

SELECTIVE DEINTERMIXTURE PROCEEDINGS TAKE SHAPE AT FCC HALF-DAY MEETINGS

Commissioners are understood to have studied 168 metropolitan areas with desire to provide at least three comparable facilities in as many top markets as possible. Final plans to be formulated tomorrow at FCC meeting.

A SELECTIVE deintermixture plan—as a possible interim measure—was slowly, but apparently surely, taking shape at the FCC.

At two half-day meetings last week, the commissioners, it was understood, went down a list of the 168 metropolitan areas and voiced their individual opinions on deintermixing each one.

The result, it was understood, was a number of shifts looking toward some all-uhf markets and some all-vhf markets. Basic premise was the desire to furnish at least three comparable facilities in as many top markets as possible.

FCC meets again tomorrow (Tuesday) to take final steps on this plan preparatory to the issuance of a further notice of proposed rule-making. It will then also begin consideration of other, long-range proposals—such as the area plan whereby the entire East would become uhf at the end of a 10-year transition period [B•T, May 7].

At the same time, there were two other allocations events last week.

The first, seen as a straw in the wind, was the Commission's approval for ch. 12 KFRE-TV Fresno, Calif., to begin program tests. Comrs. Rosel H. Hyde and Robert T. Bartley dissented. KFRE-TV was one of the grants made by the FCC despite petitions on the part of area uhfs to make Fresno an all-uhf city.

This action is believed an indication that the Commission does not intend to deintermix where there is an operating tv station.

Decision Last November?

It also led one highly placed FCC official to declare privately that it looks as if the Commission decided what to do last November—when it turned down all deintermixture proposals and established the overall allocations review.

The second was the meeting—the first since January—of the Senate Commerce Committee's engineering committee. This group, chaired by Dr. Edward Bowles, MIT professor of industrial management, met in New York last Tuesday.

Consensus was that a report should be written for submission to Sen. Warren G. Magnuson (D-Wash.), chairman of the Senate committee, which would recommend a long range "audit" of television allocations principles—preferably by an independent, scientific, non-industry organization (MIT, Stanford U. were mentioned as possible organizations). The retention of uhf if possible was also supported, it was understood.

It would recommend, it was understood, that Congress appropriate sufficient funds to permit the FCC to contract for such a study.

Ralph Harmon, Westinghouse Broadcasting Co., was named chairman of a subcommittee to draft this report. It is to be submitted at another meeting scheduled to be held in New York this week.

Besides Dr. Bowles and Mr. Harmon, others present at last week's meeting were William Duttera, NBC; William Lodge, CBS; consulting engineers T. A. M. Craven, A. Earl Cullum Jr., C. M. Jansky, Stuart Bailey and Haraden Pratt; Robert Wakeman, DuMont; Don Fink, Philco. Absent was Edward F. Kenehan, FCC Broadcast Bureau chief. Frank Marx, ABC engineering vice president, was a member of the

original committee, but resigned several weeks ago.

If the Commission musters a majority in favor of its selective deintermixture plan, the staff will be ready for the preparation of another rule-making proposal. Here, however, there is a split within the staff. One group feels that it is necessary to take official notice of each of the more than 500 comments and reply comments filed earlier this year in the allocations proceeding. This would require several weeks staff work before the required notice could be issued. The other group feels that since the allocations proceedings would still be open—in that the Commission was still studying long-range plans—this detailed, legally-cautious approach is not necessary.

WNHC-TV PROTESTS DUAL-EXAMINER USE

New Haven station contends Cunningham does not have authority to appoint two examiners for same hearing.

NEW SYSTEM of appointing two hearing examiners to sit on contested hearing cases—started by Chief Hearing Examiner James D. Cunningham two weeks ago in the CBS-WGTH-TV Hartford, Conn., and NBC-WKNB-TV New Britain, Conn., cases [B•T, May 7]—has caused something of a legal furor.

Last week, WNHC-TV New Haven, which is objecting to both network purchases, filed a petition for review of that order with the FCC. Represented by former FCC Chairman Paul A. Porter, the ch. 8 New Haven station claimed that Mr. Cunningham does not have the authority to appoint dual examiners; that even if he does, his designation of himself to sit with the appointed examiners was too late, and

finally that there is no good reason for this departure from past FCC practice.

Defending Mr. Cunningham's move late last week was WKNB-TV.

Mr. Cunningham's position is that the dual examiner principle is in the interest of expedition and efficiency. His viewpoint is that if one examiner becomes ill, for example, the hearing can be continued with the second examiner presiding. In fact, Mr. Cunningham has ordered dual examiners in three other hearing cases—late in June on two protest cases involving am radio stations in Stockton, Calif., and Salt Lake City (Dockets 11700 and 11502) and in mid-July in a competitive Michigan radio hearing case (Docket 11697-8).

In the Stockton and Salt Lake City cases, Mr. Cunningham has assigned himself to sit with Examiner H. Gifford Irion in the Stockton case and with Examiner Thomas H. Donohue in the Salt Lake City case.

In the Michigan case, he named Examiner Hugh B. Hutchison to sit with Examiner Jay Allen Kyle.

The \$600,000 purchase by NBC of ch. 30 WKNB-TV will be before Messrs. Cunningham and Kyle. The \$650,000 purchase by CBS of ch. 18 WGTH-TV will be before Messrs. Cunningham and Herbert Sharfman.

Opposing the two transfers—largely on grounds of monopoly—is WNHC-TV. Also opposing the NBC-WKNB-TV transfer is ch. 53 WATR-TV Waterbury, Conn. WNHC-TV is affiliated with CBS and ABC; WATR-TV with ABC.

KTVQ (TV) Renews Request To Use Educational Channel

RENEWED REQUEST to utilize reserved educational ch. 11 Tulsa, Okla., until the educational permittee is ready to commence operation was filed with the FCC last week by dark-since-December KTVQ (TV) Oklahoma City (ch. 25). KTVQ's original petition to use the Tulsa facility until educational KOED-TV is ready to go on the air [B•T, Feb. 20] was denied by the FCC. The proposed channel-switch was strongly opposed by the Joint Committee on Educational Tv and the Oklahoma Educational Tv Authority (OETA), KOED-TV permittee.

KTVQ, which went off the air last Dec. 15 under court order and following continuing uhf losses, told the FCC in last week's filing that OETA's opposition to temporary use of the Tulsa channel reportedly has been withdrawn. KTVQ said that, if granted special temporary authority to switch to the educational channel, the station would use the tower and transmitter of deleted KMPT (TV) Oklahoma City (ch. 19) and operate for the duration of the KTVQ construction permit or until KOED-TV is ready to go on the air, whichever comes first.

KTVQ asserted that it was not trying to get "its foot in the door" as has been charged by educational critics of its channel-switch proposal. The station described its plan as "a temporary expedient only for the purpose of bridging the gap" until the conclusion of the overall allocations proceedings and the hoped-for establishment of "competitive, three-station tv service in Oklahoma City."

New Chance for WHOL

ACTING with dispatch, the FCC last Wednesday gave a "new lease on life" to WHOL Allentown, Pa., granting that station's request to switch operation from 1230 to 1600 kc. The Commission action came the day before WHOL was scheduled to surrender the 1230 frequency to WEEX Easton, Pa. [B•T, May 7].

BOXSCORE

STATUS of tv cases before FCC:

AWAITING FINAL DECISION: 11

Corpus Christi, Tex., ch. 10; Miami, Fla., ch. 10; Norfolk-Portsmouth, Va., ch. 10; Peoria, Ill., ch. 8; Seattle, Wash., ch. 7; Springfield, Ill., ch. 2; Jacksonville, Fla., ch. 12; Raleigh, N. C., ch. 5; Hartford, Conn., ch. 3; San Antonio, Tex., ch. 12; Paducah, Ky., ch. 6.

AWAITING ORAL ARGUMENT: 8

Boston, Mass., ch. 5; Charlotte, N. C., ch. 9; Indianapolis, Ind., ch. 13; New Orleans, La., ch. 4; Orlando, Fla., ch. 9; St. Louis, Mo., ch. 11; McKeesport, Pa., (Pittsburgh), ch. 4; Buffalo, N. Y., ch. 7.

AWAITING INITIAL DECISION: 4

Hatfield, Ind., (Owensboro, Ky.), ch. 9; San Francisco-Oakland, Calif., ch. 2; Pittsburgh, Pa., ch. 11; Toledo, Ohio, ch. 11.

IN HEARING: 7

Beaumont-Port Arthur, Tex., ch. 4; Biloxi, Miss., ch. 13; Cheboygan, Mich., ch. 4; Mayaguez, P. R., ch. 3; Onondaga-Parma, Mich., ch. 10; Lead-Deadwood, S. D., ch. 5; Coos Bay, Ore., ch. 16.