alternative frequencies for the New Mexico assignment must be denied. Moreover, it would make a complete travesty of our efforts to resolve the many and fundamental clear channel allocation problems, involving hundreds of stations all over the country, if we were to proceed to consider other alternative frequencies on the basis of an evidentiary record. As mentioned above, there is no one single obvious alternative. Even if limited to three as proposed by ABC, such an inquiry would obviously take a vast additional amount of time; and there is no reason why licensees of stations affected by inquiry into these frequencies could not suggest still further alternatives which we would be compelled to consider. While

12/ There is no one other frequency which could be considered as an obvious alternative to 770 kc for Class I use at Albuquerque, even aside from the other disposition of the various I-A channels made herein. Of the three proposed by ABC -- 660, 680, and 1180 kc -- 880 and 1180 kc would not provide as much needed primary service in the Southwest as does 770 kc. As to 660 kc, while this frequency might afford somewhat more of such service in the Southwest, this channel has long been used by Station KFAR, Fairbanks, Alaska, in addition to the Class I-A station at New York City. Such use we have concluded herein to be consistent with our allocation plan. Additional use at Albuquerque would raise slightly the nighttime limit to KFAR in Alaska, and thus prevent that station to some extent from rendering widespread and needed service.

such a proceeding, doubtless of several years' duration, would be going on, not only would resolution of the "KOB problem" be delayed, but we could not proceed finally with any substantial reallocation of clear channels anywhere, because we would not know what frequency would finally be selected for this important use. A blanket "freeze" on a substantial portion of the broadcast spectrum, affecting many applications, would have to be maintained for the same indefinitely long period,

89. Whatever disposition is finally made as to operation on 770 kc, the use of this frequency will harmonize with uses herein made of Class I-A channels for the provision of much needed nighttime primary service in areas otherwise lacking it. The Class I-A channels formerly reserved for the exclusive nighttime use of a single station, on which we now permit two unlimited time stations, include all those occupied by network owned stations.

90. In view of the foregoing considerations, we here affirm our KOB decision insofar as it determined that a major unlimited time facility should be assigned to New Mexico on 770 kc and amended rules to permit the assignment of two Class I stations on that frequency.

KOA

91. Metropolitan Television Company, licensee of KOA, Denver, Colorado, admits that since the I-A channels, rather than the I-B channels, form the basis for our overall allocation plan, KOA is not directly affected. However, it urges that KOA be restored to Class I-A facilities. It does not suggest what to do with the 10 full-time stations now sharing its frequency. The KOA request goes beyond anything adopted herein and must be denied.

1030 kc

92. Since 1030 kc is no longer involved in the "KOB problem", we proposed in our Third Notice to permit a Class II unlimited time assignment on that frequency in Montana or Wyoming. ^{13/} That Notice also contemplated the use of 650 kc in Montana and 1180 kc in Wyoming. We have seen that 650 kc is not one of the frequencies on which duplication will now be permitted. As to 1030 kc and 1180 kc, further examination has revealed that by utilizing 1030 kc in Wyoming and 1180 kc in Montana, greater protection can be afforded

13/ In view of KOB's operation on 770 kc, the fact that KOB has a license on 1030 kc is not an impediment to assignment of a new 1030 kc station elsewhere.

to the I-A operation at Salt Lake City which provides the only I-A service to vast regions of Idaho, Utah, Wyoming, Nevada, Arizona, New Mexico and Colorado. The change involves only the Montana and Wyoming assignments and each of these states still receives one Class II-A assignment. No proposals were received pursuant to the Third Notice with respect to either of these frequencies. Moreover, assignment of 1030 to any portion of Wyoming and 1180 to any portion of Montana is not precluded by the location of the I-A stations on those channels.

93. Such use of 1030 kc is, of course, similar to that now adopted for those I-A channels on which duplication will be permitted. 1030 kc is now a I-B channel under our rules, though assigned to the United States for priority of use as a I-A channel under the 1950 North American Regional Broadcasting Agreement, and the 1957 Agreement between the United States of America and the United Mexican States Concerning Radio Broadcasting in the Standard Broadcast Band. The question is whether this frequency should be reclassified as a I-A channel in our rules. In the pending file (because of the "freeze") ^{14/} are some six applications for use of this frequency on an unlimited time Class II basis in the continental United States, none of which is for Wyoming. If 1030 kc becomes a I-A channel these applications, of course, cannot be granted under the rules we adopt herein as to the use of these channels.

94. We conclude that 1030 kc should be utilized by a Class II-A station in Wyoming and that it should be reclassified as a I-A channel. The reason why it was made a I-B channel in 1941 -- to afford an assignment for KOB in New Mexico -- no longer exists, and therefore it is appropriate to give this frequency the status accorded it under international agreements. It must be borne in mind that a I-A channel -- on which the United States or any other country having I-A priority is afforded protection to its borders rather than merely with respect to particular existing operations -- is a national asset. We should not suffer a loss by default of such an asset to which we are entitled under international agreements. These considerations outweigh the restriction on unlimited time assignments which is entailed if 1030 kc is made a I-A channel. Moreover, the Class I-A assignment which is provided on that frequency is an integral part of the plan which we have adopted for achievement of the primary objective of improving service to white areas. We could not consider in any event the making of other unlimited time assignments which would impair the value of this new Class II-A allocation. The reclassification of 1030 kc is consistent with our decision mentioned above not to permit, for the present, use of the channels duplicated in this proceeding by more than one unlimited time Class II-A station. Accordingly, Section 3.25 of our rules is amended herein to make 1030 kc a I-A channel, and the pending applications for unlimited time operation thereon within the continental United States will be dismissed.

^{14/} Section 1.351 of our rules, the "freeze" rule, provided that, pending the decision in Docket No. 6741, action would be withheld on applications for facilities on the I-A channels and on 1030 kc and 14 other I-B channels.

Denial of Educational Reservations

95. Comments pursuant to the Third Notice were filed by about 30 educational groups which requested that some or all of the proposed new Class II stations be reserved for educational use. Of this group, nine gave some indication that the commenting party itself is interested in obtaining the use of a clear channel frequency. One such party stated it has the necessary funds available to it.

96. The Commission has never reserved frequencies for educational use in the standard broadcast band. When television came to the fore as a new medium, we recognized the high costs of establishing a television station and the necessity, if educators were to be given sufficient opportunity to utilize the medium, that some channels be reserved for non-commercial use in the establishment of the Table of Assignments to give the educational community time to evaluate the uses of the medium, and to raise the huge sums required for the construction and operation of stations. This decision was necessitated in part by the limited number of channels available.

97. In AM radio, however, the situation has been somewhat different. Construction costs are substantially less than they are for television stations. Radio as a medium has existed for many years and it is not necessary that educators be given time, as was required in the new medium of television, to study possible uses and the impact of the medium. We see no need in the public interest for the reservation requested. Our objective of securing nighttime primary service to areas which presently lack such service has been made clear. Detailed requirements that successful applicants for such stations must meet are enumerated herein. Moreover, as we noted in our Sixth Report and Order setting up the Table of Television Assignments, the potential of television for education is much greater and more readily apparent than that of aural broadcasting and that the interest of the educational community in the field is much greater than it was in aural broadcasting. Nothing we are adopting herein forecloses additional educational AM radio. Educational applications for the Class II-A stations hereby made available will be accepted on the same basis as are commercial applications. Those mutually exclusive applications complying with our Rules will be given comparative consideration.

The I-B Channels

98. In our consideration of the clear channel proceeding in recent years, we have not contemplated breakdown of the I-B channels any further than at present. Because of the relatively complicated conditions and requirements which already obtain on these channels and which would have to be taken into account in any new allocation plan -- requirements of protecting usually two co-channel United States I-B stations and a number of co-channel unlimited time United States Class II stations, foreign protection requirements, the fact that the United States receives protection on these channels only with respect to existing operations and not to the borders of the country, and similar factors -- the Class I-B channels do not lend themselves to use in an overall allocation plan, and we must look primarily to the I-A channels for an allocation pattern designed to improve overall radio service.

99. Accordingly, we adopt herein no change in the established principles and standards governing the assignment of stations to Class I-B channels. Further, consistently with the changed mode of protecting future uses of Class I-A channels, we remove the blanket freeze hitherto applicable to 15 Class I-B channels and retain only the restrictions already discussed, which are adapted to and necessitated by our decisions concerning the utilization of the Class I-A channels.

Concluding Observations

100. This proceeding, which was initiated in 1945 on eleven issues of wide scope, and pursued further under subsequent Notices issued in 1958 and 1959, has embraced an encyclopedic variety of approaches and proposals going to the basic question of how best to utilize almost half the spectrum space devoted to standard broadcasting. While the sheer volume of the record and the fact that it has spanned a period of consequential change in standard broadcasting have added difficulty to the task of deciding upon the most desirable course, the Commission has been vastly assisted by numerous helpful contributions made in submissions on the record through testimony, exhibits, briefs, oral arguments, comments and other pleadings.

101. In the hard fought, head-on conflict between the two basic approaches of extending the reach of major stations on clear channels or increasing the numbers of stations permitted on these channels, much valuable data and analysis have been placed before us by the proponents of both approaches. Recognition is due to the fact that some merit attaches to very many of the proposals which have been urged upon us, including some of those which we herein reject. Our essential task in this proceeding has been to select among the myriad solutions offered those which, on net balance, taking into account the many pertinent considerations, would best serve the public interest. The opposed factors bearing upon our judgments in some instances are closely balanced. While recognizing that much can be said for numerous alternative approaches, we now conclude that the course laid out herein, both as reflected in the rule changes now adopted and in the preservation for the time being of the status quo on 12 Class I-A clear channels, represents the best solution available at this time.

102. Authority for adoption of the rule amendments herein is contained in Sections 4(i) and (j), 303(a), (b), (c), (d), (f), (g), (h), and (r), and 307(b) of the Communications Act of 1934, as amended.

103. In view of the foregoing, IT IS ORDERED That, effective October 30, 1961, the Commission's Rules ARE AMENDED as set forth in the Appendix hereto; and

104. IT IS FURTHER ORDERED, That all pleadings, petitions, comments and reply comments, requesting other changes in our rules relating to clear channels; requesting that no changes be made; requesting further hearing, oral argument, or evidentiary hearing; or requesting other relief not adopted herein ARE DENIED; and

105. IT IS FURTHER ORDERED, That this proceeding, Docket No. 6741, IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION *

Ben F. Waple
Acting Secretary

Adopted: September 13, 1961

Released: September 14, 1961

* See attached Dissenting Statement of Commissioner Lee;
See attached Statement of Commissioner Cross Concurring in Part
and Dissenting in Part

NOTE: Amendment of Part 1 herein will be covered by Transmittal
Sheet I-13; amendment of Part 3 will be included in a revised
edition of Volume III being prepared.

APPENDIX

PART I

1. Section 1.351 is amended to read as follows:

§ 1.351 Applications for frequencies adjacent to Class I-A channels.

Notwithstanding the provisions of any other rules of the Commission, all applications (regardless of when they were or may be filed) for frequencies located within 30 kc of a Class I-A channel listed in § 3.25(a) of this chapter will be subject to the provisions of this section. The provisions of paragraph (a) of this section apply to the frequencies listed therein, which are within 30 kc of a Class I-A channel on which an unlimited time Class II assignment is specifically provided for in § 3.22 or 3.25(a) of this chapter. The provisions of paragraphs (b) and (c) of this section apply to the frequencies listed in paragraph (b), which are within 30 kc of the remaining Class I-A channels. Where a frequency is listed both in paragraphs (a) and (b), applications for facilities on such frequency are subject to the provisions and restrictions contained in both of said paragraphs.

(a)(1) The provisions of this paragraph apply to the following frequencies:

680, 690, 710, 730, 740, 790, 800, 810, 850, 860, 900,
910, 920, 990, 1000, 1010, 1050, 1060, 1070, 1080, 1090,
1110, 1130, 1140, 1150, 1170, 1190, 1220, 1230 and 1240 kc.

(2) Where it appears that the facilities requested in any application for one of the designated frequencies (other than an application by an existing Class IV station to increase daytime power on 1230 or 1240 kc) involves undue risk of objectionable interference to, prohibitive interference from, or prohibited overlap with, a possible new Class II-A assignment specified in § 3.22 of this chapter or a new unlimited time Class II assignment at Anchorage, Alaska, or San Diego, California, specified in § 3.25(a) of this chapter, such application will not be granted until the location and operating facilities of such new Class II station are established. Assignments of such new Class II stations will be made without regard to the pendency of applications on adjacent frequencies. Any hearing which may be held on such an application for an adjacent frequency will not be comparative with respect to the Class II facility, and any issues pertaining to the mutual impact of the Class II and adjacent channel operations concerned will be confined to the question of whether, with a Class II station operating as proposed, the public interest would be served by a grant of the adjacent channel application.

(b)(1) Until Sept. 1, 1964, or such earlier date as may be announced, the provisions of this paragraph and of paragraph (c) of this section will apply to all applications for the following frequencies:

610, 620, 630, 680, 690, 710, 730, 790, 800, 810, 850,
860, 900, 1010, 1050, 1060, 1070, 1130, 1140, 1150,
1170, 1190 and 1220 kc.

(2) Applications for new stations on, or for change of existing stations to, one of the designated frequencies will not be granted, and, except as provided in paragraph (c) of this section, will be placed in the pending file without further processing or consideration. Where before October 30, 1961, such applications had attained protected status under § 1.354 or by designation for hearing, they will retain such status to the extent so established. Additionally, such applications will be protected, as provided elsewhere in the rules, through designation for hearing. They will not be otherwise protected.

(3) Applications for increase in power or operation during nighttime hours not previously authorized will be processed in normal course, but will be considered in the light of the effect that grant thereof might have upon possible future uses of the Class I-A channel or channels located within 30 kc of the frequency involved (e.g., authorization of power greater than 50 kw for Class I-A stations, or additional unlimited time co-channel assignments). Such applications will not be granted if it appears that they risk prejudice to such possible future uses of the Class I-A channels concerned, because of interference caused or received, or prohibited overlap. In these situations the application involved, if otherwise ready for grant (after hearing or otherwise) will be placed in the pending file. Where it appears that because of these considerations an application cannot be granted in due course, the applicant will be so notified and, notwithstanding the provisions of § 1.311 and 1.354, will be permitted to amend his application within 45 days of such notice, without change in position in hearing or on the processing line, in order to remove the circumstances which stand in the way of a grant. Applications will acquire and retain protected status as they would in normal course.

(4) Applications for other changes in facilities on the designated frequencies will be processed and acted upon in normal course.

(5) Action will not be withheld under this paragraph on applications for facilities in Alaska, Hawaii, Puerto Rico, or the Virgin Islands.

(c)(1) After October 30, 1961, hearings will not be designated on applications falling under paragraph (b)(2) unless they conflict with applications not falling under paragraph (b)(2).

(2) If the decision in a hearing looks toward grant of an application which, under paragraph (b)(2) or (b)(3), cannot be made immediately, such application and all applications conflicting with it will be placed in the pending file, and will retain protected status.

2. In § 1.354, paragraphs (a) and (c) are amended, paragraphs (d) through (j), inclusive, are redesignated paragraphs (f) through (l), inclusive, and new paragraphs (d) and (e) are added, as follows:

§ 1.354 Processing of standard broadcast applications.

(a) Applications for standard broadcast facilities are divided into three groups.

(1) In the first group are applications for new stations (except applications for new Class II-A stations) or for major changes in the facilities of authorized stations, i.e., any change in frequency, power, hours of operation, or station location: Provided, however, That the Commission may, within 15 days after the tender for filing of any application for other modification of facilities, advise the applicant that such application is considered to be one for a major change and therefore is subject to the provisions of § 1.359.

(2) The second group consists of applications for licenses and all other changes in the facilities of authorized stations.

(3) The third group consists of applications for new Class II-A stations.

* * * * *

(c) Applications for new stations (except new Class II-A stations) or for major changes in the facilities of authorized stations are processed as nearly as possible in the order in which they are filed. Such applications will be placed in the processing line in numerical sequence, and are drawn by the staff for study, the lowest file number first. Thus, the file number determines the order in which the staff's work is begun on a particular application. There are two exceptions thereto: the Broadcast Bureau is authorized to (1) group together for processing applications which involve interference conflicts where it appears that the applications must be designated for hearing in a consolidated proceeding; and (2) to group together for processing and simultaneous consideration, without designation for hearing, all applications filed by existing Class IV stations requesting an increase in daytime power which involve interlinking interference problems only, regardless of their respective dates of filing. In order that those applications which are entitled to be grouped for processing may be fixed prior to the time processing of the earliest filed application is begun, the Commission will periodically publish in the Federal Register a Public Notice listing applications which are near the top of the processing line and announcing a date (not less than 30 days after publication) on which the listed applications will be considered available and ready for processing and by which all applications excepting those specified in exception (2) in this paragraph must be filed if they are to be grouped with any of the listed applications.

(d) Applications for new Class II-A stations are placed at the head of the processing line and processed as quickly as possible. Action on such applications may be at any time: (1) more than 30 days after public notice is given of acceptance of the application for filing, or (2) after January 30, 1962, whichever is later.

(e) The processing and consideration of applications for new stations or major changes on those frequencies specified in § 1.351 are subject to certain restrictions, as set forth therein.

3. Section 3.21 is amended to read as follows:

PART 3

§ 3.21 Classes of standard broadcast channels and stations.

(a) Clear channel. A clear channel is one on which the dominant station or stations render service over wide areas, and which are cleared of objectionable interference within their primary service areas and over all or a substantial portion of their secondary service areas. Stations operating on these channels are classified as follows:

(1) Class I station. A Class I station is a dominant station operating on a clear channel and designed to render primary and secondary service over an extended area and at relatively long distances. Its primary service area is free from objectionable interference from other stations on the same and adjacent channels, and its secondary service area free from interference except from stations on adjacent channels, and from stations on the same channel in accordance with the channel designation in §§ 3.25 or 3.182. The operating power shall not be less than 10 kilowatts nor more than 50 kilowatts. (Also see § 3.25(a) for further power limitation.)

(2) Class II station. A Class II station is a secondary station which operates on a clear channel (see § 3.25) and is designed to render service over a primary service area which is limited by and subject to such interference as may be received from Class I stations. Whenever necessary a Class II station shall use a directional antenna or other means to avoid interference with Class I stations and with other Class II stations, in accordance with § 3.182 (and § 3.22 in the case of Class II-A stations). Class II stations are divided into three groups:

(i) Class II-A station. A Class II-A station is an unlimited time Class II station operating on one of the clear channels listed in § 3.22 and assigned to a community within a state specified in the Table contained in that section. A Class II-A station shall operate with power of not less than 10 kilowatts nighttime nor more than 50 kilowatts at any time.

(ii) Class II-B station. A Class II-B station is an unlimited time Class II station other than those included in Class II-A. A Class II-B station shall operate with power not less than 0.25 kilowatts nor more than 50 kilowatts.

Note: The Class II station operating unlimited time on 760 kc at San Diego, California, shall be limited to a power of 5 kw and the Class II station operating unlimited time on 750 kc at Anchorage, Alaska shall be limited to a power of 10 kw. Both stations shall protect the I-A station on the same frequency to its 0.5 mv/m 50% skywave contour.

(iii) Class II-D station. A Class II-D station is a Class II station operating daytime or limited time. A Class II-D station shall operate with power not less than 0.25 kilowatts nor more than 50 kilowatts.

(b) Regional channel. A regional channel is one on which several stations may operate with powers not in excess of 5 kilowatts. The primary service area of a station operating on any such channel may be limited to a given field intensity contour as a consequence of interference.

(1) Class III station. A Class III station is a station which operates on a regional channel and is designed to render service primarily to a principal center of population and the rural area contiguous thereto. Class III stations are subdivided into two classes.

(i) Class III-A station. A Class III-A station is a Class III station which operates with power not less than 1 kilowatt nor more than 5 kilowatts and the service area of which is subject to interference in accordance with § 3.182.

(ii) Class III-B station. A Class III-B station is a Class III station which operates with power not less than 0.5 kilowatt, nor more than 1 kilowatt night and 5 kilowatts daytime, and the service area of which is subject to interference in accordance with § 3.182.

(c) Local channel. A local channel is one on which several stations operate with powers no greater than provided in this paragraph. The primary service area of a station operating on any such channel may be limited to a given field intensity contour as a consequence of interference. Such stations operate with power no greater than 250 watts nighttime, and power daytime no greater than:

(1) 250 watts if the station is located 100 kilometers (62 miles) or closer to the Mexican border, or in the area of the state of Florida south of 28 degrees north latitude and between 80 and 82 degrees west longitude; or

(2) 1 kilowatt if the station is located elsewhere.

(3) Class IV station. A Class IV station is a station operating on a local channel and designed to render service primarily to a city or town and the suburban and rural areas contiguous thereto. The power of a station of this class shall not be less than 0.1 kilowatt, and not more than 0.25 kilowatt nighttime and 1 kilowatt daytime, and its service area is subject to interference in accordance with § 3.182.

Note 1: Under NARBA, the power ceiling for Class IV stations is 250 watts daytime as well as nighttime. The US-Mexican Agreement permits such stations to operate with up to 1 kilowatt power daytime if they are located further than 100 kilometers (62 miles) from the Mexican border. Pursuant to the US-Mexican Agreement and informal coordination with the other NARBA signatories, the Commission will consider applications for Class IV stations on local channels with daytime powers more than 250 watts, up to 1 kilowatt, if such station is to be located outside of the areas specified in paragraph (c) (1) of this section, and if no objectionable interference would be caused (under the standards set forth in the pertinent international agreement) to a duly notified station in Mexico, Haiti, or any foreign country signatory to NARBA.

Note 2: All authorizations of new or changed Class I-B, Class II-B, Class II-D, Class III or Class IV facilities after October 30, 1961, are subject to whatever interference may be received from, or whatever overlap of 2.0 mv/m and 25 mv/m groundwave contours or overlap of 25 mv/m groundwave contours may be involved with, previously or subsequently authorized Class II-A facilities.

4. Section 3.22 is amended to read as follows:

§ 3.22 Assignment of Class II-A stations

(a) Table of assignments

One Class II-A station may be assigned on each channel listed in the following table within the designated state or states:

Channel (kcs)	Existing Class I Station	State(s) in which Class II-A Assignment may be Applied for
670	WMAQ Chicago	Idaho
720	WGN Chicago	Nevada or Idaho
780	WBEM Chicago	Nevada
880	WCBS New York	North Dakota South Dakota or Nebraska
890	WLS Chicago	Utah
1020	KDKA Pittsburgh	New Mexico
1030	WBZ Boston	Wyoming
1100	KYW Cleveland	Colorado
1120	KMOX St. Louis	California or Oregon
1180	WHAM Rochester	Montana
1210	WCAU Philadelphia	Kansas, Nebraska or Oklahoma

(b) Minimum service to "white" areas.

No Class II-A station shall be assigned unless at least 25% of its nighttime interference-free service area or at least 25% of the population residing therein receives no other interference-free nighttime primary service.

(c) Power. Class II-A stations shall operate with not less than 10 kw power nighttime.

(d) Protection. (1) Protection by Class II-A stations to other stations. The co-channel Class I-A station shall be protected by the Class II-A station to its 0.1 mv/m contour daytime and its 0.5 mv/m 50% skywave contour nighttime. All other stations of any class authorized on or before Oct. 30, 1961, shall normally receive protection from objectionable interference from Class II-A stations as provided in § 3.182.

(2) Protection to Class II-A stations. A Class II-A station shall normally receive daytime protection to its 0.5 mv/m groundwave contour and nighttime protection to the contour to which it is limited by the co-channel Class I-A station.

(e) Applications not complying with this section. Applications for Class II-A stations which do not meet the requirements of paragraphs (b) and (c) of this section will be returned without further consideration.

5. In § 3.24, paragraph (b) is amended; present paragraph (i) is re-designated paragraph (j); and new paragraph (i) is added; as follows:

§ 3.24 Broadcast facilities; showing required.

* * * * *

(b) That objectionable interference will not be caused to existing stations or that, if interference will be caused, the need for the proposed service outweighs the need for the service which will be lost by reason of such interference. (For special provisions concerning interference from Class II-A stations to stations of other classes authorized after October 30, 1961, see Note 2 to § 3.21 and § 3.22(d)). That the proposed station will not suffer interference to such an extent that its service would be reduced to an unsatisfactory degree. (For determining objectionable interference, see §§ 3.182 and 3.186.)

* * * * *

(i) That, in the case of an application for a Class II-A station (see § 3.22), 25% or more of the area or population within the nighttime interference-free service contour of the proposed station receives no nighttime interference-free primary service from another station.

6. In § 3.25, paragraphs (a) and (b) are amended to read as follows:

§ 3.25 Clear channels; Classes I and II stations.

* * * * *

(a) On each of the following channels, one Class I station will be assigned, operating with power of 50 kw: 640, 650, 660, 670, 700, 720, 750, 760, 780, 820, 830, 840, 870, 880, 890, 1020, 1030, 1040, 1100, 1120, 1160, 1180, 1200 and 1210 kc. In addition, on the channels listed in this paragraph, Class II stations may be assigned as follows:

(1) On 670, 720, 780, 880, 890, 1020, 1030, 1100, 1120, 1180 and 1210 kc, one Class II-A unlimited time station, assigned and located pursuant to the provisions of § 3.22.

(2) On the channel 750 kc, an unlimited time Class II station located at Anchorage, Alaska.

(3) On the channel 760 kc, an unlimited time Class II station located at San Diego, California.

(4) On any of the channels listed in this paragraph (to the extent consistent with the assignments provided in subparagraphs (1), (2), and (3) of this paragraph), unlimited time Class II stations located in Alaska, Hawaii, Virgin Islands, or Puerto Rico, which will not deliver more than 5 microvolts per meter groundwave day or night or 25 microvolts per meter 10 percent time skywave at night at any point within the continental limits of the United States excluding Alaska.

(5) On any of the channels listed in this paragraph (to the extent consistent with the Class I, Class II-A, and Anchorage and San Diego Class II assignments provided in this paragraph, and, in the case of limited time stations, subject to the restrictions contained in § 3.38), limited time and daytime only stations, as follows:

(i) In Alaska, Hawaii, Puerto Rico and Virgin Islands.

(ii) Within the continental United States excluding Alaska, where the station would operate with facilities authorized as of October 30, 1961.

Note 1: In view of special circumstances arising from the provision of pre-sunrise broadcast service on 640 kc at Ames, Iowa, applications will be accepted for broadcast operations on 640 kc between 6:00 a.m. central standard time and local sunrise at Ames, Iowa, with not to exceed 1 kw power: Provided, That such applications will be acted upon only after and in light of the decision reached in Docket No. 11290.

Note 2: In view of special circumstances arising from the provision of a service during some nighttime hours by a Class II station operating on 830 kc at New York, N. Y., (i.e. from 6:00 a.m. to local sunrise and from sunset at Minneapolis to 10:00 p.m. E.S.T.) applications will be accepted for such operation: Provided, That they will be acted upon only after and in light of the decision reached in Docket No. 11227.

Note 3: On the frequency 770 kc, two Class I stations may be assigned.

Note 4: See NARBA concerning priority for Canadian Class I-B and Cuban Class I-C assignments on 640 kc.

Note 5: See NARBA concerning Cuban Class II-E assignments on 660, 670, 760, 780, 830, 1020, 1030, and 1120 kc.

Note 6: See US-Mexican Agreement concerning Mexican use of 660, 760, and 830 kc.

(b) To each of the following channels there may be assigned Class I and Class II stations: 680, 710, 810, 850, 940, 1000, 1060, 1070, 1080, 1090, 1110, 1130, 1140, 1170, 1190, 1500, 1510, 1520, 1530, 1540, 1550, and 1560 kilocycles.

Note 1: See NARBA and the US-Mexican Agreement concerning a Cuban Class II-E assignment on, and Mexican use of, 1030 kc.

Note 2: Class I and Class II stations on 1540 kc shall deliver not over 5 microvolts per meter groundwave or 25 microvolts per meter 10 percent time skywave at any point of land in the Bahama Islands, and such stations operating nighttime (i.e., sunset to sunrise at the location of the Class II station) shall be located not less than 650 miles from the nearest point of land in the Bahama Islands.

7. Section 3.28(a) is amended to read as follows:

§ 3.28 Assignment of stations to channels.

(a) The individual assignments of stations to channels which may cause interference to other United States stations only, shall be made in accordance with the provisions of this part for the respective classes of stations involved. (For determining objectionable interference, see §§ 3.22, 3.182, and 3.186.)

8. In § 3.182, the introductory text and subparagraphs (1)(i) and (2) of paragraph (a) are amended; paragraph (c) is added; and paragraphs (s) (t) and (v) are amended, as follows:

§ 3.182 Engineering standards of allocation.

(a) Sections 3.21 to 3.34, inclusive, govern allocation of facilities in the standard broadcast band of 535 to 1605 kc. § 3.21 establishes three classes of channels in this band, namely, clear channels for the use of high-powered stations, regional channels for the use of medium-powered stations, and local channels for the use of low-powered stations. The classes and power of standard broadcast stations which will be assigned to the various channels are set forth in § 3.21. The classification of the standard broadcast stations are as follows:

(1) * * *

(i) The Class I stations in Group I-A are those assigned to the channels allocated by § 3.25(a), on which, except to the extent provided by that section and by § 3.22, duplicate nighttime operation is not permitted. The power of these stations shall not be less than 50 kilowatts. The Class I stations in this group are afforded protection as follows:

Daytime: to the 0.1 mv/m groundwave contour from stations on the same channel, and to the 0.5 mv/m groundwave contour from stations on adjacent channels.

Nighttime: to the 0.5 mv/m, 50% skywave contour from stations on the same channel, and to the 0.5 mv/m groundwave contour from stations on adjacent channels.

* * * * *

(2) Class II stations are secondary stations which operate on clear channels with powers not less than 0.25 kw nor more than 50 kw, except that Class II-A stations shall not operate nighttime with less than 10 kw. Class II stations are required to use a directional antenna or other means to avoid causing interference within the normally protected service areas of Class I stations or other Class II stations (for special rules and standards concerning Class II-A stations, see § 3.22). These stations normally render primary service only, the area of which depends on the geographical location, power, and frequency. This may be relatively large but is limited by and subject to such interference as may be received from Class I stations. However, it is recommended that Class II stations be so located that the interference received from other stations will not limit the service area to greater than the 2.5 mv/m groundwave contour nighttime and 0.5 mv/m groundwave contour daytime, which are the values for the mutual protection of this class of stations with other stations of the same class (except that Class II-A stations are normally protected to their 0.5 mv/m groundwave contour daytime, and nighttime to the limit imposed by the co-channel Class I-A station).

* * * * *

(s) The existence or absence of objectionable groundwave interference from stations on the same or adjacent channels shall be determined by actual measurements made according to the method hereinafter described, or, in the absence of such measurements, by reference to the propagation curves of § 3.184. The existence or absence of objectionable interference due to skywave propagation shall be determined by reference to the appropriate propagation curves in Figure 1 or Figure 1a or Figure 2 of § 3.190.

(t) In computing the fifty (50) percent and the ten (10) percent skywave field intensity values of a station operating on a clear channel specified in § 3.25 (a), use shall be made of the appropriate curve set forth in Figure 1a of § 3.190, "Skywave Signals for 10% and 50% of the Time." In computing the fifty (50) percent and ten (10) percent skywave field intensity values of a station operating on a clear channel specified in § 3.25 (b), use shall be made of the appropriate curve set forth in Figure 1 of § 3.190, entitled "Average Skywave Field Intensity (corresponding to the second hour after sunset at the recording station)." In computing the ten (10) percent skywave field intensity values of a regional channel station, use shall be made of the appropriate curve in Figure 2 of § 3.190, entitled "10 percent Skywave Signal Range." The curves in Figure 1 of § 3.190 are drawn for a radiated field of 100 mv/m at one mile in the horizontal plane from a 0.311 wavelength antenna. The curves in Figure 1a and Figure 2 of § 3.190 are drawn for a radiated field of 100 mv/m at one mile at the vertical angle pertinent to transmission by one reflection. In computations based on Figure 1, the pertinent vertical angle shall be determined by use of Figure 6 of § 3.190. In computations based on Figures 1a or 2 of § 3.190, the pertinent vertical angle shall be determined by use of Figure 6a of § 3.190.

* * * * *

(v) Protected service contours and permissible interference signals for broadcast stations are as follows (for Class I and Class II-A stations, see § 3.182 (a)):

Class of station	Class of channel used	Permissible power	Signal intensity contour of area protected from objectionable interference		Permissible interfering signal on same channel	
			Day ^{2/}	Night	Day ^{2/}	Night ^{4/}
I-A	Clear	50 kw	SC 100 uv/m AC 500 uv/m	SC 500 uv/m (50% skywave) ^{3/} AC 500 uv/m	5 uv/m	25 uv/m ^{5/}
I-B	Clear	10 kw to 50 kw	SC 100 uv/m AC 500 uv/m	SC 500 uv/m (50% skywave) ^{3/} AC 500 uv/m	5 uv/m	25 uv/m
II-A	Clear	0.25 kw to 50 kw (daytime) 10 kw to 50 kw (nighttime)	500 uv/m	500 uv/m ^{3/}	25 uv/m	25 uv/m
II-B and II-D	Clear	0.25 kw to 50 kw	500 uv/m	2500 uv/m ^{3/5/}	25 uv/m	125 uv/m
III-A	Regional	1 kw to 5 kw	500 uv/m	2500 uv/m ^{3/}	25 uv/m	125 uv/m
III-B	Regional	0.5 to 1 kw night and 5 kw day	500 uv/m	4000 uv/m ^{3/}	25 uv/m	200 uv/m
IV	Local	0.1 to 0.25 kw night and 0.1 to 1 kw day	500 uv/m	Not prescribed ^{6/}	25 uv/m	Not prescribed

^{1/} When a station is already limited by interference from other stations to a contour of higher value than that normally protected for its class, this contour shall be the established standard for such station with respect to interference from all other stations.

^{2/} For adjacent channel, see paragraph (w) of this section.

^{3/} Groundwave

^{4/} Skywave field intensity for 10 percent or more of the time.

^{5/} These values are with respect to interference from all stations except Class I-B, which stations may cause interference to a field intensity contour of higher value. However, it is recommended that Class II stations be so located that the interference received from Class I-B stations will not exceed these values. If the Class II stations are limited by Class I-B stations to higher values, then such values shall be the established standard with respect to protection from all other stations.

6/See paragraph (a) (4) of this section.

7/Class I-A stations on channels reserved for the exclusive use of one station during nighttime hours are protected, from co-channel interference on that basis. On the frequency 770 kc, two Class I stations may be assigned.

SC = Same channel.

AC = Adjacent channel.

9. In § 3.185, paragraph (b) and the introductory text of paragraph (d) are amended, and new paragraph (k) is added, as follows:

§ 3.185 Computation of interfering signal from a directional antenna.

* * * * *

(b) For signals from stations operating on Class I-B clear channels (those specified in § 3.25(b)), in case of determining skywave interference from an antenna with a vertical pattern different from that on which Figure 1 of § 3.190 is predicated (the basis of the night mileage separation tables), it is necessary to compare the appropriate vectors in the vertical plane.

* * * * *

(d) Examples of the use of skywave curves on Class I-B clear channels:

* * * * *

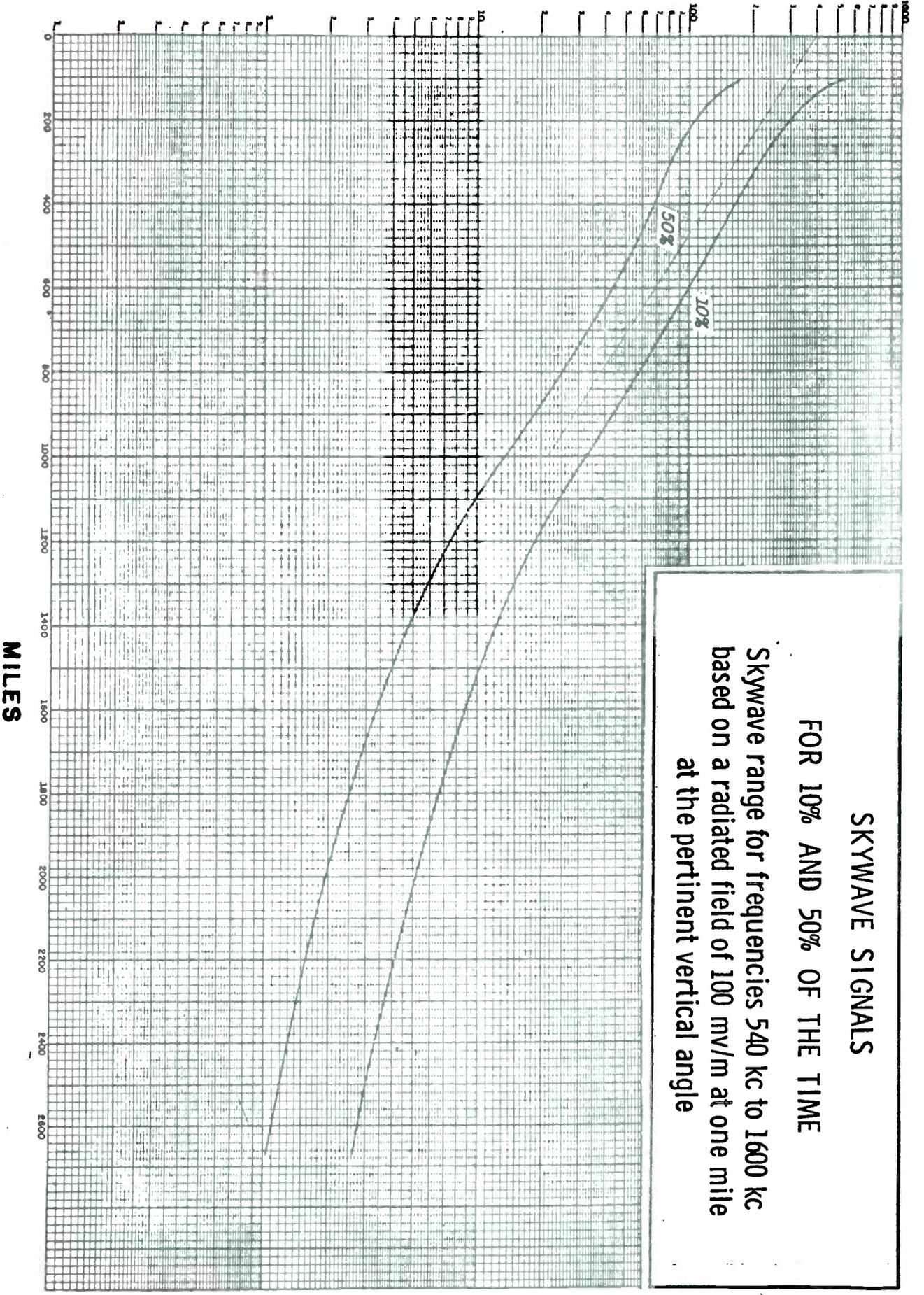
(k) For signals from stations operating on Class I-A clear channels (those specified in § 3.25(a)), skywave interference is determined by using the 10% curve of Figure 1a of § 3.190, entitled "Skywave Signals for 10% and 50% of the Time." The pertinent angle of departure is to be determined by use of Figure 6a of § 3.190, in a manner similar to that described in paragraph (g) of this section for regional stations. An example of the determination of skywave interference in this situation is as follows: Assume a Class I-A station and a proposed Class II-A station, operating on the same channel, are separated 1450 miles and that the 0.5 mv/m - 50% skywave contour of the Class I-A station is located 740 miles from the station. The distance from the Class II-A station to the protected contour of the Class I-A station is 710 miles and from Figure 6a the critical angles of radiation are 5° to 9°. If the vertical pattern of the antenna of the proposed Class II-A station is such that between these angles the maximum radiation is 34 mv/m at one mile, the value of the 10% field as read from Figure 1a is multiplied by 34/100 to determine the interfering 10% field intensity at the 0.5 mv/m - 50% skywave contour of the I-A station, which would be 0.025 mv/m.

10. Section 3.190 is revised by adding new Figure 1a, and modifying the legend to the title on Figure 6a, and amending the text to read as follows:

§ 3.190 Engineering Charts.

This section consists of the following Figures: 1, 1a, 2, R3, 5, 6, 6a, 7, 8, 9, 10, and 11.

MICROVOLTS PER METER



SKYWAVE SIGNALS
FOR 10% AND 50% OF THE TIME
Skywave range for frequencies 540 kc to 1600 kc
based on a radiated field of 100 mv/m at one mile
at the pertinent vertical angle

FCC § 3.190 Figure 1a

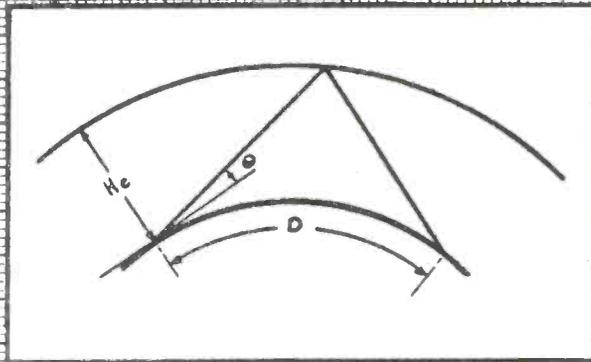
MILES

ANGLES OF DEPARTURE VERSUS TRANSMISSION RANGE

- 1 θ for 1000 kc average H_e - For use in computing 50% signals
- 2 θ for 1000 kc maximum H_e
- 3 θ for 1000 kc minimum H_e
- 4 and 5 contain also an estimated correction for deviation from mid-point reflection - For use in computing 10% signals

θ

90
80
70
60
50
40
30
20
10
0



1400

DISSENTING STATEMENT OF COMMISSIONER ROBERT E. LEE (Docket No. 6741)

I dissent to the decision adopted by the majority in this proceeding.

After sixteen years of spasmodic consideration it has now been decided to cut the baby in half by breaking down half of the clear channels and by putting aside a consideration of greater power for Class IA stations to an indefinite date.

The majority states that it has given "due recognition" to a resolution passed by the United States Senate in 1938, which resolution was intended to inhibit our freedom to permit Class IA stations to operate with powers greater than 50 kw. I submit that a resolution passed twenty-three years ago, by members no longer in the Senate should not be given the effect of law, particularly since no other country in the world places such a restriction on station operating power. To penalize the American public by depriving it of more reliable radio service is, to my mind, highly unwarranted. It is to be noted that the majority is postponing consideration of this matter with the hope that it will be settled by 1964. Since the Commission finds it appropriate to give "due recognition" to the Senate resolution today, I find it difficult to expect that the resolution will not be accorded the same recognition in the future.

I formally proposed, to my fellow Commissioners, a plan for settlement of this proceeding, which proposal was rejected. My plan, while being in the nature of a compromise between the private interests of the parties in the proceeding, did not take on the aspects of a compromise of the public interest as does the majority's decision.

I proposed that the rules be amended to permit each Class IA station to increase power up to 750 kw and that these stations be given a period of one year to file appropriate applications. I proposed that at the end of the year period each channel be duplicated by the assignment of unlimited time Class II stations which would protect either the Class IA stations' 50 kw secondary service area or, as the alternative, the secondary service area resulting from their newly authorized or proposed secondary service with increased powers.

By following this course I believe that a substantial improvement in secondary service could be accomplished and that new Class II facilities could be authorized in deserving areas without the undue administrative procedures adopted herein. This solution appears to me to offer the most substantive improvement in standard broadcast service with a minimum of gimmicks and causes for delay.

Permit me to analyze what the majority's decision accomplishes in the light of the objectives of the proceeding. The purpose of the hearing has been to bring more and better radio service to vast areas which are without a dependable service. It is estimated that one-half the total land area of the United States (excluding Hawaii and Alaska), consisting of 3.5 million square miles, is without nighttime primary service. How does the majority intend to remedy the situation? It is going to impose a freeze on 53 channels to permit the expedited consideration of 11 prospective applications for special Class II A stations, each one being so highly limited by interference that it can be expected to render nighttime primary service to but scant populations. Evidence in this record indicates that a total of approximately 50 thousand square miles will be the recipient of this new service.

Since the decision requires that at least 25% of the areas (to be served by prospective Class II A stations) be without primary service, it can be expected that with full implementation of the plan 12.5 thousand square miles which are not now receiving ground wave service would receive such service. This presumes that there would be applicants willing to build 10 kw stations employing expensive directional antennas serving remote and not too remunerative areas. I submit that the Commission's offer of special processing rules to bring new service to less than one percent of the area in the United States which is without such service is hardly the decision the country has been waiting for the last 16 years. Had the Commission deliberately swept the Clear Channel proceeding under the rug, it could not have done so more effectively.

The majority's method of determining which channel is to be duplicated and which channel is to remain in status quo for further consideration is strained. As an example, 1120 kc is to be duplicated and not considered for higher power because of adjacent channel interference considerations. The Commission has no standards for skywave interference to adjacent channel skywave service, yet adjacent channel interference is the precise reason given for failure to consider Station KMOX, St. Louis, for higher power. On the other hand, the majority is willing to consider 700 kc eligible for higher power while the frequencies on either side of 700 kc are virtually saturated with stations that operate at night. This inconsistency is not explained. Moreover, the majority declines to put a Class II A station on 660 kc because of possible interference to a station in Alaska. In this day of directional antennas, this reason, like others given for the manner of disposition of the clear channels, is of little or no substance. The Alaska station is entitled to no greater protection than any other Class II station. But fundamentally I consider it inappropriate to pick and choose between the IA stations on a quasi-engineering basis. Each Class IA station could employ greater power and by the use of directional antennas protect all foreign stations as required by treaty obligations.

My proposal to permit Class IA stations to increase powers to 750 kw would eliminate daytime "white areas" and would increase the quality of skywave service at night. These stations, by extending their daytime primary coverage and nighttime skywave services to points one and a half times more distant than they are presently serving, would substantially overcome some of the deficiencies which presently exist in the standard broadcast band. Moreover, my suggested allocation would permit our domestic stations to overcome interference from foreign stations without derogating any of our treaty commitments.

I lack the confidence of the majority that its decision will result in any substantive consequence. I submit that it imposes an unwarranted freeze to foster eleven peanut whistles which may never be constructed. Little else is accomplished.

STATEMENT OF COMMISSIONER JOHN S. CROSS
CONCURRING IN PART AND DISSENTING IN PART

After having this proceeding pending before it for over 16 years (since February 20, 1945), I consider it unfortunate that the majority of this Commission has finally offered the public what, in my opinion, is only a half-solution.

The United States has 25 Class I-A Clear Channels by virtue of international agreements. Under the majority decision, 13 of these Class I-A Clear Channels are to be duplicated on a controlled basis while action on the other 12 is to be deferred. I doubt that the basis for selecting which channels go into the one category and which in the other will ever be understood fully by the public, thereby subjecting the Commission to possible criticism that it acted arbitrarily in this regard.

In my opinion, the reasons of the majority for duplicating 13 of the 25 Class I-A Clear Channels on a controlled basis are sound and sufficient. However, I consider these reasons just as valid for those 12 channels on which action is deferred as they are for those 13 channels that are to be duplicated. Accordingly, I would treat all of them alike and duplicate them all on a controlled basis. This, in my opinion, would not only be fairer, but would also obviate any possible criticism of arbitrariness. In addition, it would strengthen our defense of these channels from foreign infringement. Moreover, it would eliminate the necessity for deferring the processing of applications for new stations on any frequencies within 30 Kc of the 12 Class I-A Clear Channels that are not being duplicated -- a matter of considerable consequence since 23 (of the 107 available) frequencies are thereby involved.

CLEAR CHANNEL BROADCASTING SERVICE
SHOREHAM BUILDING
WASHINGTON 5, D. C.

January 24, 1962

Honorable Cren Harris, Chairman
House Interstate and Foreign Commerce
Committee
New House Office Building
Washington 25, D. C.

Re: Clear Channel Issue

Dear Mr. Harris:

Here are copies of the exchange of letters between you and FCC Chairman, Newton N. Minow, last fall relative to the Clear Channel Issue.

You will recall that you shared these letters with me at the time of the exchange.

As I told you the Commission's proposal will forever place in jeopardy a new communications tool just now successfully passing the experimental stage. This system is known as BRECOM. Major General John B. Bestic, Director of Telecommunications for the Department of the Air Force, is developing it in cooperation with the FCC Engineering Department and certain Clear Channel stations.

We respectfully believe that it is imperative that you and your Committee review in hearing the defense and security implications of the Commission's proposed Clear Channel action in Docket 6741 as well as the other aspects of the issue in the public interest.

We would strongly hope that this hearing could be before the full Interstate and Foreign Commerce Committee of the House, and that you would find it possible to schedule sufficient hearing time to delve into the issue in sufficient depth fully to appraise it.

Respectfully yours,

JHD/bh

John H. Dewitt, Jr.

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C
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Y

FEDERAL COMMUNICATIONS COMMISSION
Washington 25, D. C.

September 13, 1961

Honorable Oren Harris
Chairman, House Interstate and Foreign
Commerce Committee
House of Representatives
Washington 25, D. C.

Dear Chairman Harris:

This is in reply to your letter of September 7, 1961, with regard to the Clear Channel proceeding (Docket No. 6741).

As you know, the Clear Channel proceeding has been pending before the Commission for over 16 years (since February 20, 1945). In its earlier stages, extensive hearings were held, which have been supplemented throughout the entire period by voluminous written comments. This proceeding involves matters of great technical complexity, including basic policy questions as to the most effective use of the frequencies presently allocated to standard radio broadcasting; this country's international commitments with respect to these frequencies; and the marked changes in radio broadcasting which have taken place in recent years.

After long and careful deliberation, the Commission has reached a result which a substantial majority of its members consider to be the best possible solution to the very difficult problems here involved, taking full account of all the evidence and arguments which have been presented to it over the past sixteen years. Under the circumstances and particularly in light of the fact that on June 12, 1961, prior to learning of the concern of the Committee in this matter, we publicly announced the basic features of the decision we had reached, the Commission regrets that it is unable at this late stage in the proceeding to delay final adoption of the Report and Order in Docket No. 6741. The Commission has therefore adopted its final Report and Order in this matter concurrently with its authorization of the dispatch of this letter to you.

Implementation of the Commission's decision in Docket No. 6741 will require time, and it is probable that petitions for reconsideration will be filed by advocates of many of the positions heretofore urged upon us. Additional time will be required to dispose of these, and, in our judgment, there is no possibility that applications for any of the proposed Class II stations authorized to operate on existing clear channels can be

granted within the next six months — and probably not for a substantial period thereafter. As a consequence, it would appear that ample time will be available for the Committee to hold hearings on this problem early in the next session if it concluded that such a course would be in the public interest. This would provide an opportunity for Congressional action if you and your colleagues should conclude that legislative action is warranted. Meanwhile, however, the Commission feels that it must press forward to a conclusion of this long-pending proceeding in the manner which, in its best judgment, appears to be most in the public interest. Having thus discharged its responsibilities, the Commission will welcome study of its action by your Committee and will, of course, be most happy to cooperate in any way that it can.

I am enclosing herewith a copy of this letter and a copy of the Report and Order for each member of the Committee.

BY DIRECTION OF THE COMMISSION

/s/ Newton N. Minow

Newton N. Minow
Chairman

Enclosures

C
O
P
Y

CONGRESS OF THE UNITED STATES

September 7, 1961

Honorable Newton N. Minow
Chairman
Federal Communications Commission
Washington 25, D. C.

My dear Mr. Chairman:

I have your letter of September 6, 1961, in response to copy of my letter of September 2 to Congressman Dingell, with reference to the Clear Channel proceeding. I am glad to have the clarification as to the status of the proceeding before the Commission.

Yesterday, September 6, this matter was raised in an executive session of the Committee on Interstate and Foreign Commerce. A great deal of interest was expressed by members of the Committee. I explained to the Committee the status, as you have given me by telephone and confirmed by your letter.

The Committee directed me, as Chairman, to transmit to the Commission a letter requesting postponement by the Commission final order concluding the Clear Channel proceeding (Docket 6741) until the expiration of a reasonable time after the reconvening of the Congress in January 1962. This request is made in order to give the Committee an opportunity to give consideration to the matter and probably conduct some hearings on several bills which have been introduced and referred to the Committee affecting Clear Channel operations (H.R. 8210 by Mr. Dingell, H.R.8211 by Mr. Flynt, H.R.8228 by Mr. Bennett of Michigan, H.R.8274 by Mr. Loser).

This problem has only recently been called to my attention. I have, therefore, not had an opportunity to schedule any hearings or other consideration on it during this session. In view of the fact that proposed legislation would be in conflict with an order in Docket 6741, under preparation by direction of the Commission in accordance with its Public Notice 6295 of June 13, 1961, the Commission is urgently requested to defer final action until the Committee and the Congress have had a reasonable opportunity to consider the pending legislation.

It would be my purpose to schedule Committee consideration of it early in the next session. The cooperation of the Commission would be greatly appreciated.

By direction of the Committee.

Sincerely yours,

OREN HARRIS, M.C.
Chairman

CCBS
File

Mr. DeWitt's Appointments

January 22 - Senator Talmadge 10:30 A.M.

Congressman Dingell - 1:30 P.M. (1616 NHO)

Detroit district
Mrs. CANTWELL

(Mr. Gates)

15 Jan Jos IMIRIE ASST SAC
Senator Capehart - 2:30 P.M. (5241)

Congressman Oren Harris - 3:30 P.M. (Room 1503 NHO)

Senator Gore - 4:30 P.M. Asst. Jack Robinson

Flynt

January 23 - Lunch - FCC PUCINSKI
Gov Room Puchensky
Birkson - 2:30 P.M.

(Chicago) VOA - high power OK
very helpful

Bennett

Sen Russell - 6:00 PM

Saw Kefauver - wants memo of Talmadge + number
tell

January 24 - Lunch 12:45 Willard Nick Zapple

Bobby Baker Say to majority leader

Dingell

Oren Harris will want to know his local broadcast
are not against us. He is key to whole problem

Dingell greatly interested in our problem
& understands it thoroughly

Kefauver adm asst  Chas. Caldwell

Talk to Fran about John Bell Williams' Miss
on committee

Wed 29 Jan

Cong Nick ell. 10:00

Cong Bennett. Nick 11:00

Zopfle lunch

OREN HARRIS
4TH DIST., ARKANSAS

CHAIRMAN:
COMMITTEE ON INTERSTATE
AND FOREIGN COMMERCE

FULL CCBS

HOME ADDRESS:
EL DORADO, ARKANSAS

SECRETARIES:
WILLIE HARRIS
CHRISTINE CHRISTIE
RUTH COLLINS

Congress of the United States
House of Representatives
Washington, D. C.
January 30, 1962

Mr. John H. DeWitt, Jr.
President
W S M Radio Station
Nashville, Tennessee

Dear John:

I have your letter of January 25, together with copies of letters referred to on the Clear Channel Issue.

I have scheduled hearings by the Subcommittee beginning tomorrow. All of the facts and information will be developed during the course of the hearings.

I expect to give this my personal attention and will assist in developing the record completely in an effort that the Committee may be fully advised and in a position to give appropriate consideration to it.

Sincerely yours,


OREN HARRIS, M. C.

OH:m

File CCBS

January 30, 1962
Dictated 1/28/62

The Honorable Peter F. Mack, Jr.
House Office Building
Washington 25, D.C.

My dear Mr. Mack:

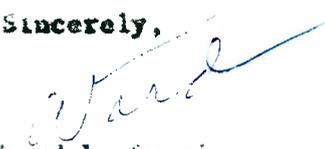
Thank you very much for your courtesy in sending me a copy of your letter of January 24 as addressed to the Honorable Eugene M. Zuckert, Secretary of the Air Force.

There are no words adequate, Mr. Mack, to thank you for the time you so kindly gave Messrs. DeWitt, Battles and me this past week in Washington and for this generous move to secure the appearance of the very able Lt. Colonel Frank I. Adams as an expert witness on the aspects of the Clear Channel hearing.

I regret so much that I have not had the pleasure of becoming acquainted with you prior to this recent trip to the Nation's Capitol - I do hope to see much more of you in the near future. Meanwhile, I trust you will feel free to call upon me anytime you feel I can be of service in anyway.

Warmest personal regards and much appreciation.

Sincerely,


Ward L. Quasi

WLC:ak

Ccc: R. Russell Eagan, Esquire
Messrs. DeWitt, Battles, Gates

January 24, 1962

The Honorable Eugene Martin Zuckert
Secretary of the Air Force
The Pentagon
Washington 25, D. C.

Dear Mr. Secretary:

Our Committee on Interstate and Foreign Commerce is scheduled to hold hearings on clear channel broadcasting commencing on January 31.

I thought it might be helpful if Lt. Col. Frank L. Adams could appear as a witness during the course of these hearings. It is my understanding that he has done some work in cooperation with clear channel broadcasting and if this information is not highly classified it might be beneficial to the members of our Committee.

Sincerely yours,

PETER F. HARR, JR.
M. C.

PFM:R

February 3, 1962

The Honorable Brooks Hays
Special Assistant to President ~~Kennedy~~
The White House
Washington, D. C.

Dear Mr. Hays:

On January 29th Mr. Dan Brooks, Vice President of our parent company the National Life and Accident Insurance Company, wrote you to the effect that he would appreciate your seeing me on a matter having to do with the clear channels in radio broadcasting.

While in Washington last week I found that circumstances were such at the moment that it was not necessary for me to take your time to go into this matter. It may be that in the near future I would wish to see you and I trust that I shall have the opportunity of talking with you at that later time.

Sincerely yours,

John H. DeWitt, Jr.

JHD:am

January 29, 1962

The Honorable Brooks Hays
Special Assistant to President Kennedy
The White House
Washington, D. C.

Dear Brooks:

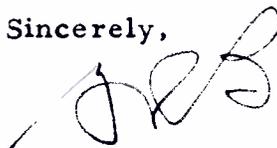
The National Life and Accident Insurance Company owns WSM, Incorporated which operates clear channel radio station WSM and television station WSM-TV. We are, therefore, very interested in several bills before the House and Senate at the present time pertaining to clear channel radio stations.

Mr. John H. DeWitt, Jr. plans to be in Washington within the near future, and he will call you to ask for an appointment with you. If possible, I hope that you will give Mr. DeWitt a few minutes' time in order that you can furnish him with some advice regarding this proposed legislation. I can assure you that I will certainly appreciate any assistance that may properly be rendered by you.

I know, of course, that you are extremely busy, but I trust that you will be able to come to Nashville for the Spring meeting of the Board of Trustees of Peabody College. I will look forward to the pleasure of seeing you at that time.

With kindest regards and all good wishes, I am

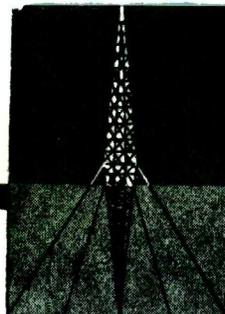
Sincerely,



G. D. Brooks
Financial Vice President

Copy: Mr. DeWitt

C
O
P
Y



RADIO STATION

WSM
INCORPORATED50000
WATTS

650 KILOCYCLES

NASHVILLE, TENNESSEE

* * *

CLEAR CHANNEL

* * *

January 15, 1962

Mr. W. I. Thomas
Beta Instruments Corporation
2205 Butler Street
Dallas 35, Texas

Dear Mr. Thomas:

I appreciate your interest IN SHOWING US THE
DART Alert System. We would be interested in
getting further technical details, descriptive
details et cetera.

Sincerely,

John H. DeWitt, Jr.

JHD:am

Beta

INSTRUMENTS CORPORATION

2205 Butler Street • Dallas 35, Texas • MElrose 1-7743

January 11, 1962

Mr. John H. DeWitt, Jr.
WSM Radio Station
National Building
Seventh & Union Streets
Nashville, Tennessee

Dear Mr. DeWitt:

Enclosed is a brochure which describes an alarm system which Beta will be bringing to market in May of this year. We have visited your Mr. Roy Battles of CCBS in Washington, D.C. and it was suggested that we contact you.

Since our system has definite promotional advantages for the major radio stations in each city we are endeavoring to gain support from the CCBS and NAB in Washington, D.C.

Beta will be in Washington, D.C. from February 22 through February 26 exhibiting at a Civil Defense Show and would appreciate an opportunity to demonstrate the DART System to you. I would be happy to stop by in Nashville either before or after the show to discuss our plan with you at your convenience.

I will look forward to hearing from you.

Very truly yours,

BETA INSTRUMENTS CORPORATION


W. I. Thomas

WIT/f
Encl.

NEW YORK, NOV. 22 (UPI)--ESTABLISHMENT OF A DISASTER-PROOF NORTH AMERICAN COMMUNICATIONS NETWORK THROUGH JOINT EFFORTS OF THE BROADCAST INDUSTRY, GOVERNMENT AND THE MILITARY WAS URGED LAST NIGHT BY A RADIO-TV EXECUTIVE.

THE PROPOSAL WAS MADE BY C. WPEDE PETERSMEYER, PRESIDENT OF THE CORINTHIAN BROADCASTING CORP., NEW YORK CITY, DURING A SYMPOSIUM AT THE OVERSEAS PRESS CLUB ON THE RESPONSIBILITIES AND ROLE OF TELEVISION IN A NATIONAL OR REGIONAL EMERGENCY.

AS ENVISIONED BY PETERSMEYER, THE NORTH AMERICAN NETWORK WOULD BE ABLE TO DEAL WITH COMMUNICATIONS DURING AN ALL-OUT NUCLEAR ATTACK AS WELL AS NATURAL DISASTERS ON A REGIONAL OR NATIONAL BASIS.

PETERSMEYER SAID HE FELT THE BROADCAST INDUSTRY "MIGHT DEVOTE AN IMPORTANT EFFORT TODAY TO RESEARCHING DIFFERENT APPROACHES TO NEWS COVERAGE AT TIMES OF NATIONAL OR MAJOR REGIONAL EMERGENCIES."

PARTICIPANTS IN THE SYMPOSIUM MODERATE BY PETERSMEYER WERE PAUL KUTSCHENREUTER, ASSISTANT CHIEF FOR TECHNICAL SERVICES, U. S. WEATHER BUREAU, WASHINGTON; COL. BARNEY OLDFIELD, CHIEF OF INFORMATION, NORTH AMERICAN AIR DEFENSE COMMAND, COLORADO SPRINGS, COLO., AND ANTHONY J. WEINER OF THE HUDSON INSTITUTE, WHITE PLAINS, N.Y., A PRIVATE ORGANIZATION STUDYING PROBLEMS OF NATIONAL SECURITY AND INTERNATIONAL ORDER.

THE SYMPOSIUM WAS PRESENTED BY CORINTHIAN BROADCASTING CORP., A GROUP OF FIVE TV AND TWO RADIO STATIONS--KOTV, TULSA, OKLA.; KHOU-TV, HOUSTON; KYTV, SACRAMENTO, CALIF.; WANE AND WANE-TV, FT. WAYNE, IND., AND WISH AND WISH-TV, INDIANAPOLIS. CORINTHIAN IS PART OF THE WHITNEY COMMUNICATIONS CORP., NEW YORK, WHICH INCLUDES THE NEW YORK HERALD TRIBUNE AND PARADE MAGAZINE.

*Save
for future
reference*

January 11, 1962

Dic. 1-9-62

Mr. Roy Mattles, Director
Clear Channel Broadcasting Service
Shoreham Building
Washington 5, D. C.

Dear Roy:

Within the next few days I am sure you will be in touch with your Washington office and, therefore, I am relaying this message to you regarding a very lengthy conversation I had today with Joe Baudino, pursuant to a conversation over the weekend with Don McGannon, President of Westinghouse Broadcasting.

Certainly we couldn't ask for more support than that which Joe Baudino desires to deliver in our behalf as Resident Vice President in Washington of Westinghouse. Also, while Don McGannon, himself, is not conversant with our subject, he feels that Westinghouse should move in every possible area of assist to the CCBS position. Obviously, of course, Don is concerned about any major moves at this time in view of the position of the Anti-Trust Section of the Department of Justice against his parent company. Joe Baudino, long time Chief Engineer, later General Manager of EDKA, Pittsburgh, and for the last 5 or 6 years, Vice President of Westinghouse Broadcasting in charge of the Washington office, is "geared" to help us and has already had several meetings on the subject.

Joe promised me, after our review of the congressional delegations from the operating areas of EDKA, WNK and KTV, to meet again with these legislators and to "attune" management in each of these three properties to the needs of community activity in behalf of the clear channel cause. Joe also assured me that while he cannot make a commitment for his organization, he believes in membership in CCBS and will do his best in the next few months to bring about a return to the "fold".

In summary, Roy, I feel that you have a splendid working ally in Joe. He pledged you and me every bit of assistance in the months to come,

Mr. Roy Battles -- 2

January 11, 1962

as we prepare to win in 1962.

Best wishes.

Sincerely,



Ward L. Russell

WLR/ck

cc: Edwin W. Craig
Harold Hough
John H. DeWitt, Jr. —
R. Russell Eagan, Esq.

Nighttime interference free contour maps needed - January 3, 1961

	Freq.	Call. letters
Alabama		
Gadsden	570	WCAS
Cullman	1460	WFMH
California		
San Gabriel	1430	KALI
Parlock	1390	KTUR
Connecticut		
New London	1510	WNLC
Florida		
Ft. Pierce	1330	WARN
Ft. Lauderdale	1580	WWIL
Georgia		
Atlanta	590]	WPLO
Bainbridge	930	WMGR
Idaho		
Mountain Home		
Twin Falls	1270	KTFI
Kansas		
Liberal	1270	KSCB
Louisiana		
Monroe	540	KNOE
Lafayette	1520	KXKW
Maryland		
Frederick	930	WFMD
Gaithersburg	1150	WHMC
Minnesota		
Alexandria	1230	KXRA
Mississippi		
Meridian	1010	KMOX
New Albany	1470	WNAU
Jackson	1550	New
Nevada		
Carson City	1300	KPTL
New Hampshire		
Manchester	1250	WKBR
Portsmouth	1380	/WBBX
New Mexico		
Roswell	1430	KGFL
Albuquerque	1150	KDEF
New York		
Elmira	1410	WELM
North Carolina		
Fayetteville	940	WFNC

	Frequency	Call Letters
North Carolina Fayetteville	940	WFNC
North Dakota Willston	1360	KEYZ
Oklahoma Alva	1430	KALV
Pennsylvania Bloomsburg	550	WHLM
Lewistown	920	WKVA
Gettysburg	1320	WGET
Sunbury	1070	WKOK
Corry	1370	WOTR
South Carolina Conway	1330	WLAT
Tennessee Lookout Mountain	1070	WFLI
Oak Ridge	1290	WATO
Texas Monahans	1330	KWKM
Texarkana	740	KCMC
Sinton	1590	KTOD
West Virginia Charleston	680	WCAW
Wyoming Laramie	1290	KOWB

Maps needed - January 3, 1962

	Frequency	Call Letters
Alabama		
Gadsden	570	WCAS
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California		
San Gabriel	1430	KALI
Turlock	1390	KTUR
Connecticut		
New London	1510	WNLC
Florida		
Ft. Pierce	1330	WARN
Ft. Lauderdale	1580	FWIL
Georgia		
Atlanta	590	WPLO
Bainbridge		WMGR
Idaho		
Twin Falls	1270	KTFI
Kansas		
Liberal	1270	KSCB
Louisiana		
Monroe	540	KNOE
Lafayette	1520	KXKW
Maryland		
Frederick	930	WFMD
Gaithersburg	1150	WHMC
Minnesota		
Alexnadria	1230	KXRA
Mississippi		
Meridian	1010	MOX
New Albany	1470	WNAU
Jackson	1550	New
Nevada		
Carson City	1300	KPTL
New Hampshire		
Manchester	1250	WKBR
Portsmouth	1380	WBBX
New Mexico		
Roswell	1430	KGFL
Albuquerque	1150	KDEF
New York		
Elmira	1410	WELM

North Carolina		
Fayetteville	940	WFNC
North Dakota		
Williston	1360	KEYZ
Oklahoma		
Alva	1430	KALV
Pennsylvania		
Bloomsburg	550	WHLM
Lewistown	920	WKVA
Gettysburg	1320	WGET
Sunbury	1070	WKOK
Corry	1370	WOTR
South Carolina		
Conway	1330	WLAT
Tennessee		
Lookout Mountain	1070	WFLI
Oak Ridge	1290	WATO
1		
Texas		
Monahans	1330	KWKM
Texarkana	740	KCMC
Sinton	1590	KTOD
Wyoming		
Laramie	1290	KOWB

April 12, 1962

Mr. Roy Battles
Clear Channel Broadcasting Service
532 Shoreham Building
Washington, D. C.

Dear Roy:

In connection with your Bulletin #2, I believe Colonel Adams expressed an interest in putting something into the hearing on the part of the Air Force in connection with the 6 to 6 or pre-sunrise proposals. When Russ gets back I think it would be well for you check with him about this. Pre-sunrise operation of daytime stations on 1-A clear channels could under certain circumstances wreck the BRECOM plan.

Best regards.

Sincerely yours,

John H. DeWitt, Jr.

JHD:am

C
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Y

Telefax

WESTERN UNION

Telefax



NS LL8069 PD=FAX NEWORLEANS LA 12 953A CST=

J H DEWITT= WSM - TV=

1962 APR 12 AM 10 13

NASHVILLE TENN=

FATHER GOODSPEED WILL SEE YOU TUESDAY AFTERNOON=

J D BLOOM WWL-TV.

10130



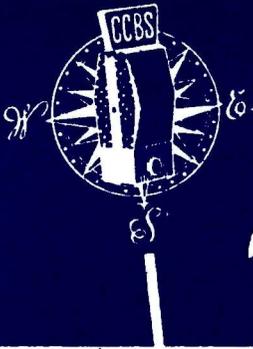
from JACK DeWITT

Lt. Col. Adams

5-B-512

*Loywers Club
18 75 H St
2nd Floor*

*Adms from Roger Smith
up block*



CLEAR CHANNEL BROADCASTING SERVICE

Your Attention Please!

Bulletin # 2

April 10, 1962

CONFIDENTIAL

TO CCBS GENERAL MANAGERS AND CHIEF ENGINEERS:

Chairman Moulder of the Subcommittee on Communications and Power of the House Commerce Committee has called additional hearings on bills relating to the hours of operation of daytime broadcasting stations.

These hearings will be a continuation of the hearings held last July on the same bills. They will be held in Washington on Monday and Tuesday, plus possibly Wednesday, April 16, 17 and 18, 1962.

CCBS testified through John H. DeWitt, Jr., last July, so unless unforeseen developments take place we will not offer testimony at this time. The hearings were expressly called to provide those who did not have an opportunity to appear previously to be heard before the hearing record is closed.

In the case of new developments requiring CCBS comments or rebuttal, we will be afforded the opportunity of having our comments being made a part of the hearing record.

In addition to the testimony on the "6 to 6" and related bills, there will no doubt be considerable discussion relating to the FCC's proposed rule on notifying the Commission of pre-sunrise operations on the part of daytime broadcasters.

We understand that the Commission will appear at the hearing with this line of logic:

"The Commission is developing a proposed rule which will permit the pre-sunrise operation of a daytime broadcasting station when said station is the only station operating in the community. So relax."

Details of the above idea are in the developmental stage. We do not know now what will be defined as a community or any of the other details. If this idea materializes it will be in the form of a notice of proposed rule making and will have the opportunity of filing written comments in opposition thereto. Since 58 daytimers operate on Clear Channels it is possible that if the above rule is implemented it could cause problems for some Clear Channel stations.

ROY BATTLES

April 12, 1962

Mr. Bill Dean
Station W W L
New Orleans, Louisiana

Dear Bill:

Next week I plan to come down your way, stopping at the University of Alabama and then proceeding to New Orleans on Tuesday, April 17th. J. D. and I will be discussing the BRECOM plan and I would like very much to see you and Father Goodspeed to talk about the clear channel group. J. D. has already talked with Father Goodspeed about my trip and he tells me that the good gentleman will be in his office on Tuesday afternoon.

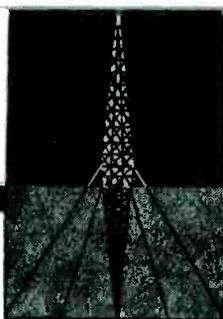
I think we have made a lot of progress in Washington in the last few months which I am sure you know but I would like to have the opportunity of talking with you further about the CCBS plans as well as a discussion of radio matters in general.

Sincerely yours,

John H. DeWitt, Jr.

JHD:am

RADIO STATION


WSM
 INCORPORATED

 50000
 WATTS

650 KILOCYCLES NASHVILLE 3, TENNESSEE

* * * CLEAR CHANNEL * * *

MEMORANDUM

January 25, 1962

TO: MR. G. D. BROOKS

FROM: John H. DeWitt, Jr.

At the present time there are Bills before the House and Senate which would change the Communications Act if passed so as to prevent the Federal Communications Commission from duplicating the remaining twenty-five 1-A clear channel stations. The Bills in the House are as follows: H.R. 8210 by Mr. Dingell of Michigan, H.R. 8228 by Mr. Bennett of Michigan and H.R. 8274 by Mr. Carlton Loser. These, of course, would come under the Interstate Commerce Committee headed by Mr. Oren Harris of Arkansas. The Committee has determined that the Sub-committee headed by Mr. Morgan Moulder of Missouri will begin hearings on these Bills on Wednesday, January 31st. We would like very much to get Mr. Oren Harris to look at this matter very carefully because Mr. Moulder is antagonistic toward the Bills.

Mr. Harris is from a district in Arkansas which has been enlarged to the point where it encompasses almost half the state. He is up for re-election and his opponent is, I understand, a personable lady who can get a lot of votes. I would assume that Mr. Harris will not concentrate too much on Bills of the type which would interest us at the present time.

The Clear Channel Broadcasting Service is very close to the farm organizations. We would like to know if there is any way we can help Mr. Harris in his re-election campaign for it may be necessary for us to call on him directly for help on our Bills.

 JHD:am

CONGRESS OF THE UNITED STATES

C
O
P
Y

September 7, 1961

Honorable Newton N. Minow
Chairman
Federal Communications Commission
Washington 25, D. C.

My dear Mr. Chairman:

I have your letter of September 6, 1961, in response to copy of my letter of September 2 to Congressman Dingell, with reference to the Clear Channel proceeding. I am glad to have the clarification as to the status of the proceeding before the Commission.

Yesterday, September 6, this matter was raised in an executive session of the Committee on Interstate and Foreign Commerce. A great deal of interest was expressed by members of the Committee. I explained to the Committee the status, as you have given me by telephone and confirmed by your letter.

The Committee directed me, as Chairman, to transmit to the Commission a letter requesting postponement by the Commission final order concluding the Clear Channel proceeding (Docket 6741) until the expiration of a reasonable time after the reconvening of the Congress in January 1962. This request is made in order to give the Committee an opportunity to give consideration to the matter and probably conduct some hearings on several bills which have been introduced and referred to the Committee affecting Clear Channel operations (H.R. 8210 by Mr. Dingell, H.R. 8211 by Mr. Flynt, H.R. 8228 by Mr. Bennett of Michigan, H.R. 8274 by Mr. Loser).

This problem has only recently been called to my attention. I have, therefore, not had an opportunity to schedule any hearings or other consideration on it during this session. In view of the fact that proposed legislation would be in conflict with an order in Docket 6741, under preparation by direction of the Commission in accordance with its Public Notice 6295 of June 13, 1961, the Commission is urgently requested to defer final action until the Committee and the Congress have had a reasonable opportunity to consider the pending legislation.

It would be my purpose to schedule Committee consideration of it early in the next session. The cooperation of the Commission would be greatly appreciated.

By direction of the Committee.

Sincerely yours,

OREN HARRIS, M.C.
Chairman

Separate closing paragraph to the following stations:

KFI

SINCE YOUNGER AND MOSS ARE BOTH MEMBERS OF THE SUBCOMMITTEE, PLEASE LEAVE NO STONE UNTURNED TO REINFORCE THEM WITH CALIFORNIA SUPPORT, INCLUDING RURAL AND POLITICAL LEADER SUPPORT FROM THEIR OWN DISTRICT.

WSM

JACK THE ABOVE TELETYPE WENT TO ALL CCBS STATION MANAGERS. WOULD YOU WANT TO CALL LOSER SUGGESTING THAT HE MIGHT LIKE TO TESTIFY BEFORE THE SUBCOMMITTEE NEXT WEDNESDAY. ALSO A CALL TO WEINCH MIGHT HELP GET FULL ATTENTION FROM FLYNT AND TALMADGE.

WLW

YOU MAY WANT TO REINFORCE THE STATE AND LOCAL SUPPORT OF CONGRESSMEN DEVINE, SCHENCK, AND STAGGERS WHO ARE MEMBERS OF THE FULL COMMITTEE AS WELL AS OTHERS WHICH YOU SHARE CLOSE RELATIONSHIPS.

WGN

THE ABOVE TELETYPE WARD WAS SENT TO ALL CCBS MANAGERS WITH A COPY TO KSL, WWL, AND WCCO. DO YOU WANT TO CALL CAPEHART AND PUCINSKI SUGGESTING THAT THEY MAY WANT TO TESTIFY POSSIBLY ALSO REINFORCING THE SUPPORT AND ATTENDANCE IF NECESSARY OF ROSTENSKOWSKI, MACK SPRINGER, AND COLLIER PLUS MOULDER THROUGH CBS, AND SIBAL IN WHATEVER WAY POSSIBLE. WESTINGHOUSE SHOULD MAKE FRESH CONTACTS WITH MACDONALD AND KEITH OF MASS. AND PERHAPS CURTAIN AND RHODES OF PENNSYLVANIA.

WSB

IT WOULD BE HELPFUL IF YOU COULD URGE CONGRESSMEN FLYNT TO TESTIFY IN SUPPORT OF HIS BILL BEFORE THE SUBCOMMITTEE EVEN THOUGH HE RESIGNED FROM THE COMMITTEE A FEW DAYS AGO TO ACCEPT ANOTHER ASSIGNMENT. ALSO YOU MIGHT FIND SENATOR TALMADGE WILLING TO APPEAR BEFORE THE HOUSE SUBCOMMITTEE IN SUPPORT OF WSB'S POSITION.

WJR

CONGRESSMEN DINGELL AND BENNETT ARE FIGHTING HARD FOR US BUT NEED ALL THE POSSIBLE SUPPORT THEY CAN GET FROM MICHIGAN AND THEIR OWN DISTRICT.

WOAI, WRAP, WFAA

CONGRESSMAN ROGERS BEING ON THE SUBCOMMITTEE AND CONGRESSMAN KILGORE BEING A MEMBER OF THE FULL COMMITTEE ARE EXTREMELY IMPORTANT TO US. ANY SUPPORT IN FAVOR OF YOUR POSITION THAT YOU CAN GET QUICKLY TO THEM FROM THE STATE AND IN PARTICULAR FROM THEIR DISTRICT IS NOW BADLY NEEDED.

WHAS

WHILE NO MEMBER OF THE COMMITTEE IS FROM YOUR IMMEDIATE AREA ANY GENERAL ORGANIZATIONAL OR POLITICAL SUPPORT FROM KENTUCKY AND INDIANA THAT YOU CAN MUSTER WILL BE NEEDED.

WHO

WHILE NO MEMBER OF THE COMMITTEE IS FROM IOWA ANY GENERAL ORGANIZATION OR POLITICAL SUPPORT YOU CAN MUSTER WILL BE NEEDED. PERHAPS ALSO SENATOR MILLER WOULD BE WILLING TO MAKE HIS POSITION KNOWN TO THE HOUSE SUBCOMMITTEE.

WHAM

CONGRESSMAN O'BRIEN BEING A MEMBER OF THE FULL COMMITTEE IS OF COURSE EXTREMELY IMPORTANT TO US. PERHAPS SENATOR KEATING WOULD BE WILLING TO MAKE HIS POSITION KNOWN TO THE HOUSE SUBCOMMITTEE.

KSL FOLLOWING IS A MESSAGE SENT TODAY TO ALL CBS STATION MANAGERS:

CONGRATULATIONS ON THE RESOLUTION SECURED FROM NATIONAL WOOL GROWERS AND UTAH CATTLEMEN. WOULD THESE ORGANIZATIONS BE WILLING TO PLACE THEIR VIEWPOINTS BEFORE THE SUBCOMMITTEE EITHER IN PERSON OR IN WRITING.

WCCO FOLLOWING IS A MESSAGE SENT TODAY TO ALL CBS STATION MANAGERS:

CONGRESSMAN NELSON BEING A MEMBER OF THE FULL COMMITTEE IS EXTREMELY IMPORTANT TO US. SHOULD HIS SUPPORT BE REINFORCED.

HEARINGS ON THE CLEAR CHANNEL BILLS, H.R. 5210 AND OTHERS WILL BE HELD BEFORE THE SUBCOMMITTEE ON COMMUNICATIONS AND POWER OF THE HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE NEXT WEDNESDAY THURSDAY AND FRIDAY JANUARY 31, FEBRUARY 1 and FEBRUARY 2.

THE COMMITTEE IS MADE UP OF CHAIRMAN MORGAN M. MOULDER OF MISSOURI AND CONGRESSMEN WALTER ROGERS OF TEXAS, JOHN E. MOSS OF CALIFORNIA, DAN ROSTENKOWSKI OF ILLINOIS, J. ARTHUR YOUNGER OF CALIFORNIA, ABERNETHY W. SIBAL OF CONNECTICUT AND VERNON W. THOMPSON OF WISCONSIN.

THE SUBCOMMITTEE HAS INFORMALLY SAID THAT IT WILL OPEN HEARINGS AGAIN PROBABLY DURING THE WEEK OF FEBRUARY 12 SO AS TO ALLOW THE FCC AN OPPORTUNITY TO STATE ITS CASE SINCE THE COMMISSION IS NOW INVOLVED IN HEARINGS OF ITS OWN. THERE IS A CHANCE THAT THOSE WHO WISH TO TESTIFY BUT CANNOT POSSIBLY APPEAR NEXT WEEK WILL BE AFFORDED AN OPPORTUNITY TO DO SO AT THAT TIME ALTHOUGH THE COMMITTEE NOW CLAIMS IT WILL HEAR ALL WHO WISH TO TESTIFY FROM THE PUBLIC SECTOR NEXT WEEK. THE HEARING RECORD WILL BE KEPT OPEN FOR WRITTEN COMMENTS, LETTERS, TELEGRAMS, ETC. AT LEAST UNTIL THE CLOSE OF THE WEEK OF FEBRUARY 12.

CCBS WILL TESTIFY THROUGH BATTLES WITH THE OVERALL CASE AND DEWITT WITH THE TECHNICAL ASPECTS BOTH ASSISTED BY EAGAN.

CCBS WILL ALSO SOLICIT TESTIMONY FROM THE NATIONAL FARM GROUPS AND DEFENSE OFFICIALS. APPROVAL BY THIS SUBCOMMITTEE TO BE FOLLOWED BY APPROVAL OF THE FULL COMMITTEE IS OUR FIRST HURDLE IN THE EFFORT TO PASS THIS LEGISLATION. HEARINGS ON THE SENATE SIDE WILL PROBABLY NOT BE HELD IF HOUSE COMMITTEE DOES NOT APPROVE THIS LEGISLATION. GAINING SUCH APPROVAL WILL REQUIRE ALL POSSIBLE SUPPORT. PLEASE URGE EVERY POSSIBLE INDIVIDUALS AND ORGANIZATIONS IN YOUR AREA TO APPEAR WITH TESTIMONY OR AT LEAST IMMEDIATELY SEND LETTERS AND TELEGRAMS TO THE CHAIRMAN OF THE SUBCOMMITTEE OR OTHER MEMBERS OF THE SUBCOMMITTEE. TELEPHONE CALLS OR PERSONAL CONTACTS TO SUBCOMMITTEE MEMBERS ARE ALSO SOLICITED. NOW IS THE TIME FURTHERMORE TO DIRECT ALL POSSIBLE SUPPORT TO MEMBERS OF THE FULL COMMITTEE WHICH WILL CONSIDER

THE LEGISLATION FOLLOWING POSSIBLE APPROVAL BY THE SUBCOMMITTEE.

YOU WILL WANT TO DECIDE NOW ALSO WHETHER YOUR STATION WILL APPEAR WITH TESTIMONY. ALL WHO WISH TO TESTIFY INCLUDING INDIVIDUALS AND ORGANIZATIONS SHOULD IMMEDIATELY WIRE CHAIRMAN MOULDER OR W. E. WILLIAMSON, CLERK OF THE HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE, HOUSE OFFICE BUILDING, WASHINGTON 25, D. C., ASKING TO BE PLACED ON THE LIST OF WITNESSES. THOSE WHO CANNOT POSSIBLY APPEAR NEXT WEEK SHOULD REQUEST TIME DURING THE WEEK OF FEBRUARY 22. WE CANNOT GUARANTEE HOWEVER THAT THE REQUESTS TO APPEAR AT THE LATTER TIME WILL BE HONORED.

AIR FORCE DEFENSE ASPECTS OF OUR CASE ARE PROCEEDING WELL BUT TESTIMONY RELATING THERETO WILL BE HANDLED HERE. YOUR TESTIMONY OR LETTERS HOWEVER MAY INCLUDE THE CIVIL DEFENSE PUBLIC INTERESTS ASPECTS OF THE CLEAR CHANNEL ISSUE AS A PART OF OUR TOTAL APPROACH.

SEE OUR RECENT NOTE SENT TO YOU OVER EAGANS COVERING LETTER DATED JANUARY 11, 1962 FOR FURTHER BACKGROUND AND IDEAS.

QUAAL AND DEWITT SPENT THE FIRST THREE DAYS OF THIS WEEK IN WASHINGTON WORKING ON PROBLEM. BOTH ARE THEREFORE FULLY UP TO DATE ON DETAILS.

PLEASE SEND ME IF POSSIBLE COPIES OF ALL CORRESPONDENCE THAT YOU INITIATE OR HAVE INITIATED BY SOMEONE ELSE EITHER IN OR OUTSIDE OF YOUR STATION WITH RESPECT TO THIS EFFORT SO THAT THE EFFORT CAN BE MORE FULLY COORDINATED.

TELEVISION FOR RURAL AREAS

WHEREAS, The nation's ranchers and farmers, in order to do an even better job of feeding and clothing our peoples, need not only prompt and comprehensive market reports and production information, but the same entertainment and educational features enjoyed by other Americans; and

WHEREAS, Many urban communities are served by several television channels and many radio stations, while much of rural America is served by none or only one or two channels of news, market information and entertainment; and

WHEREAS, There are certain administrative and legislative threats to what can be considered as only reasonable adequate radio and television service to isolated ranch and farm areas; therefore be it

RESOLVED, That we reiterate our previous opposition to attempts to disrupt or even destroy rural television service by inserting channel allocations into overlapping areas or by shifting general transmission from VHF to UHF; and be it further

RESOLVED, That we not only support retention of the present "clear channel" stations, consistent with good community service, but ask that some of those clear channels previously destroyed by assignment of duplicating frequencies to "local" stations elsewhere be opened up to once again provide clear signals into rural areas.

22 January 62

Senator Gore very pleasant and receptive. Very much for clear channels. Interested in BRECOM. Wants me to let him know results of tests. Will support our position with respect to hearings.

Talmage will support us. Can't do anything until bill gets out of committee. Wants to keep WSB clear.

Capehart - Very pleasant and receptive. If House doesn't hold hearings (thinks this best) then Senate should.

Congressman Oren Harris brought in Moulder who confused issue. Had it all mixed up with daytime issue. More work needed here. Loser helpful

Congressman Dingell red hot for us. Will query Defense Department to get better letter from them.

Sen Dirksen is taking memo to White House for us. ~~Commander~~ Tazewell Shepard the president's naval aide will be warned by Ken Miller to brief president when he is asked.

Congressman Peter Mack is from Springfield, Ill. On Interstate Commerce Committee Very much on ball but quiet type.

Congressman John Bennett (r) also on committee. From upper Michigan. Very impressive and cordial with Quaal and me.

Sen Paul Douglas (Ill) Fine impressive old man. Called Cong. Peter Mack and asked him to call Pentagon to request Col. Adams to testify next week. Mack agreed. Colonel Adams highly interested in testifying.

23 January 62

Saw Sen. Dick Russell. Very cordial and friendly. Interested in BRECOM but felt it primarily belonged to Commerce Committee. Though Reinsch should handle this himself at White House. Said Pentagon generals very much afraid of McNamara and won't speak out. Did not rise to idea of our seeing Cong. Vinson. Said he would call Pentagon.

Sen. to maj. leader of Senate
Bobby Baker (from S.C.) great friend of Gov. Ellington. Said it would be serious mistake to ask Lyndon Johnson to help. He will not do anything about radio because of his wife's interests.

Saw Sen. Estes Kefauver-promised real help on Talmadge bill. Wants number of bill plus memo explaining situation. Very cordial. Kefauver Adm. Asst. is Chas. Caldwell

Cong. Roman Pucinski from Chicago. Saw in lunchroom over coffee. Very bright and alert person. Interested in Radio Free Cuba. Has collected money to put Spanish language news on WCBS and WWL. Think we should have high power to influence these Latin people.

CLEAR CHANNEL BROADCASTING SERVICE
SHOREHAM BUILDING
WASHINGTON 5, D. C.

Mr. Bellitt

January 23, 1962

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The Honorable Byron R. White
Deputy Attorney General
Department of Justice
Washington 25, D. C.

Re: S.2290

Dear Mr. White:

I have been informed that the Department of Justice has advised the Senate Committee on Interstate and Foreign Commerce that it is unable to recommend the enactment of S.2290.

For many years, it has been universally acknowledged that substantial areas and populations of our country do not receive adequate standard broadcast (AM) radio service during the nighttime.

In essence, this results from the fact that stations operating on the same frequency destroy each other's signals in the area between the cities in which the stations are located. Thus, residents of sparsely settled areas receive no nighttime AM radio service except that from I-A Clear Channel stations (and to a lesser extent from I-B Clear Channels) which have no other stations operating on their respective frequencies during the nighttime period.

For a number of years, the Federal Communications Commission and the radio industry have studied the question of how best to improve radio service to these underserved areas, which comprise about 60% of the land area of the country in which reside some 25 million people.