Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

"Pre-sunrise" operation by Class II stations under pre-sunrise service authorization on U. S. I-A clear channels.	))))	Docket No. 17562

FURTHER NOTICE OF PROPOSED RULE MAKING
Adopted: October 11, 1967; Released: October 17, 1967

By the Commission: Commissioners Bartley and Wadsworth absent; Commissioner Johnson not participating.

1. The Commission today adopted a Memorandum Opinion and Order generally affirming its June 28 Report and Order dealing with the operation of standard broadcast stations prior to local sunrise-- Docket No. 14419, 8 FCC 2d 698 (1967). A matter left unresolved, however, is the pre-sunrise status of Class II daytime-only and limited time stations operating on U.S. I-A clear channels and located to the east of the dominant assignment. The rules adopted in Docket No. 14419 exclude operation prior to local sunrise by Class II stations so situated.

2. Former Section 73.87(a)(2), while somewhat ambiguous, was never intended to provide pre-sunrise operating privileges for Class II stations located east of a co-channel U.S. I-A dominant station. Only two Class II stations in this category are known to be operating pre-sunrise: WHCU, Ithaca, New York, and WHLO, Akron, Ohio. Both filed petitions for reconsideration of the June 28 Report and Order, as well as PSA proposals accompanied by eligibility waiver requests. Both seek to continue pre-sunrise operation on the basis of 6:00 a.m./500 watts. WHCU (Cornell University) operates on 870 kc/s, to which WWL, New Orleans, holds the I-A nighttime priority. WWL is aware of the operation and thus far has not objected. Because of the northward directionalization of WWL's signal, WHCU would have to reduce power to 2.6 watts in order to afford 0.5 mv/m 50% skywave protection. In the case of WHLO, the dominant station (KFI, Los Angeles, California) objects to continued pre-sunrise activity. WHLO's situation is further complicated by adjudicatory proceedings in Docket No. 11290, in which Radio Station WOI is seeking a Special Service Authorization (SSA) for early morning operation at Ames, Iowa.

3. The above pleadings and waiver requests filed by WHCU and WHLO raise basic issues concerning the public value of such Class II usages vis-a-vis co-channel U.S. I-A nighttime services which they would inevitably limit, to some degree, and secondary issues going to the circumstances under which such usages should be allowed and the degree of skywave interference

protection to be afforded to U.S. I-A stations, which at present derive their basic protection from the exclusivity of the I-A nighttime priority within the North American Region.

4. We have accordingly concluded that the scope of this proceeding should be enlarged to explore the questions posed above. Authority for this action is contained in Sections 4(i), 303(c) and 303(r) of the Communications Act of 1934, as amended.

5. Pursuant to applicable procedures set out in Section 1.415 of the Commission's Rules, interested parties may file comments on or before November 20, 1967, and reply comments on or before November 30, 1967, 1967. All submissions by parties to this expanded proceeding, or by persons acting on behalf of such parties, must be made in written comments, reply comments or other appropriate pleadings, except that the written submissions of Radio Stations WHCU and WHLO already on file in Docket No. 14419 will be considered in this proceeding and need not be resubmitted.

6. In accordance with the provisions of Section 1.419 of the Rules, an original and 14 copies of all written comments, replies, pleadings, briefs, and other documents shall be furnished the Commission.

FEDERAL COMMUNICATIONS COMMISSION

Ben F. Waple
Secretary