

# N. Y. FM Decision Set Aside by FCC

Re-Argument Also Is Set  
On Brockton, Mass.

## AM Action

YIELDING to protests that some Commissioners who voted hadn't heard oral arguments, FCC last week set aside its controverted New York FM decision and its decision in the Brockton, Mass. 1450-kc case, and scheduled re-arguments for Jan. 12.

Although the point was not mentioned in FCC's order, it appeared generally agreed that the action successfully eliminated the questions raised by the *New York Daily News* with reference to former Chairman Charles R. Denny's participation in the New York FM decision.

The *News* contended that Mr. Denny's vote invalidated the entire decision, on grounds that he violated the Communications Act by participating after he had accepted the post of vice president and general counsel of NBC [BROADCASTING, Dec. 15]. That decision, it was pointed out, is now withdrawn, to be followed by another (after oral argument) which will be adopted by remaining members of the Commission.

Both the New York FM and Brockton AM cases were set aside, in each instance, on the basis of losing applicants' protests that some of the Commissioners who participated were not present when the respective oral arguments were held.

In line with its procedure in two other broadcast cases where similar protests were offered—the WORL Boston renewal case and the Ft. Wayne 1450-kc case—the Commission declared:

... the Commission is of the opinion that, under Sec. 409(a) of the Communications Act, when a case is heard by an examiner and a Commissioner or Commissioners who did not hear oral argument participate in the final decision, the parties not having consented thereto, and when it would not have been possible to arrive at the final decision as announced by the Commission without the vote of such Commissioner or Commissioners, and when a timely petition for re-hearing is filed pointing out these facts, the final decision should be set aside and further oral argument should be held.

Each of the re-arguments, under FCC's order, will be concerned with (1) the proposed decision; (2) the findings of fact and conclusions of law contained in the "final" decision, and (3) the contentions raised in the petitions for re-hearing. Participants were allowed 20 days to file briefs, if they wish.

In both the New York and Brockton cases, FCC reversed its choice of grantees between the proposed and the final decisions. In the New York case, involving 17 applicants for five channels, the Commission's proposed decision anticipated a grant of one of the frequencies to the *News* while the final decision denied the *News* and substituted the Radio Corp. of the Board of Missions & Church Ex-

tension of the Methodist Church. At Brockton, Plymouth County Broadcasting Co. won the proposed grant (1450 kc, 250 w) but Cur-Nan Co. won the final [BROADCASTING, Sept. 15]

The *News* offered a voluminous brief following the denial of its application, charging among other things that FCC's announced "non-newspaper" policy violates the Constitution and the Communications Act; that Mr. Denny's vote was improper because he had accepted the NBC job, and that those of Mr. Denny and Comr. E. M. Webster were invalid because they did not sit in on oral argument. Of the two other Commissioners who voted against the *News*, the paper contended that Comr. Durr improperly considered evidence which the majority had stricken from the record, and charged that neither Acting Chairman Paul A. Walker nor Mr. Durr had read all of the testimony and exhibits.

## North Jersey Plea

North Jersey Radio (WNJR Newark, formerly WBYN Brooklyn), another unsuccessful applicant, also asked for a re-hearing, on grounds that its application should not have been denied on a three-to-three vote.

In the Brockton case, Plymouth County Broadcasting charged that the final decision represented a

departure from FCC policy of preferring local owners over outside interests, and pointed out that, of the four members who voted on the decision, Comr. Walker was not present at oral argument.

Bay State Beacon, third applicant in the Brockton case and loser partially because of its program plans, also partitioned for re-hearing. The company charged FCC's conclusions were "arbitrary, capricious, an abuse of discretion and not supported by the evidence."

Winners in the New York FM case, besides the Methodist group, were WMCA New York, ABC, Unity Broadcasting Corp., and WPAT Paterson, N. J.

## McIntosh Takes Over

A. L. McINTOSH took over as chief of the FCC Engineering Dept.'s Frequency Allocation & Treaty Division (formerly Frequency Service-Allocation Division) last week. Former assistant chief of the division, he succeeds Capt. Paul D. Miles who resigned to become the U. S. member and first chairman of the new International Frequency Registration Board at Geneva [BROADCASTING, Nov. 10]. Capt. Miles left FCC last Monday to prepare for the opening of IFRB sessions in Geneva in January.

# FCC Offers Plan to Stagger FM Station License Renewals

A PLAN of staggering the license renewal schedule for FM stations [CLOSED CIRCUIT, Dec. 8] was proposed by FCC last week.

Frequencies used by commercial FM stations would be divided into six groups for which the respective renewal dates would be Feb. 1, April 1, June 1, Aug. 1, Oct. 1 and Dec. 1. Noncommercial educational FM channels would be divided into two groups with June 1 as renewal date for one group and Aug. 1 for the other.

This plan would spread the Commission's renewal workload over the entire year instead of having it all concentrated around May 1, which is now the renewal date for all FM stations. A comparable staggering plan is in effect in AM.

No extension of the current one-year term of FM licenses is contemplated in the proposal. Nor would the stagger system affect outstanding FM licenses. In converting present licenses and initial grants of license to the new renewal schedule, FCC explained, "renewals . . . or initial licenses which might be for periods of less than three months will be issued to include an additional one-year period."

The Commission said it would

accept written objections or other comments on the proposal until Dec. 31. Oral argument will then be ordered if the comments appear to warrant it. Persons filing briefs or comments should submit an original and 14 copies.

## Proposed Schedule

Licenses of commercial FM stations would be issued to expire at 3 a.m. in accordance with the following schedule:

Feb. 1—Stations operating on 92.3, 92.5, 92.9, 93.1, 93.3, 93.7, 93.9, 94.1, 94.5, 94.7, 94.9, 95.1, 95.5 and 95.7 mc.

April 1—Stations on 96.1, 96.3, 96.5, 96.9, 97.1, 97.3, 97.5, 97.9, 98.1, 98.5, 98.7, and 98.9 mc.

June 1—Stations on 92.1, 92.7, 93.5, 94.3, 95.3, 95.9, 96.7, 97.7, 98.3, 99.3 mc.

Aug. 1—Stations on 100.1, 100.9, 101.7, 102.3, 103.1, 103.9, 104.9, 105.5, 106.3 and 107.1 mc.

Oct. 1—Stations on 99.1, 99.5, 99.7, 99.9, 100.3, 100.5, 100.7, 101.1, 101.3, 101.5, 101.9, 102.1, 102.5, 102.7 and 102.9 mc.

Dec. 1—Stations on 103.3, 103.5, 103.7, 104.1, 104.3, 104.5, 104.7, 105.1, 105.3, 105.7, 105.9, 106.1, 106.5, 106.7, 106.9, 107.3, 107.5, 107.7, and 107.9 mc.

Licenses of noncommercial educational FM stations would be issued to expire as follows (also at 3 a.m.):

June 1—Stations on 88.1, 88.3, 88.5, 88.7, 88.9, 89.1, 89.3, 89.5, 89.7, and 89.9 mc.

Aug. 1—Stations on 90.1, 90.3, 90.5, 90.7, 90.9, 91.1, 91.3, 91.5, 91.7, and 91.9 mc.

# TCC Recommends Ray C. Wakefield

Former FCC Member Is Proposed For Frequency Board Post

RAY C. WAKEFIELD, former FCC member, was recommended last Thursday by the Telecommunications Consulting Committee for appointment as chairman of the U. S. delegation on the Provisional Frequency Board which convenes at Geneva in January. (See story, page 13.)

TCC's recommendation is tantamount to appointment, which is made by the President. The TCC, created by the International Telecommunications Conferences at Atlantic City last summer, is composed of representatives of the State Dept., Army, Navy, Air Forces, Civil Aeronautics Administration, Bureau of Standards, and industry.

Jett Withdrew

Mr. Wakefield is slated to succeed FCC Comr. E. K. Jett as head of the U. S. delegation. Mr. Jett was appointed but withdrew because of the press of Commission activities and for personal reasons [CLOSED CIRCUIT, Nov. 24].

The assignment will last about a year and a half and carries a \$10,000 annual salary—the same as an FCC Commissionship, but from the State Dept. budget. The PFB's task is to prepare a frequency assignment plan for stations throughout the world in conformity with the Atlantic City allocations table of frequencies below 27,500 kc, excluding broadcasting. Groundwork for the Geneva meeting was laid last summer in Atlantic City.

Before the TCC made its recommendation, some questions reportedly were raised in the House Armed Forces Committee with reference to the choice of Mr. Wakefield, presumably based on purely political grounds, but opposition was dispelled and the way cleared for the TCC action.

Mr. Wakefield, California Republican, served seven years on the FCC, from 1940 until last July 1. President Truman sent his name to the Senate for reappointment for another seven-year term but subsequently withdrew it without explanation, later substituting the name of present Comr. Robert F. Jones.

## U. S. Rubber Telecasts

U. S. RUBBER CO., New York, on Dec. 19 started a new series of Friday night telecasts on the NBC television network. Company's *Campus Hoopla* series ended Dec. 12. Following three special film programs, a new series entitled *Sports Know-How* will begin Jan. 9. Series is placed by Campbell-Ewald Co., New York.