

Los Angeles and Multi-State Communications, in New York—last week petitioned the Supreme Court to review that aspect of the appeals court decision. Both contend that the court exceeded its authority in imposing—as Fidelity put it—its “notions of proper procedures on administrative agencies.” But the solicitor general, who represents the commission before the Supreme Court, is expected to oppose the petitions. Government lawyers say the issues raised probably would not be regarded as sufficiently important to warrant Supreme Court review.

RKO, in its appeal to the Supreme Court, said the commission had violated RKO’s statutory and constitutional rights in denying renewal on a ground—lack of candor—on which it had not had an opportunity to defend itself in a hearing. The issue had been raised by one of the original challengers, Community Broadcasting, after the hearing record was closed. But the commission maintained that existing case law and commission regulations made it clear “that an applicant has an obligation to be truthful and forthcoming in its representations to the commission.”

While the Supreme Court ponders the question of whether to grant review in the KHJ-TV and WOR-TV cases, the appeals court will be considering another aspect of the increasingly complex RKO proceeding—whether the commission acted properly in designating the renewals of the 13

remaining RKO licenses for hearing in a consolidated proceeding in which competing applications would not be permitted.

The commission chose that approach, in a September 1980 decision, as a means of deciding the fate of the 13 licenses, in light of the finding, in the WNAC-TV case, that RKO was not qualified to be a licensee (BROADCASTING, Oct. 6, 1980). The commission said the hearing would be deferred until the Boston case had run its course through the courts. But the decision not to accept competing applications for any of the properties—taken, according to a commission official at the time, to “preserve everyone’s options”—is being appealed by several would-be applicants. The court will hold an argument on the matter on May 27.

There appears to be a double irony in the WNAC-TV case. It marks only the second time the commission has denied renewal of a television license. And the first occurrence also involved a Boston station—WHDH-TV, now WCVB-TV. Its sale for \$220 million to Metromedia was approved by the FCC earlier this month (BROADCASTING, April 5). The second irony is that the commission, under a membership and leadership picked by President Reagan, is in the midst of reviewing the manner in which it considers character in determining a licensee’s fitness to operate a station. Observers doubt that the conclusions the commission reaches could be used as a

basis for the kind of decision the commission reached in denying RKO renewal of WNAC-TV.

According to the commission’s original order in the case, RKO was to have ceased operating WNAC-TV on March 7. However, the commission permitted RKO to operate the station until it exhausted its rights to judicial review and NETV was prepared to assume control of the station. Another condition was that, if RKO eventually lost the license, the profits WNAC-TV earned after March 7 would be distributed to nonprofit public broadcasting and charitable organizations.

Last week, RKO announced those it had selected as recipients of those last profits generated by WNAC-TV. One half will be paid to National Public Radio, one quarter to noncommercial ch. 2 WGBH-TV Boston, and the remainder, as RKO said in a press release, “to such Boston nonprofit educational institutions as shall be determined by RKO for the purpose of assisting in the education of minority youth in Boston in the field of communications.”

Frank Mankiewicz, president of NPR, who expressed pleasure at RKO’s announcement, said the company “might even get underwriting credit.” He noted that the funds come at a critical time for NPR, in view of sharply reduced federal funding. He said he did not know how the WNAC-TV funds would be used, other than that they would be “used well.” □

## The heirs presumptive for Boston ch. 7

**New England Television is poised to take over WNAC-TV license, and perhaps its physical plant and core of key employes as well; aim is to improve ratings, image and community identification**

Last Wednesday night (April 21), New England Television Corp. Senior Vice President Bertram M. Lee said his company could be operating WNAC-TV by mid-May if it could move into the station’s present downtown Boston facilities. If not, he told BROADCASTING, NETV would be on the air by Sept. 1 from some other location.

The NETV brass toured WNAC-TV studios earlier in the week, and Lee said, “We believe there are serious discussions going on” about the sale of the facility. Previous attempts to make such a deal have been unsuccessful.

Staffing seems to depend somewhat on where the new company is located. Lee said, “If we can get RKO’s physical facilities and assume existing contracts, we’d hire most, if not all, the existing staff.” If not, he said, NETV would begin to hire its own staff. In any case, Lee says NETV wants the “latitude to take a hard look at the people” presently at the station. He would not specify the areas in which the new owners might want to make

significant staff changes.

Lee said that “stability in ownership would help improve news and local programming. The present staff has been working under very arduous conditions in the past few years,” since the license fight heated up.

The new owners, Lee said, hope to im-

prove the station’s “ratings, image and identification with the community.” He said that “We want to get a general manager on board. There’s a possibility that the current general manager [Pat Servodidio] could play an interim role, but that hasn’t been decided yet.”

Servodidio told BROADCASTING Thurs-



**The new command.** New England Television Corp.’s management team (l to r): Henry Morgan, dean of school of management, Boston University, treasurer; Bertram Lee, president of BML Associates, Boston management consulting firm, senior vice president; Edward Fredkin, professor of computer science, Massachusetts Institute of Technology, Cambridge, president; David Mugar, president of Mugar Communications Corp., Boston private investment company, chairman of the board, and Melvin Miller, attorney with Boston law firm of Fitch, Miller & Tourse, and publisher of weekly *Bay State Banner* in Boston, vice president.