More shoals ahead on WJLA-TV deal

Quello asks for reconsideration of earlier FCC approval, and appeals could push closing beyond Feb. 28 deadline

The carefully crafted arrangement under which Joe L. Allbritton would trade WJLA-TV Washington to Combined Communications Corp. for its KOCO-TV Oklahoma City plus $55 million in CCC preferred stock appears in danger of foundering on one of two obstacles.

The new one is a proposal by FCC Commissioner James H. Quello, a member of the majority in last month's 5-2 decision approving the transaction, that the commission reconsider its action. The other is the court appeal by four citizen groups of the commission's approval.

Commissioner Quello's proposal, contained in a memorandum to Chairman Charles D. Ferris last week, was a response to the stunning announcement of Mr. Allbritton's proposal to sell the *Washington Star* to Time Inc. for $20 million (BROADCASTING, Feb. 6). Commissioner Quello feels the sale alters the basis on which he and other members voted: concern over the financially ailing *Star*.

His memo noted that several commissioners had expressed uneasiness over the question of whether the use of preferred stock in the WJLA-TV deal insulated Mr. Allbritton from the reach of the multiple-ownership rules. Some commissioners, he said, "reluctantly approved" because of the belief that the dividends and earnings the stock would generate "would guarantee the financial viability of the *Star*." (Indeed, that uneasiness was translated into a decision by the commission to reconsider in a rulemaking whether to prohibit the use of preferred stock to avoid the multiple-ownership rules.)

"I question whether I personally would have voted to approve the transfer under the new circumstances," Commissioner Quello said, adding, "If enough other commissioners have similar concerns, I suggest a special meeting for full reconsideration." In any case, he said, the commission should discuss all "legal and ethical aspects" with the general counsel and other staff members.

The appeal is a hazard because the Allbritton-CCC sales contract contemplates a final, nonreviewable FCC order by Feb. 24, and terminates on Feb. 28 if the sale is not consummated by then. The parties could waive the nonreviewable order requirement and close pending a court decision if the commission's order is not stayed. But the petitioners have requested a stay, which, if granted, would deny that option. And while a stay would not prevent the parties from extending the agreement, Mr. Allbritton's Washington Star Communications Inc. and CCC, in pleadings urging the commission to deny the petition, indicate a stay would place the sale in jeopardy.

The FCC is expected to act on both matters this week. If it is to reconsider on its own motion, it must do so within 30 days of the action involved—by Feb. 16. The staff last week was formulating its recommendation.

It was not clear whether a majority can be found for some action to upset the sale, either through reconsideration or stay.

Either way, a decision would probably be close. Besides Commissioner Quello, opposition to the sale could be expected from Commissioners Joseph Fogarty and Tyrone Brown, who had voted to deny approval. Commissioners Robert E. Lee and Margita White said early last week they would still vote to approve the sale. Commissioner Abbott Washburn, who had issued a concurring statement expressing concern about the use of preferred stock, said, "The sale of the *Star* changes things, certainly." However, he also said he was taking a "wait-and-see" position in view of the unanswered questions, including the question as to whether the court appeal will kill the sales agreement.

As for Chairman Charles D. Ferris, he is one of those who made it clear he had been influenced by concern for the *Star*. At one point he said he would vote for the transfer "in the expectation and hope that the cash flow will provide viability" for the newspaper (BROADCASTING, Jan. 16). His office, moreover, is understood to have been incorporating that point in a separate statement that was to be attached to the commission's WJLA-TV order. When word was received of the *Star* sale, the draft was promptly scrapped.

Although Mr. Allbritton is disposing of WJLA-TV to comply with a condition the FCC attached to his acquisition of WSCI in December 1975—that he sell off properties that place him in conflict with the media crossownership rule—sale of *The Star* would not obviate the need for the condition. For under the terms of the agreement with Time, he is to remain as publisher and chief executive officer of The *Star* for at least five years. And that kind of control would make him subject to the rule, according to commission officials.

If the agreement with CCC aborts, Mr. Allbritton has at least two options. He can keep WJLA-TV and give up the *Star* publisher post. Or he can find another buyer for the station; he has until January 1979 to do so. However, the sailing might not be smooth until then. Washington stations are due for renewal next October, and the renewal application for WJLA-TV would be subject to petitions to deny.

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into availability and pricing of **regional advertising** on TV networks. Networks were informed in letter that "no further action is warranted by the commission at this time."

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Court fight over $390,382 alleged due from defunct advertising agency has been settled with **CBS** agreeing to accept **"less than $50,000"** from **Stokely-Van Camp**. CBS had sued to collect from Stokely but judge denied on grounds CBS had not advised Stokely that its agency, Lennen & Newell, was delinquent (BROADCASTING, Oct. 17, 1977).

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Motion Picture Association of America wants FCC to stop authorizing **satellite hops for WTCG(TV) Atlanta** to cable systems until "clear and definite policy" on such **superstations** is established. It says more than 560 systems reaching 1.2 million subscribers were carrying WTCG programing at end of 1977, with another 386 systems in line.

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FCC has picked new **chief of legislative division** in general counsel's office. He is **Sam Cooper,** 30, now with Cohn & Marks. Before joining law firm in 1975, he was on legal staff at National Cable Television Association.

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Evangelist **Billy Graham** warned Southern Baptist Radio and Television Commission awards dinner in Fort Worth Thursday (Feb. 9) that "we [in religious broadcasting] are facing the **dangers of false prophets, the charlatans and the Elmer Gantrys** who, in a relatively short time, could destroy the great privilege we have of using the airwaves to

proclaim the gospel." He was accepting commission's Distinguished Communication Medal. Among other winners (l to r): **Richard M. Schafbuch,** KOA-TV Denver, Abe Lincoln TV award; **G. Richard Shafto,** retired president of Cosmos Broadcasting, Vincent T. Wasilewski Founders Award; Paul M. Stevens, president of Southern Baptist organization; Dr. Graham; **Charles Thornton Jr.,** WTRI(AM) Brunswick, Md., Abe Lincoln radio award. FCC Commissioner **Robert E. Lee** criticized sex and violence of PBS *I Claudius* series, said if that was edited version, "I would pay $1.50 to see the uncut version."

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How prime time access is being used is to undergo FCC scrutiny. John Bass, head of network study staff, said project, next fall, will check programs that have appeared in period and those in production for it. FCC had said it would take another look at PTAR after five years; fourth year begins in September.

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FCC has ordered WIGO(AM) Atlanta into license-revocation hearing. Station is alleged to have broadcast lottery information.