

adding the Duval County board "unwittingly accepted" the WJHP-TV offer in spite of the fact all other educational and religious groups in the community through their membership in Educational Television Inc., have turned down the proposal.

WLBE Leesburg also has asked the FCC to switch the Jacksonville ch. 7 to Leesburg and make it available for commercial use. [B•T, Aug. 15]. Educational Television Inc. asserted it is an applicant for this assignment and that all it lacks to get a grant is "commitments for operating funds." It has enough to construct, the group said.

First Tv Permit Revoked; FCC Acts Against WSHA (TV)

IN THE FIRST action of its kind the FCC last week revoked the construction permit of a tv station. The station, WSHA (TV) Sharon, Pa., uhf ch. 39, whose cp had been granted in January 1954, was wholly owned by Leonard J. Shafitz and had never been on the air.

Last November [B•T, Nov. 8, 1954] the FCC requested additional financial data from Mr. Shafitz but he failed to respond and in January returned his permit to the Commission to be deleted [B•T, Jan. 10].

Almost simultaneously, his brother, Sanford A. Schafitz, filed for the same channel and transmitter site as 50% owner of Community Telecasting Co. This application was returned by the Commission in April because it was not in order since the ch. 39 deletion had not taken place before Sanford A. Schafitz filed.

In its decision last week the FCC revoked the WSHA (TV) permit even though it had been surrendered.

Leonard Shafitz has been commercial manager of WFAR Farrell, Pa., 100% owned by his brother, who is 50% owner of an applicant for a new am station in Lorain, Ohio, and a uhf station in Youngstown, Ohio.

Battle Creek Uhf Quits

WBCK-TV Battle Creek, Mich., ch. 58, surrendered its construction permit to the FCC last week, effective Sept. 1, when it expired. Robert H. Holmes, president of the permittee firm, Michigan Broadcasting Co., told the Commission, "Uhf appears totally impractical in our area," because of vhf competition. WBCK-TV is the 150th tv to be deleted and the 120th commercial uhf to quit.

KTVX (TV) License Granted Despite Tulsa Tv Protests

CHARGES that KTVX (TV) Muskogee, Okla., is misrepresenting itself as a Tulsa station were dismissed by the FCC last week and the station's application for license was granted.

In granting the license, however, the FCC said some question exists as to certain past violations of KTVX along with inaccurate claims as to facilities and coverage. Future operations of KTVX will be reviewed in the light of these practices, the FCC said.

Stations raising protests and asking for a cease-and-desist order directed against KTVX were KOTV (TV) and KVOO-TV Tulsa [B•T, April 4].

The FCC held that "while a station must obviously give primary consideration in its programming to the specific community it is licensed to serve, it must also give consideration to other listeners in the general area in which its signal is received. The preparation and distribution of advertising and promotional material geared to such service is not, in and of itself, objectionable."

KTVX admitted that it failed to comply with the station identification rule, but has given the FCC assurance this practice has ceased. KOTV and KVOO-TV had charged that KTVX was omitting mention of its location in Muskogee in station identifications.

AB-PT Appeals Decision For KOB Use of 770 Kc

AMERICAN Broadcasting-Paramount Theatres Inc. (ABC) last week appealed to the U. S. Court of Appeals (D. C.) from an Aug. 1 FCC decision extending KOB Albuquerque's special authority to operate on 770 kc with 50 kw day and 25 kw night [B•T, Aug. 8].

ABC, which operates WABC New York, licensed for 770 kc with 50 kw unlimited, asked that the court review FCC proceedings upon which the Aug. 1 action was taken, adjudicate the action invalid and set it aside. ABC also asked that the court compel compliance with the court's own 1951 action remanding the long-standing case to the FCC, compel "agency action unlawfully withheld and unreasonably delayed," and order KOB returned from 770 kc to its "licensed frequency of 1030 kc."

The Aug. 1 FCC decision was made after a Commission hearing on ABC's Sec. 309 (c) "economic protest" against KOB's 1952 application for special authority to operate on 770 kc: KOB has operated on 770 kc since 1941 under

extensions of special authority, but has been regularly licensed on 1030 kc.

KOB originally was licensed on 1180 kc, but that frequency was deleted by the North American Regional Broadcasting Agreement in 1941, upon which the station was shifted to 1030 kc. This met objections from WBZ Boston, also on 1030 kc, and the FCC moved KOB to 770 kc. In its Aug. 1 decision, by a vote of 3-2, the FCC weighed theoretical KOB operation on each frequency and decided that fewer people would be deprived of primary service with KOB on 770 kc.

Among reasons cited by ABC for its appeal: The FCC's actions on Aug. 1 are "erroneous, arbitrary, capricious and unlawful," ignore the Communications Act, violate the court's 1951 mandate and contravene FCC rules and policies.

KNAC-TV Transfer Opposed On 'Trafficking' Charge

TRANSFER of control of ch. 5 KNAC-TV Fort Smith, Ark., should not be approved because of apparent trafficking in construction permit, FCC's Broadcast Bureau recommended last week.

The ch. 5 assignment was granted in July 1954 to American Television Co. (H. S. Nakdimen) after applicant George T. Heinrich agreed to withdraw following a merger agreement. The agreement to sell KNAC-TV to Donald W. Reynolds' Southwestern Publishing Co. involved payment of \$50,000 for the permit and payment of \$35,000 each to Messrs. Nakdimen and Heinrich over a period of seven years for an agreement not to re-enter broadcasting in the Fort Smith area.

Mr. Reynolds operates ch. 22 KFSA-TV Fort Smith. He will surrender this permit if the sale is approved.

The Broadcast Bureau concluded that the monetary consideration involved is excessive and constitutes "trafficking in permit."

KNAC-TV last week held that the consideration paid is a reasonable payment for the time and effort expended by Messrs. Nakdimen and Heinrich. The station concluded the consideration in no way implies an intention to derive a profit from the procurement of a permit rather than to use the permit in the public interest.

FCC Denies Protests To WMFJ Purchase

PROTESTS by Theodore Granik and William H. Cook against the sale of WMFJ Daytona Beach, Fla., by W. Wright Esch to Harold Kaye and Emile J. Arnold were denied last week by the FCC.

The sale was approved by the FCC last June [B•T, July 4].

Messrs. Granik and Cook had charged they had entered into an option agreement with Mr. Esch to buy WMFJ and permit for ch. 2 at Daytona Beach, but that the latter refused to consummate the agreement. The protestants also took the case to the Volusia County (Fla.) Circuit Court asking the court to force sale of the station to them. The court has denied the plea, maintaining the allegations were insufficient [B•T, Aug. 22].

The Commission ruled last week that Messrs. Granik and Cook are not "aggrieved" or "adversely affected" by the transaction as they have contended. The FCC also held that the Florida court has jurisdiction to determine the contractual rights of the parties.

Messrs. Granik and Cook are principals in ch. 5 WJNO-TV West Palm Beach.

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