

## Milwaukee, Muskogee Cases Before Court

### WCAN-TV fights ch. 12 grant:

THE U. S. Court of Appeals in Washington will hear argument tomorrow (Aug. 10) on the request for a stay against the Milwaukee ch. 12 grant filed by WCAN-TV Milwaukee [B•T, July 26].

Ch. 25 WCAN-TV has asked that the FCC's grant of Milwaukee ch. 12 to the merged Milwaukee Area Telecasting Corp. be held up pending the court's ruling on its appeal against the FCC's refusal to accept its application for that vhf channel. The Commission would not accept the WCAN-TV application to change from ch. 25 to ch. 12 on the ground that it was filed after the Milwaukee ch. 12 hearing had begun.

The FCC rule provides that no competing application may be filed after 30 days before a hearing is scheduled to begin. WCAN-TV claimed that no hearing was actually held, due to the dropouts of other applicants when the merger agreement was agreed to.

The Milwaukee ch. 12 merger provided that after the grant to Milwaukee Area, it and WFOX and WEMP would own 30% each, and Koler Telecasting Co., 10%.

In its reply to the opposition of Milwaukee Area to WCAN-TV's protest, filed concurrently with its appeal to the court [B•T, July 19], WCAN-TV claimed anew that a hearing was not conducted and that it had a right to have its application accepted. "The 35 minute session before the examiner," WCAN-TV said, "was obviously a farcical and lame effort to stage an atmosphere of 'hearing.' It is said that testimony was taken and cross-examination occurred. But for what earthly purpose could testimony have been taken when the examiner himself had stated at the outset that no issues specified by the Commission remained . . ."

Milwaukee Area had charged in its opposition that WCAN-TV was engaged in tactics designed to delay competition [B•T, July 26].

### KCEB (TV) Asks Muskogee Stay:

REQUEST for a stay against the construction of KTVX (TV) Muskogee, Okla., will be argued tomorrow (Tuesday) in the U. S. Court of Appeals in Washington. The motion was brought by KCEB (TV) Tulsa last week, following its appeal from the FCC's denial of its protest against the ch. 8 grant in Muskogee [B•T, July 19].

Both ch. 23 KCEB and KSPG (TV), permittee of ch. 17, protested against the Mus-

kogee ch. 8 grant to Tulsa Broadcasting Co. (KTUL Tulsa) on the ground that there is overlap between KTVX in Muskogee and KWTV (TV) Oklahoma City. KVTX is owned by John T. Griffin and associates and KWTV is 50% owned by the same interests. Protestants also alleged undue concentration of control, claiming that the Griffin family also owns KATV (TV) Pine Bluff, Ark., KOMA Oklahoma City and KFPW Fort Smith, Ark. They also charged that the Muskogee vhf station is being promoted as a Tulsa-Muskogee outlet, emphasizing that there is no need to convert to uhf. KOTV (TV) Tulsa on ch. 6 participated in the original protests, but did not appeal to the court.

The FCC turned down the protests on the ground that the Muskogee ch. 8 grant came after a hearing. Tulsa Broadcasting Co. received the grant after competing applicants *Muskogee Phoenix* and *Times-Democrat* and Ashley L. Robinson withdrew. Since the three applicants had been set for hearing, the withdrawal of the two left Tulsa Broadcasting unopposed, but still in hearing status, the Commission held. The protest rule applies only to grants made without a hearing.

## FCC Returns Anthony's Providence Ch. 12 Bid

APPLICATION of E. Anthony & Sons for ch. 12 at Providence, R. I., was returned by FCC last week. The Commission acted on its own motion despite a protest by WPRO-TV Providence, permittee for ch. 12 [B•T, Aug. 2]. FCC said the Anthony bid could not be accepted for filing since ch. 12 already has been granted to WPRO-TV.

Permit for ch. 12 was granted WPRO-TV in early September last year, but its effective date was stayed when the Commission set for hearing a Sec. 309(c) economic protest filed by ch. 16 WNET (TV) Providence. The hearing now is before the Commission for final decision.

E. Anthony & Sons, operator of WNBH New Bedford, Mass., turned in its permits for ch. 50 WBOS-TV Boston and ch. 28 WTEV-TV New Bedford when it submitted the ch. 12 bid. In returning the Providence application, FCC said:

It should be noted that under Sec. 309(c) of the Communications Act of 1934, as amended, where the Commission sets a protested grant of an application for hearing, the grant is not thereby vacated or set aside. Instead, said section merely provides that "the effective date of the Commission's action to which protest is made shall be postponed to the effective date of the Commission's decision after hearing." . . . Therefore, until a final determination is made with respect to the hearing on the protest filed by Channel 16 of Rhode Island Inc. [WNET], Cherry & Webb Broadcasting Co. [WPRO-TV] is the permittee of ch. 12 in Providence.

It should also be pointed out that an application is not considered to be mutually exclusive with another for the same channel if the latter has already been granted, even though the grant may be the subject of a protest . . . Nor is an application for a channel for which there is an outstanding construction permit entitled to a hearing on its application.

## FCC Approves Relays To Extend Network Tv

VARIOUS medium and short-hop microwave radio relay facilities were authorized by FCC last week to American Telephone & Telegraph Co. Long Lines Division and affiliated companies to extend network service to television stations. Some of the authorizations were in conjunction with expansion of inter-city telephone message channels.

About 100 channel miles were added in South Carolina grants which would extend network service to ch. 8 WBTW (TV) Florence, now under construction. Cost is estimated at \$340,000.

Extension of facilities from Terre Haute,

Ind., to furnish network programs to ch. 62 WFIE (TV) Evansville and nearby ch. 60 WEHT (TV) Henderson, Ky., was approved by the Commission. Cost is \$530,000.

An additional tv circuit between Columbus and Dayton, Ohio, was included in a grant for added telephone facilities between Columbus and Indianapolis, costing \$330,000.

A 68-channel mile link for ch. 5 KGEO-TV Enid, Okla., to cost \$90,000, was approved as well as a drop-off from the Denver-San Francisco relay to serve ch. 8 KZTV (TV) Reno. Six mile network feed for ch. 3 WEAR-TV Pensacola, Fla., was granted.

FCC approved a second Minneapolis-Fargo link to extend network service to ch. 4 KXJB-TV Valley City, N. D., and also a 95-mile relay costing \$88,000 to serve ch. 42 WNAM-TV Neenah.

## TV REMOTE RULES REVISED BY FCC

IMPROVED auxiliary broadcast facilities for television remote pickup, relay and other purposes were provided by FCC last week in making final its proposal to amend Part 4 of its rules governing television auxiliary stations [B•T, Dec. 14, 1953]. Old rules applied to only vhf stations. Changes are effective Sept. 8.

Ten channels in the 1990-2110 mc and 2450-2500 mc bands (Band A), seven channels in the 6875-7050 mc band (Band B), eight channels in the 10,500-10,700 mc band (Band C) and 20 channels in the 12,700-13,200 mc band (Band D) are made available for tv auxiliary use on a case-to-case basis, FCC said. Part of these channels will have to be shared with the Industrial-Scientific-Medical service on the basis of accepting interference from the latter, the Commission explained.

Only one channel in Band A or B and one channel in Band D will be assigned on an exclusive basis to each tv station licensee in any area, the Commission said. Such licensee will normally be limited to the assignment of not more than three channels in Bands A and B combined, only one of which will be on an exclusive basis. But additional channels in Bands A and B would be available on a shared basis with other tv stations, it was noted. Also, the number of channels in Bands C and D that may be assigned to a licensee in a single area is not restricted, FCC said.

FCC decided to defer action on its original proposal to assign channels in the 7050-7125 mc band to tv licensees pending further study as to how this may be effectuated with minimum impact on existing common carriers which use these frequencies to provide tv pickup and studio-transmitter link service.

Clarifying language also has been added in the rules to the effect that tv pickup stations may be used to provide temporary or emergency fixed circuits.

Heretofore, the auxiliary bands have been assigned to vhf stations on the basis of the frequency of the parent station.

## WFAA-TV Boost Approved

SPECIAL temporary authority for a 10-fold increase in effective visual radiated power from 27.1 kw to 274 kw was granted by FCC Tuesday to WFAA-TV Dallas pending completion of new full-power facilities [B•T, Aug. 2]. WFAA-TV has indicated it will take about another year to complete construction of the new 1,521-ft. tower at Cedar Hill, from which the station will operate with full 316 kw ERP. The Cedar Hill project is in cooperation with KRDL-TV there.

### Ad Copy Scrutiny

A SPECIAL task force to check into national and regional advertising that violates outstanding orders, trade practice rules and stipulation agreements has been created by the Federal Trade Commission, it was announced last week.

In addition, the survey will look into advertising that appears to warrant investigation because of danger to health and fraud.

Following a recommendation of a recent management survey of the FTC [B•T, May 31], four attorneys have been assigned to the project replacing seven FTC advertising examiners who had no legal training.