

F.C.C. 69-700

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

In the Matter of
AMENDMENT OF SECTION 0.281(kk) OF THE }
COMMISSION'S RULES AND REGULATIONS }

MEMORANDUM OPINION AND ORDER

(Adopted June 25, 1969)

BY THE COMMISSION: COMMISSIONER BARTLEY ABSENT.

1. The Commission has before it a number of informal requests from standard-broadcast stations looking toward on-the-air identification with a community other than the community of license. These requests fall short of the principal city signal criteria required by section 0.281 (kk) of the Commission's rules and regulations.

2. Five requests of this nature are currently pending, as follows:

a. WINE (AM) (940 kHz, 1 kw., D), Brookfield, Conn., requesting a Brookfield-Danbury identification. Although the station's 5-mv./m. contour encompasses Danbury, its 25-mv./m. signal does not reach the city.

b. WAAM (AM) (1600 kHz, 1 kw., 5 kw., DA-2, LS, U), Ann Arbor, Mich., requesting an Ann Arbor-Ypsilanti identification. Ypsilanti is totally encompassed by the station's 5-mv./m. contour, day and night. However, the 25-mv./m. signal, although covering the main business district by day, falls to 8-mv./m. at night.

c. WVOL (AM) (1470 kHz, 1 kw., 5 kw.-LS, DA-2, U), Berry Hill, Tenn., requesting a Berry Hill-Nashville identification. The station's 5- and 25-mv./m. contours cover the entire city of Nashville during the day. At night, the 5-mv./m. signal covers Nashville with some interference at the edges; a 10-mv./m. interference-free contour covers 75 percent of the city.

d. WDAE (AM) (1250 kHz, 5 kw., DA-1, U), Tampa, Fla., requesting a Tampa-St. Petersburg identification. The entire city of St. Petersburg receives a signal intensity of 8 mv./m. both day and night, and the business area receives a signal of about 15 mv./m. both day and night.

e. KIKO (AM) (1340 kHz, 250 w., 1 kw.-LS, U), Miami, Ariz., requesting a Miami-Globe identification. The station's 5- and 25-mv./m. contours cover the entire city of Globe during the day. However, the 25-mv./m. signal, although covering the main business district by day, falls short at night.

3. By memorandum opinion and order of October 25, 1967 (10 F.C.C. 2d 527), the Commission delegated to the Chief, Broadcast Bureau—section 0.281(kk)—authority to waive the AM and FM station identification requirements (secs. 73.117 and 73.287 of the rules, respectively) so as to permit stations to identify with all communities lying within their principal city contours as defined in sections 73.188(b) for AM and 73.315(a) for FM. Only strict compliance with this standard was viewed as justifying multiple-city identification.

4. We find no sound basis for deviating from this determination. In conventional application processing, principal city coverage is generally considered essential to insure the necessary premium grade

of service to the principal community or communities served. A fortiori, no less should be required for multiple-city identification purposes. Arguments based on similarity of program needs as a means of justifying dual-city requests must be rejected because of the transitory nature of programing judgments.

5. Moreover, it cannot be demonstrated to our satisfaction that strict compliance with the principal city coverage requirement will result in measurable hardship to the stations affected. Commission policy already permits a station which falls short of such coverage to identify promotionally with communities lying within its lesser coverage area (after recitation of call letters and station location). In our public notice adopted October 11, 1967, examples of permissible promotional identification announcements were cited. (See 10 F.C.C. 2d 407, example 3.) For instance, a station assigned to the hypothetical city Millville which puts a less than principal city signal over the hypothetical city of Clarkston could identify as follows: "Station XXXX, Millville, serving Millville and Clarkston." Clearly, insofar as the listening public is concerned, promotional announcements of this character serve essentially the same purpose as do hyphenated identifications granted under section 0.281 (kk).

6. The amendment herein ordered is intended to implement the foregoing determination by delegating to the Chief, Broadcast Bureau, authority to dismiss requests for multiple-city identification which do not show strict compliance with principal city coverage requirements. Since the amendment relates to internal Commission practice, the prior notice and effective date provisions of the Administrative Procedure Act (5 U.S.C. 553) need not be observed. Authority for the adoption of this amendment is contained in sections 4(i), 303(p) and 303(r) of the Communications Act of 1934, as amended.

7. Accordingly, *It is ordered*, Effective July 3, 1969, that the above-referenced requests for multi-city station identification *Are dismissed*, and section 0.281(kk) of the Commission's rules and regulations *Is amended*.

FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE, *Secretary*.