AM Station Assignment Standards
AM Station, Class I, Clear Channel
AM Station, Class I, Clear Channel Freeze Policy
AM Station, Limitations

Rules revised to permit unlimited-time Class II station assignments to the 25 Class 1-A Clear Channels while preserving Clear-Channel wide area service of 750 miles. Priority for new assignments to be given to applicants with 50 percent or more minority ownership. Proceeding terminated. DO. 20642

FCC 80-317

BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

In The Matter of Clear Channel Broadcasting in the AM Broadcast Band	Docket No. 20642 RM-434; RM-478; RM-2474; RM-441; RM-530

REPORT AND ORDER

(Proceeding Terminated)

(Adopted: May 29, 1980; Released: June 20, 1980)

BY THE COMMISSION: CHAIRMAN FERRIS ISSUING A SEPARATE STATEMENT; COMMISSIONER JONES APPROVING IN PART AND ABSTAINING IN PART AND ISSUING A STATEMENT.

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I. Summary

1. Upon review of updated comments, we now resolve the half-century-old issue of whether the long service range of 25 Class I-A clear channel stations should be extended, preserved as it is, or limited

to some degree in order to make room for added unlimited-time radio stations. We find that, on balance, the many conflicting considerations urged upon us favor the last of these courses. We accordingly now open the way for about 100 additional AM stations. We thus end the exclusive nighttime use of each of 11 channels by a single AM station in the contiguous 48 states. We also modify the severe restrictions on the shared use of the other 14.*

2. The more consistently deliverable wide-area service now rendered by the Class I-A stations will be protected from interference on the same basis as has heretofore been applied to the 14 whose nighttime exclusivity had been previously ended. This will generally enable the Class I-A stations to continue to provide nighttime service to substantially circular areas within a radius of about 700 to 750 miles from their transmitters, beyond which their signals are generally too weak, intermittent, or distorted much of the time to justify protection at the expense of precluding the use of this under-used spectrum space for much needed new stations.

3. Within limits imposed by applicable domestic and international restrictions, our action will help to meet, although it cannot fully accommodate, today's reappraised radio needs. Some of the more prominent of these needs include: more minority-owned stations, first or second local nighttime radio outlets to places lacking them, and additional noncommercial stations. We will move as expeditiously as possible to resolve conflicts among applicants for mutually exclusive uses of the newly available spectrum space, who either meet the stated prerequisites of our rules or pre;ent sufficiently meritorious grounds for waiver of their inability to do so.

4. Because higher power, which a few of the Class I-A stations continue to seek, would reduce the potential numbers of much-needed new co-channel and adjacent channel stations, and for the other reasons discussed, we have decided to continue the established 50 kW power maximum for Class I-A stations.

II. This Proceeding

5. We here consider the comments filed in response to the *Further Notice of Proposed Rule Making* we adopted on December 19, 1978, in Docket No. 20642, 44 Fed. Reg. 4502, 70 F.C.C. 2d 1077. In doing so, we have borne in mind the voluminous comments previously filed in response to the *Notice of Inquiry and Notice of Proposed Rule Making* by which we opened this proceeding on December 4, 1975, 40 Fed. Reg. 58467. We have already summarized and discussed that earlier portion of the record in the *Further Notice*. Our present observations are

* Until now, the single dominant Class I-A station on each of 12 Class-A channels has been required to share its channel with only one additional co-channel station anywhere in the 48 contiguous states. Exceptionally, Class I-A stations on each of 2 other Class I-A channels share their frequencies with two co-channel stations within the 48 states.

directed primarily to the matters addressed in the *Further Notice* and in the responses to it. The facts and circumstances set out in the *Further Notice* and its attachments, and the analyses and evaluations we drew from the earlier record and set out in the *Further Notice* — except as we expressly or inferentially modify them here—form part of the basis for our present conclusions, although we avoid burdening this *Report and Order* by repeating them here in their entirety.

6. The *Further Notice* announced and invited comment on the conditions which we believed should govern the future use of the 25 Class I-A clear channels. We now essentially adopt those conditions, thus culminating a reassessment of clear channel allocations which started when the predecessor Docket No. 6741 was opened in 1945, and led to our 1961 decision to:

- permit a second unlimited-time station on 11, later 12 of the Class I-A channels, and
- defer consideration of higher power and the possible assignment of still more stations to all 25 Class I-A channels,

31 F.C.C. 565, *recons. Den.*, 45 F.C.C. 400 (1962) *aff'd sub nom. Goodwill Stations Inc.*, v. *F.C.C.*, 325 F. 2d 637 (1963).

7. We have been most helpfully assisted by the voluminous comments filed in response to both the original and further *Notices.* Submitted by over 150 parties, they have furnished us with much data and argument in support of strongly competing demands for clear channel spectrum. Comments have been filed by most of the 25 Class I-A clear channel stations and the Clear Channel Broadcasting Service (CCBS), an association of the licensees of 16 of them. The Daytime Broadcasters Association, numbers of state broadcasters' associations and numerous individual station licensees have contributed usefully to the record. Numerous agricultural, labor, minority, religious, research and other organizations have given us the benefit of their views. We have been assisted also by comment by members of Congress and numbers of state, county, and municipal authorities, as well as by studies submitted by the Office of Telecommunications (predecessor of NTIA). The Association of Broadcast Engineering Standards, Inc. and a number of consulting engineers have provided useful data and analyses. Educational institutions and groups of students, have helpfully commented on the record. We have also noted and considered expressions of the views of the public and others which they submitted, informally, in over 4,000 letters filed in the docket of this proceeding. While these, regretfully, are too numerous to identify individually, we wish to acknowledge the help they provided in learning more about, understanding, and evaluating some of the circumstances bearing on our decision.

III. Original Reasons for Clear Channels

A. Public Interest Objectives

8. We think it will clarify our evaluation of the alternative courses

urged upon us to note first the historical and technical reasons why clear channels were created, and the current, changed circumstances in which we now reappraise the competing demands for clear channel spectrum. We discuss these matters in this section and in Section IV in order to help to avoid some misconceptions which are frequently entertained about the service it is possible to achieve by one or another mode of assigning stations to the clear channels.

9. Since 1927, when Congress made our predecessor, the Federal Radio Commission, responsible for allocating the non-Governmental use of the radio spectrum, three basic goals have been pursued in setting the conditions for the assignment of radio broadcast stations:

- at least one service to everyone;
- service to as many persons from as many diversified sources as possible;
- outlets for local self expression addressed to each community's needs and interests.

The Commission and the Courts have long recognized that all three of these goals are comprehended within the intent of Section 307(b) of the Communications Act, which directs the Commission to:

> make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same.

Clear channel stations provided one method of achieving the goal of at least one service to as many people as possible. However, that use of spectrum space also hindered the ability to provide outlets for self-expression to as many communities as practicable. In order to help understand how the clear channels have been used in the past to promote the stated objectives, the way in which that use hinders the allocation of frequencies for local service, and the ways in which it is now desirable to modify the rules governing their use, we first note certain peculiarities of AM signal propagation which circumscribe the uses to which AM frequencies can practicably be put.

B. AM Signal Propagation

10. Briefly, the AM broadcast band is made up of 107 channels, spaced, as they now are, 10 kHz apart between 540 kHz and 1600 kHz. AM signals retain a field strength great enough to cause objectionable interference to co-channel stations at much greater distances from the transmitter than the range within which they retain enough field strength to render a usable service. The assignment of multiple stations using the same and some adjacent frequencies thus creates large areas of mutually destructive interference, along with areas to which they can respectively provide useful, interference-free service. At night, the areas of mutually destructive interference by co-channel stations aggregate far more territory than the areas where they can provide an interference-free service.

11. An understanding of the basis for the established scheme of

clear channel allocations also requires recognition of certain peculiarities which result in marked differences between day and night AM propagational effects. "Primary" or "groundwave" service is provided by AM signals propagated horizontally. The distances to which groundwave signals render usable service, and the greater distances within which they remain strong enough to interfere with service from co-channel stations depend on several highly variable factors. These include the frequency, power, directionalization and other characteristics of the transmitting facilities, and character of the soil ("soil conductivities") over which the groundwave signal passes. The service and interference ranges of groundwave signals are substantially constant day and night. There is therefore no significant difference, day and night, in the distance from the transmitter at which the groundwave signal's field strength will have a given service or interference potential. At night, however, a phenomenon called "skywave transmission" very substantially increases the distances at which AM signals can render a usable service, and enormously increases the distances at which they can create destructive interference to the service of other stations operating on the same channel. The signals which radiate upward and outward have no consequential effect at the earth's surface during most daytime hours. At night, however (and to a lesser extent during certain transitional periods before sunset and after sunrise), that part of an AM station's radiation reflects off an atmospheric layer called the ionosphere. This enables such "skywave" signals to return to the surface many hundreds and, under some occasional conditions, thousands of miles away, thereby enormously extending the nighttime service and interference ranges of the station.

12. This means that, in order to keep service by a station to a particular area free from destructive interference, the locations from which co-channel stations are permitted to radiate signals toward the protected area at night must be much further away at night than would be required for a daytime operation. Also co-channel radiations toward the protected area must be reduced at night through decreased transmitter power and/or directionalization of the co-channel radiation away from the protected area. In some circumstances the co-channel operation must be discontinued altogether at night.

13. Because of the foregoing inherent characteristics of AM signal propagation, the larger the numbers of co-channel stations, the smaller the areas in which they can render service free from mutually destructive interference. However, since the more sparsely populated rural areas generally depend for service on more distant stations, realization of the goal of some service to all requires two conditions which—especially at night—inescapably limit the number and facilities of stations permitted to share the use of a given channel. First, a wide area can be served by a station only if it operates with enough power to deliver a signal of usable field strength throughout the area to be

served. Also, the numbers, locations, and facilities of co-channel stations must be so limited as to keep the desired service area free from destructive co-channel interference. These two requirements for a wide area service create a head-on conflict among the basic allocations goals which can be served through the use of any AM channel. Multiple services and local outlets call for maximizing the numbers of stations assigned to a channel at least up to some point of diminishing returns where mutual interference, especially at night, reduces residual interference-free areas to the point where the co-channel stations could not adequately serve their local communities. On the other hand, wide-area service can be achieved only by limiting the extent to which a channel is shared. That is, wide area service is made possible, and the extent of it is enhanced, by limitations on the numbers of co-channel stations and by restricting their radiation toward the stations providing wide area service.

14. Recognition that the conditions which create and enhance the possibilities for wide-area service on AM channels correspondingly diminish the potential for assigning co-channel stations led early to the distribution of AM channels among several "classes." Each such class of channel, and the stations assigned to do it, have different service objectives. The achievement of the several differing 307(b) objectives has thus been fostered by the adoption of differing conditions for the operation of stations on the several classes of AM channels in conformance with internationally agreed allocations of spectrum use. We next note the essential purposes served by various classes of AM channels and stations.

C. Functional AM Classifications

15. *Class I* stations are assigned to 47 channels designated for wide area service, upon which, under international agreement, the United States has priority use. The channels are further divided up as follows:

Class I-A: 25 channels upon which there is a single dominant station, operating at a power of 50 kW, day and night, and generally omnidirectional. Dominant stations on these channels receive protection to both their groundwave and skywave service areas.*

Class I-B: 22 channels typically occupied by more than one dominant station directionalized to protect each other. Like Class I-A stations, Class I-B stations receive groundwave and some skywave service protection.

16. *Class II* stations are assigned to the foregoing Class I-A and I-B channels as well as the additional Class I channels on which dominant stations are assigned only in other countries. Class II stations

* On 11 of these channels, the dominant station is the only station operating at night. On the remaining 14 channels, the dominant station shares the channel with one or two other unlimited-time stations.

provide either wide area or more localized service. They must provide substantial interference protection to Class I-A and I-B stations, but receive no protection from the interfering signals of those stations.

17. *Class III* stations are assigned to 41 regional channels intended to serve major population centers and their surrounding areas. Their power does not exceed 5 kW. *Class IV* stations are assigned to 6 channels for localized service. Their power may not exceed 1 kW day and 250 watts at night.

D. Early Attempts to Achieve Service Objectives

18. Each Class I-A station, originally freed from interference from any nighttime co-channel use, was thereby enabled to serve very wide areas. Operating as they long have with 50 kW transmitter power, the Class I-A stations provide a "primary" groundwave service out to a service contour where, in rural areas, their signals have a field strength of .5 mV/m or more. Depending on variables already noted, particularly frequency and soil conductivity, the radius of such primary service typically ranges from nearly 100 to 150 miles or more from the transmitter.

19. Skywave transmission enables Class I-A stations to provide a usable skywave service at night out 500 to 600 miles beyond their primary service contours. Because skywave signals are much less constant than groundwave signals, and are subject to variable fading, distortion, and attenuation, they are considered to render a "secondary" service. Because of such fluctuations, which can occur from minute-to-minute, hour-to-hour, night-to-night, season-to-season, and from year-to-year, the incidence or extent of skywave service is necessarily calculated and stated in terms of the percentages of the time when—on the average—the skywave signal has sufficient field intensity and is sufficiently free from distortion to render a usable service. Through skywave propagation, Class I-A stations operating omnidirectionally (most do) with 50 kW power (all must), place a signal of the .5 mV/m field strength minimally required to overcome natural and man-made noise in rural areas at least 50% of the time along a circular contour located about 700 to 750 miles out from their transmitters.

20. The time incidence of satisfactory reception declines progressively as distance from the transmitter increases, and averages less than half the time beyond 750 miles. However, the Class I-A stations were all originally given exclusive nighttime use of their channels so that millions of people then living or traveling in over half the land area of the 48 states, who at night were beyond the reach of any primary service, could benefit from such skywave service as they might receive. Less than half a loaf was considered better than none.

21. In 1961 the Commission, after lengthy proceedings begun in 1945, opened the way to the assignment of a single secondary (Class II-A) station on each of 11 (later 12) Class I-A channels designated in

Attachment I. The Class I-A stations operating on those 12 channels and on 2 additional Class I-A channels on which a second Class II-B station has been assigned, are protected to the same degree as Class I-B stations: *i.e.*, to their .5 mV/m 50% skywave contours. The remaining 11 Class I-A stations listed in Attachment I have, until now, retained protection to the more sporadic and less frequent skywave service beyond their .5 mV/m 50% skywave contours, which is made possible by nighttime exclusivity.

22. Several circumstances which no longer exist or have significantly changed, helped to justify the original provision of nighttime exclusivity for Class I-A stations. Until the advent of FM broadcasting, which did not develop on a significant scale until after World War II, half the land area of the United States and an estimated 25 to 26 million people were dependent upon skywave signals from distant clear channel stations for their only nighttime broadcast service.

23. During the earlier years of radio broadcasting, nighttime exclusivity brought a limited increment of service to persons living and traveling in areas which at night lacked usable primary service and who had no source of broadcast programming other than the skywave transmissions from clear channel stations. By means of nighttime exclusivity, such persons could—if only sporadically—receive programs broadcast by stations too far away to provide secondary service of the .5 mV/m 50% skywave standard. This early use of the Class I-A clear channels did not block the building of additional stations required to meet local broadcast service needs of other communities, for which other AM channels were still available, and for which FM later provided a large new spectrum resource. However, by 1945, the growing demands for more stations and the progressive crowding of the regional and local AM channels had generated strong demands to make the Class I-A channels available, and in that year the Commission commenced formal proceedings in Docket No. 6741, in which the desirability of multiple station assignments to the Class I-A AM channels was placed at issue. In this successor proceeding we have under consideration proposals for adding co-channel stations beyond the limited numbers we provided for in 1961. Another question raised in 1945 which is now before us for decision is whether Class I stations should be permitted to operate at powers exceeding 50 kW.

IV. Radio Service Today

24. In determining what conditions would optimally help to attain the statutory goals of "fair, efficient, and equitable" distribution of radio service, and in revising the rules governing the use of available spectrum space on the 25 Class I-A clear channels, we note the extent to which allocations goals have been met by available radio services, and make a fresh reappraisal of today's radio needs.

A. Available Signals

1. Primary Service

25. Before the advent of FM radio broadcasting, "primary service" meant AM groundwave signals of sufficient field strength to overcome sources of interference (.5 mV/m in rural areas). A study by the Clear Channel Broadcasting Service (CCBS), which we accept as an approximation of nationwide nighttime AM primary service, shows that AM primary service is lacking in 56% of the land areas of the 48 contiguous states where, according to 1970 Census, an estimated 26 million persons live. However, with the development of FM service, the areas to which nighttime primary aural broadcast service is not available now amount to about one-third of the land area of the contiguous 48 states. The low density pouplation in these areas we estimate at fewer than 4 million persons. CCBS' estimate of nearly 5 million people notwithstanding, when AM and FM are treated as contributing sources of the nation's aural broadcasting service (as the 1975 *Notice* announced we would), nighttime primary aural broadcast service is lacking only in what generally are very thinly populated areas where only about 2% of the total population lives, and through which some additional numbers of persons travel.

26. In its comments in response to the *Further Notice,* CCBS recurs to criticisms of the study of FM service prepared by the Office of Telecommunications of the U.S. Department of Commerce (now NTIA) which CCBS originally put forward in a supplement prepared by consulting engineer Harold Kassens. None of these ciriticisms invalidate the use we have made of OT's depiction of the extent of FM primary service nationwide. For one thing, Mr. Kassens makes the point that, when the FM Table of Channel Assignments was created, some of the pre-existing FM stations were already located, and have continued to operate, at shorter distances from co-channel and adjacent channel stations than the minimum mileage separations observed in creating and amending the FM Table. As a result, CCBS states, OT's FM service predictions, on which the FCC relied, presumed service out to a stated contour, and failed to reflect the fact that interference from other FM stations shortens the range of usable FM signals in some cases. On the other hand, CCBS does not recognize that the short spacings in question occurred chiefly in the East where the multiplicity of FM stations makes it likely that the residents of areas receiving interference from short-spaced FM stations are within the range of interference-free signals from other FM stations.

27. Certain technical observations by CCBS concerning methods by which OT calculated the effect of terrain roughness similarly fail to invalidate the methods OT used in assembling and mapping a nationwide depiction of the extent to which an FM service of at least 1 mV/m is available. Deviations in particular instances may be reasonably expected to offset each other, with the result that the nationwide

count of thinly settled populations in areas lacking primary service could not be expected to be significantly affected one way or the other by the averaging techniques OT properly used.

28. Attachment II hereto shows the areas (without the cross-hatching) which at night receive neither AM primary service (as depicted by CCBS) nor FM primary service (as depicted by OT). CCBS, using our full-sized composite AM-FM primary service overlay, of which Attachment II is a reduced copy, counted a population of over 4.8 million in the areas without cross hatching. In the same areas we counted 3.75 million. Our count was based on the exact, tabulated populations for every "place" in the areas lacking cross hatching which in 1970 had a population of 1,000 or more, plus the count of the dots on the Census Bureau population map, each of which represents 500 rural inhabitants. Random spot checks show that our count of pertinent counties, so carried out, corresponds very closely with the populations of those counties as shown in the tabulated Census Bureau figures. This is contrary to CCBS's contention that our count, based in part on the population map, led to a significant under-estimate of the numbers concerned. CCBS also contends that listener surveys show listening to nearby stations by residents of counties which we treated as lacking primary service. This simply points to the unsurprising fact that some people do obtain service from signals which are not strong enough to constitute what we define as "primary" services.

29. For the several reasons noted, we believe that our count of about 4 million persons for present purposes reasonably approximates the number of persons residing in areas within the 48 contiguous states which lack nighttime primary aural broadcast service. We need not, however, belavor further CCBS's challenges to our figures since, as we stated in paragraph 53 of the *Further Notice:*

> . . . even were the actual number of unserved persons to be assumed—most implausibly—to be as much as a million higher than our 3¾ million figure, that would still indicate the substantially similar result of nighttime primary aural service being available to about 97.5% of the 200 million inhabitants of the 48 contiguous states instead of the 98.2% who are served according to our count. Such a difference is not significant for purposes of establishing or revising nation-wide allocations policy.

2. Secondary Service

30. Only 58 of the more than 4,500 AM stations, *i.e.*, 25 Class I-A stations and 33 Class I-B stations, receive protection which enables them to render nighttime skywave service beyond their primary (groundwave) service areas. The areas within which 47 of the 58 clear channel stations (all 33 of the Class I-B stations and 14 Class I-A stations) render at night a secondary service of at least the 0.5 mV/m 50% skywave standard are protected from objectionable interference to the extent that no co-channel station is permitted to place a signal at the protected station's 0.5 mV/m 50% skywave contour of a greater value than 25 uV/m (1/20 of 0.5 mV/m) 10% skywave. In some places

the cumulative effects of signals from multiple co-channel Class-II stations may create some objectionable interference within the protected 0.5 mV/m 50% contours of the dominant (Class I) stations. Also, the skywave signals of adjacent channel stations—primarily those on channels only one removed from those occupied by the Class I stations—create some interference within the otherwise protected skywave service areas of Class I stations.

31. Such cumulative co-channel interference and adjacent channel skywave interference, coupled with the intermittent character of skywave signals, somewhat reduce the aggregate numbers of usable skywave services at any particular times and places within the protected secondary service areas of the clear channel stations. But, making generous allowance for the resultant inability to receive constantly all the signals provided by all Class I stations within their 0.5 mV/m 50% service contours, it remains a fact that some skywave service is available everywhere in the 48 states, and that multiple skywave services are available virtually everywhere. This is borne out by many letters to the FCC identifying multiple Class I stations which the writers regularly receive.

32. Most areas have from 4 to 20 skywave signals, as recognized by WSM, Inc., licensee of Class I-A Station WSM at Nashville, Tenn. As noted in an engineering statement submitted on behalf of CCBS, places receiving .5 mV/m 50% skywave signals (these are 700 to 750 miles from the transmitters of Class I-A stations) would have to receive four of them in order to be assured one service 92% of the time. Many persons in areas dependent upon skywave service at night are, however, close enough to Class I stations to receive multiple signals with an incidence greater than 50%. They do not require four signals in order to be assured of at least one service virtually all the time. Thus, there is no part of the contiguous 48 states which lacks at least some aural broadcast service, and almost no place in the one-third of the land area lacking nighttime primary service where multiple skywave services are not available.

B. Programming Offered

33. In taking stock of radio service now available to the public, it is pertinent to note not only the availability of signals, but also the nature of the program services offered. The clear channel stations allege that their resources enable them to provide a wider choice of program fare than smaller stations which serve much more limited areas. As examples, several of them point to extensive programming directed to farm audiences. Numbers of them mention major college and professional sports broadcasting. Several invite attention to weather reports covering wide areas, designed to serve truckers and other drivers as well as farm and nonfarm residents. Talk shows on a variety of topics were mentioned, as was the revival of radio drama. Also, several of the major stations state that they provide a wider

selection of music than numbers of smaller stations. National and international news broadcasts were stressed.

34. Proponents of adding new stations on the clear channels stress that stations serving smaller areas are better able to assemble and broadcast news and other nonentertainment programming of particular interest to local communities, thus responding more directly to local needs. One commenting station gave the example of its inability to broadcast local election results because it is limited to daytime-only hours. The smaller stations periodically broadcast national and world news, as well as local news such as distant stations are less able to cover.

35. In rebuttal, clear channel stations, such as WWL at New Orleans, have pointed out that they were able to provide urgently needed announcements, reports and warnings during recent hurricanes, when numbers of smaller stations within their service areas were unable to operate. This was borne out by numbers of letters from the public.

36. Over four thousand members of the general public have written to the Commission to express the fact that they rely on and remain interested in programs broadcast by one or more clear channel stations. While these letters preponderantly focused on "Grand Ole Opry," a long-standing favorite broadcast by Class I-A Station WSM at Nashville, Tennessee, fervently urging that nothing be done to interfere with its continued availability, numerous letters enthusiastically mentioned programs broadcast by other Class I-A stations. These letters make mention of the several kinds of programming already noted. Some letters emphasized the convenience of access to clear channel stations over long distances, for drivers, as compared with more frequent channel changes needed when listening to other stations. Altogether the public's response show that—for at least some listeners—the clear channel stations provide program fare which is valued.

37. Supporters of clear channel broadcasting urge that it increases the diversity of program fare over what smaller stations have the resources and staffs to provide. Numerous letters from listeners attest to this. On the other side, daytime-only licensees who would have us end the exclusive or near-exclusive nighttime use of their channels by Class I-A stations, stress locally oriented news and other program services provided by local stations. It appears to be well established on the record that the programming of both wide-area service stations and smaller locally-oriented stations are valued by members of listeners, although both the supporters and opponents of continued wide area service sometimes plead as though blinded to the values of the services which both large and small stations can respectively provide. One comment expressed the belief that the programming availabilities of clear channel stations, because of their wide reach, could help to unify the public.

C. Listener Data

38. In paragraphs 71–78 of the *Further Notice* we noted that Arbitron's 1975 nationwide radio listening survey unsurprisingly indicated that persons who reported listening at night to Class I-A stations preponderantly lived within 750 miles of their transmitter, where they have a statistical expectancy of receiving a usable signal at least half of the time. We need not dwell on the statistical shortcomings which render the survey deficient as a measure of clear channel listening in *individual* counties; nor do we place decisive reliance on the reasonable expectancy that 888 usable diaries from 126 underserved counties more nearly reflect *nationwide* actualities in indicating that of those persons who live in underserved areas and listen to Class I-A stations, 5 out of 6 live within 700 to 750 miles of the stations listened to. This natural and expectable consequence of the progressive deterioration of skywave signals at greater distances is also corroborated by numerous letters of record from listeners who preponderantly (in about the same 5 to 1 ratio) report listening to Class I-A stations closer than 750 miles from their homes. It is also reflected in the preponderance of closer-in residents who made written responses and telephoned responses to numbers of the Class I-A stations who broadcast invitations to write or call in.

39. In the *Further Notice*, we referred to the Doane study of the farm audience of Class I-A Station WHO, Des Moines, Iowa. The survey showed substantial farm audiences for competing stations within WHO's primary service area in Iowa. Responsive comments point out that WHO's farm programming was also valuable in areas in which we could not put a local station. We recognize the value of such programming presented by WHO and other Class I-A stations which devote considerable resources, manpower and time to programming of wide interest to rural residents. Numerous letters from agricultural organizations, educational institutions and governmental authorities attest to the usefulness of the agricultural programming of those clear channel stations who give it some prominence.

40. As we have already noted, thousands of persons have written to express their enthusiasm for other kinds of programming broadcast by clear channel stations as well, including not only agricultural offerings, but also major sports, news services, the variety of musical selections, talk shows and other kinds of programming said to be beyond the resources of smaller stations, despite the superior ability of the latter to focus on news and issues of local importance.

V. Spectrum Resources

41. In order to put various proposals for the use of clear channel spectrum space in proper perspective, and to decide how best to use the Class I-A clear channels, we note that they do not furnish the only possible spectrum resource which could increase the number of unlimited-time radio stations. The First Session of the Region 2

Broadcasting Conference launched studies of a proposal put forward by the United States to establish 9-kHz channel spacing throughout this Region, in lieu of the present 10-kHz spacing. The Conference will consider adoption of 9-kHz spacing at its Second Session in 1981. Adoption of this proposal, which would bring the Western Hemisphere into conformance with the rest of the world, would make an additional 12 AM channels available for new stations. Also, at the World Administrative Radio Conference held in 1979, initial steps were taken looking toward the eventual expansion of the AM band by making up to an additional 100 kHz available for AM broadcasting at the upper end. This would be accomplished in stages, through hemispheric negotiation and agreement after an initial Region 2 agreement is reached in 1981 on the use of the present AM band. Also, in a *Notice of Proposed Rule Making* adopted February 28, 1980, BC Docket No. 80–90, 45 Fed. Reg. 17602, the Commission proposed to adopt numbers of rule revisions which would make expanded use of FM channels for additional FM radio stations. We next note the alternative approaches we are urged to take concerning clear channel use.

VI. Proposals

A. Maintenance of the Status Quo

42. Several parties urged that we defer decision on revising the rules governing the use of the AM clear channels until they could be considered together with proposals for using 9-kHz separations, AM band expansion, and revisions of the FM rules. These are not, however, alternative spectrum resources which, if used, would satisfy all visible needs for additional radio stations, thus making it unnecessary to use the clear channels. There are over 2,000 daytime-only AM stations, a large number of which have interest in extending their operations into nighttime hours (beyond the limited extent to which some of them are authorized to operate pre-sunrise). Over 300 of these are located in non-suburban communities in which there is neither an unlimited time AM station locally assigned, nor a locally assigned FM station, or an available FM channel. The Corporation for Public Broadcasting and National Public Radio have stated a need for numerous additional noncommercial radio stations in the AM band. We have recognized a vast need for more minority-owned stations. Looking beyond these needs, and the needs for first nighttime primary services, are needs to reduce the number of places now provided with only one nighttime service from a locally assigned station.

43. No single spectrum resource would accommodate all these needs. Moreover, the time it will require for negotiation, ratification and implementation of Region 2 agreements needed to lay the foundations for use of 9-kHz spacings and expanded portions of the AM band will prevent these additional spectrum resources from becoming available for several years. Only the clear channel spectrum space is immediately available to meet the most pressing needs. Under

these circumstances we do not consider it possible to justify deferring action on clear channel allocation revisions until other possibilities for additional AM and FM spectrum resources are developed.

44. As proposed in the *Further Notice*, we reject, as wasteful, the recommendation that, whatever we decide about authorizing or rejecting higher power for the Class I-A stations, we retain the present barriers to the addition of stations either on these channels on which there is only a single Class I station operating at night or on those which have one or two co-channel nighttime station assignments. That recommendation would, among other things, have us bar the addition of much needed stations in order to preserve the possibility of occasional reception (less than half the time) of signals beyond the .5 mV/m 50% skywave contour of the 11 Class I-A clear channel stations, which is located 700 to 750 miles out from their transmitters. That, we think, is self-evidently the least acceptable of all the alternative courses urged upon us.

B. Higher Power

45. In their comments filed in response to the *Further Notice* only 7 of the 25 Class I-A stations reiterated statements previously submitted by 11 of them declaring their desire and intention to use power of more than 50 kW if permitted to do so.*

46. None of the stations which continue to seek authorization of higher power reliably projected the numbers of persons who would thereby gain a first nighttime aural primary service free from the fading and distortion which occurs in the "distortion zone" where the station's own groundwave and skywave signals interfere with each other. WSM submitted an estimate of 179,660 but our review of accompanying engineering data and maps indicates a high probability that most of those persons live within the area where the distortion zone would be located under WSM's projected operations at 500 kW, *i.e.*, where the field strengths of WSM's groundwave and skywave signals are within the range of half to twice each other's. KSL expressed the expectation that, because the same territory would be subject to distortion at higher power as at 50 kW, higher power would not bring primary service to persons now without it. The number of persons gaining a fresh nighttime primary service through higher power were estimated at 4,230 for WJR, Detroit, and 98,106 for WBAP, Fort Worth. These figures took no account, however, of distortion effects. The record thus fails to invalidate our anticipations

* WHO, Des Moines, proposed 200 kW. WBAP, Fort Worth, WJR, Detroit, and WWL, New Orleans have proposed to use 250 kW. WWL proposed that this be permitted for all of the Class I-A stations west of the Mississippi River. WCCO, Minneapolis, proposed 450 kW, and associated with this a proposal that all stations be permitted to go up in power to a level 9 times their present power ceilings. WSM, Nashville, and KSL, Salt Lake City proposed 500 kW.

that higher power would generally accomplish little by way of providing nighttime primary service to places now lacking it.

47. Advocates of higher power stress the gains and improvement it would bring about in secondary (skywave) service. The count of persons now within the .5 mV/m 50% skywave service areas of the Class I-A stations would be substantially increased with higher power. The population within WSM's .5 mV/m 50% skywave service contours would reportedly be increased from the present 37.9 million to 46.6 million. The numbers of persons receiving secondary service from WSM who do not have nighttime primary AM or FM service would increase, according to WSM's estimate, from 2.2 million to nearly 3 million. WJR, Detroit, estimates that higher power would enable it to increase the numbers of persons within its .5 mV/m 50% skywave service contour by nearly 5.8 million to a total of over 40 million, thereby reportedly making an additional skywave service available to 3/4 million persons lacking in nighttime AM or FM primary service. With higher power, WBAP, Ft. Worth, estimates that it would more than double the 15 million persons now within its skywave service area and double the number of persons served who lack nighttime AM or FM primary service; they now are said to number 1 1/2 million. WHO estimates corresponding gains of 13.7 million over the present 27.3 million total rural population within its .5 mV/m 50% service area, and an increase, by 1 million, of the 2 1/2 million persons now reportedly within the WHO's secondary service area who lack nighttime aural primary service. KSL, Salt Lake City, estimated that with higher power the number of persons within its .5 mV/m 50% service contour who receive no AM or FM primary service nighttime would increase from just under 3 million to nearly 3 1/2 million.

49. The KSL estimates are half again as high as figures derived from our staff count of persons lacking nighttime primary services in that area. The staff method described in paragraph 28 produced a close count of those populations shown on the Census Bureau's population maps to be in the areas lacking primary service, and may be expected to be more precise than the estimates arrived at through KSL's method. KSL approximated the populations by essentially treating entire counties as served which were at least half served, with counties less than half served treated as having no service except within the towns where stations are located.

50. Apart from increases in the numbers of persons receiving a skywave service, higher power is capable of creating improvements in the quality of signals within the present secondary service area of the station. Uncounted, but probably numerous persons who now receive skywave service would receive a signal of the improved values of 2 mV/m 50% skywave or .5 mV/m 90% skywave standard. The latter is said to approximate the constancy of a .5 mV/m groundwave signal which generally constitutes primary service in rural areas. WSM estimates that higher power would enable it to provide a 1 mV/m 90%

skywave signal to most areas in ten southern states who are without nighttime AM or FM primary signals. It thus appears that—for millions of people—higher power could increase both the number and quality of skywave services now available. It would nowhere add a first service, and virtually all beneficiaries of higher power now receive multiple skywave signals.

C. More Unlimited-Time Stations

51. Proposals for multiple station assignments on the Class I-A clear channels—sometimes called "duplication"—differ in two primary respects: limitations on the Class I-A stations, and conditions to be imposed on newly authorized unlimited-time stations.

52. The Daytime Broadcasters Association (DBA) submitted one of the more drastic proposals for curtailment of Class I-A service as it now exists: that is, removal of the Class I-A stations from 13 of the 25 Class I-A clear channels and reassigning them, along with one Class I-B station (14 in all), to other Class I-A channels. Under the DBA proposal one of the present Class I-A channels would be shared by four Class I stations (three Class I-A's and one Class I-B). Each of four additional Class I-A channels would be shared by three Class I-A stations, and each of three Class I-A channels would be shared by two Class I-A stations. DBA made no specific proposal for doubling up of Class I-A stations on the remaining four of the 25 Class I-A channels. On the 14 channels from which Class I stations would be removed, DBA advocates that we accommodate as many as possible of the more than 2,000 daytime-only stations by assigning 150 or more unlimited-time stations to each channel.

53. Several circumstances noted in Reply Comments submitted on behalf of CCBS and in the Comments by the Association for Broadcast Engineering Standards, Inc. (ABES) illustrate the extent of service dislocations which DBA's proposal would cause. For example, DBA proposed that Stations WNBC, 660 kHz at New York City, KFI, 640 kHz at Los Angeles, and WSM, 650 kHz, Nashville, all operate on 650 kHz This would necessitate directionalization which would remove KFI's skywave service from a wide area in the Far West, where there are fewer skywave services than in most other parts of the country. The pattern of groundwave and skywave services rendered by WSM and NBC, which have been established and come to be relied on for literally half a century, would be extensively disrupted. It is questionable whether WNBC could continue to provide primary service throughout its own metropolitan New York area. Also WNBC's operation on 650 kHz would cause destructive interference to Station WVNJ at Newark, New Jersey, which operates on adjacent channel 620 kHz. Mutual interference would be caused at night between WSM and WNBC and between KFI and WSM. Reduction of this through directionalization would raise a question—especially in the case of

WNBC—of whether sufficient land is available for the required directional array.

54. The objective of squeezing KFI, WNBC and WSM onto a single channel—freeing 660 kHz and 640 kHz for Class IV type operations by up to 150 or more unlimited-time stations on each channel—would be frustrated by the operation of CMCU, Havana, Cuba, at 5 kW on 660 kHz, and by the internationally agreed restrictions on radiation from the United States toward CMHQ, Havana.

55. The proposed co-channel operation of KSL, Salt Lake City, and WHAM, Rochester, New York, on 1160 kHz would not only dislocate a longstanding pattern of primary and groundwave service by both stations; it would force KSL to radiate its signal westward toward mountain areas where that station serves fewer people than in areas toward the east from which service would be removed.

56. The effects of crowding Class I-A operations onto selected channels are also illustrated by the proposal that KDKA, 1020 kHz, Pittsburgh and WHO, 1040 kHz, Des Moines, be forced to share 1030 kHz with WBZ which now occupies that channel at Boston. WBZ operates with a directional antenna oriented westward, thus maximizing its service in its home state of Massachusetts and avoiding waste of its signal over the Atlantic Ocean. Severe interference between WBZ and KDKA would result from a shift of KDKA to 1030 kHz. KDKA, if directionalized away from Boston, would cause substantial interference to Class II-A Station KTWO at Casper, Wyoming, thus curtailing its capacity to perform its important function of providing primary service at night in an area where such service is scarce. The addition of WHO at Des Moines on 1030 kHz would also cause destructive interference to KTWO at Casper. These instances illustrate similar service dislocations which would result from proposals for removal of a number of clear channel stations from the channels they now occupy and a crowding of up to three or more of them onto individual channels. Similar dislocations would result from a related proposal to directionalize Class I-A stations in the East and require them to operate with stations in the West, which would become new co-channel Class I stations.

57. Most proposals for added unlimited-time stations on the Class I-A clear channels would permit the Class I-A stations to remain at their present locations and to continue their present mode of operation. They differ as to the extent of protection of the Class I-A stations' service areas from objectionable interference by additional co-channel unlimited-time stations. Some parties contend that the need for secondary service has past, and that clear channel stations should be protected only to their .5 mV/m groundwave (primary service) contours, which range on the order of 80–150 or more miles from their transmitters. Other parties favor retention of interference-free service out to the 0.5 mV/m 50% skywave contour where usable skywave signals can be received at least 50% of the time. CCBS would have us

protect an 800-mile radius if it is greater than the distance to the .5 mV/m 50% skywave contour.

VIII Decision

A. Balancing Competing Demands

58. The matter before us for resolution requires a balancing of various proposed usages of the Class I-A spectrum space. On the one hand we are asked to permit increases in power, thereby increasing the scope and reliability of Class I-A station service. Alternatively, the clear channel proponents urge the maintenance of the status quo of nighttime protection. Daytime broadcasters argue for extensive dislocation of wide area coverage through channel switching or the removal of rules which protect skywave service. Apart from these positions, we must also consider competing demands for more spectrum space for more stations, among the most pressing of which are minority-owned stations and stations providing a first local nighttime service. We are also cognizant of spectrum needs for nighttime authority for daytime-only stations, noncommercial stations, second local outlets and the provision of first or second satisfactory signals to principal communities.

59. For the reasons discussed in this *Report and Order* we find that we can best achieve optimal balance among the alternative courses urged upon us by authorizing the Class I-A stations to continue to operate, as they now do, with 50 kW power, while authorizing added unlimited-time co-channel operations by Class II stations which can meet urgent needs, such as for more minority-owned stations and first or second local radio outlets, while generally protecting the service rendered by the Class I-A stations in those areas where it can be satisfactorily received at least half the time.

B. Status Quo Rejected

60. Further we herein conclude that we should no longer preserve the status quo. The demands for the use of this spectrum space for new or improved services by other stations overshadow the intermittent services provided by Class I-A stations beyond their 0.5 mV/m (50%) skywave contours. While some audience dislocation will result, it is far outweighed by the gains achieved, and no area will be without any radio service, at least secondary service of 0.5 mV/m 50% skywave standard or better.

C. Higher Power Rejected

61. Absent realistic prospects that higher power could substantially decrease the extensive areas or scattered populations lacking nighttime primary service, the most significant gains realizable from higher power would appear to be increased numbers and quality of skywave signals now available. With multiple skywave services of at least the .5 mV/m 50% skywave standard already provided throughout

the 48 contiguous states by Class I-A and Class I-B clear channel stations, we are persuaded that there is less need for still further augmentation of AM skywave services than for additional stations to meet the pressing needs described elsewhere in this *Report and Order.*

62. It is true, as higher power advocates point out, that enhanced skywave services would benefit not only persons now lacking a primary nighttime aural broadcast service, but also those, estimated by Capital Cities at 5 million, who at night have only one primary aural service. Letters which thousands of listeners have addressed to us persuasively indicate that clear channel stations are valued by distant listeners, who are, for the most part, within 700 to 750 miles of the transmitters. We have found that the desirability of preserving the established, generally usable range of skywave contours of clear channel stations warrants the consequent limitations that preserving a 700-to-750 mile service range imposes on the potential numbers of new co-channel stations. We have been unable, on the other hand, to find sufficient advantage in the still further extension of skywave service to justify even greater restrictions on the numbers of new stations which could be accommodated on the Class I-A clear channels.

63. Apart from these domestic considerations, we note the recent adoption, by the First Session of the Region 2 Conference on MF Broadcasting, of a decision that planning for a new agreement governing the use of the AM spectrum space by nations of the Western Hemisphere would be based on a limitation of the nighttime power of AM stations to a maximum 50 kW. This limitation, which had been supported by the U.S. Government, would place the United States in the position of going against internationally agreed limits if it were to insist unilaterally upon permitting U.S. stations to use powers higher than 50 kW. (The Region 2 resolution provides for up to of 100 kW daytime, but that is academic for purposes of dealing with the nighttime needs which are the primary subject of this proceeding.)

64. We conclude that it is both desirable from the standpoint of optimal use of the Class I-A clear channels within the United States, and appropriate in the context of projected international power limitations, to maintain the established power level of 50 kW for Class I-A AM stations in the United States.*

D. Useful Wide-Area Service Preserved

65. Another course which we believe promises too little public benefit to compensate for the service dislocation and losses it would cause is the proposal by DBA and other parties that we group 2, 3, or 4 Class I stations on selected Class I-A channels, and assign as many as 150 or more unlimited-time stations, in the Class IV manner, to each of a dozen or more Class I-A channels from which existing Class I-A

* We accordingly will deny five pending proposals that we inaugurate rule making to authorize higher power: RM's-434, 441, 478, 530 and 2474.

stations have been removed. We have already noted specific illustrative prohibitive dislocations which would be caused to patterns of service which have been established and relied on by the listening public for decades. Also, crowding 150 or more stations in the manner of Class IV stations on each of the vacated Class I-A channels would triple the number of channels—at present six—on which stations are now so crowded that mutual interference drastically reduces their nighttime interference-free service range to the point where the licensees of Class IV stations are pressing for relief.** We, accordingly, are unable to find this proposal acceptable either for those Class I-A channels which would become afflicted with the shortcomings of the Class IV channels, or for the remaining ones onto which multiple Class I-A stations would be crowded and thus existing patterns of service radically dislocated.

66. We have also been asked to permit additional stations to destroy all skywave service by Class I-A stations on the ground that such service is no longer useful. That is plain error. Skywave signals provide an aural broadcast service at night to an estimated 4 million persons living in areas which aggregate a third of the total land area of the 48 contiguous states lacking nighttime AM or FM primary service, as well as to persons driving through those areas. There is no foreseeable way that more than a very small fraction of those areas could be expected to receive service from new unlimited-time stations. One reason is that multiple stations on AM channels under the best of circumstances create, at night, areas of mutually destructive interference which are very many times greater in the aggregate than the areas relatively close to their transmitters where their signals are strong enough to overcome the interfering effects of other co-channel stations. The 12 Class II-A stations provided for in our 1961 decision were optimally located to bring a first nighttime primary service to as many persons as possible, and did so for about 400,000 people. It is therefore unlikely that additional AM stations in even less densely populated areas could achieve equivalent primary service gains. The public's response to our invitation to comment shows enough interest in and reliance upon nighttime service from clear channel stations—chiefly within their .5 mV/m 50% skywave contours—to preclude any possible justification for wholesale removal of existing services of that standard. The fact that skywave service from any single source is intermittent makes it important to preserve the multiple secondary services now available within the .5 mV/m 50% skywave contours, in order to continue to preserve at least the number of assured choices now available.

67. CCBS submitted engineering calculations which projected a

** This problem is the subject of a formal Inquiry proceeding in BC Docket No. 79-265, which was inaugurated by *Notice of Inquiry* adopted October 16, 1979, FCC 79-660, 44 Fed. Reg. 62307.

160-mile foreshortening of the interference-free range of Class I-A stations which purportedly would result from cumulative interference by Class II stations, against which we proposed to provide no special protection. An engineering statement submitted on behalf of the licensee of Class I-A Station KSL similarly depicted a circular cumulative interference area. CCBS' projection invokes an extreme "worst case" condition which could arise only under combinations of circumstances so unlikely to occur, as to render that showing a heavy exaggeration of what may be plausibly expected generally. We would anticipate, based on more realistic expectations as to the numbers, locations and directionalization of newly authorized unlimited-time Class II stations, that cumulative interferences are likely to occur only at some points along the otherwise protected secondary service contours of the Class I-A stations, rather than all the way around as depicted by CCBS and KSL. We also find it much more likely that, where cumulative interference does occur in a few places along the entire protected contour, it would affect reception only in a limited segment, rather than throughout a circular band. Moreover, the deeper the undesired signal penetrates, the weaker it becomes and the stronger the desired signal is at places closer to the transmitter of the Class I-A station.

68. As we stated in the *Further Notice*, the balance between the need for preserving the capacity of Class I-A clear channel stations to render wide area service and the need for more stations does not teeter precariously at the .5 mV/m 50% skywave contour. Given what we find to be a pressing need for added stations, it is appropriate to permit new Class II stations on the Class I-A channels under the same protection requirements as have long been established in assigning multiple Class II stations to Class I-B channels. This will generally preserve interference-free service to the major part of the secondary service area within the Class I station's .5 mV/m 50% skywave contour where, according to indications we have received from many letters, a great preponderance of the regular listeners to the Class I-A stations live. We regret that this may probably result in occasional interference to the relatively fewer listeners who live near the extremity of the protected secondary service area, but we have found no suitable alternative to invoking the same basis for protection which has always governed the assignment of co-channel stations to the Class I-B channels and to the two Class I-A channels on each of which two co-channel stations have hitherto been permitted to operate.

E. Daytime Protection

69. We proposed in the *Further Notice* to reduce the daytime protection to Class I-A stations from their .1 mV/m contour to their .5 mV/m contour, and commenting parties have supported and opposed this proposal. Removal of protection from the areas—generally over 100 miles from the transmitter—where the service provided is too

intermittent to qualify as primary service would not increase the possible numbers of unlimited-time Class II stations. They have to be too far away (in order to protect the distant .5 mV/m 50% skywave contour) to be affected by moving the protected daytime groundwave contour some miles nearer to the Class I-A station.

70. Our proposal, therefore, would affect only the possible numbers of daytime-only stations. Since we are in any event deferring the assignment of new daytime-only stations to the 25 Class I-A clear channels until we can be sure they will not unduly preclude possible unlimited-time stations, and because similar considerations affect the question of whether .1 mV/m protection should be discontinued for Class I-B stations as well (they are not within the scope of the present proceeding) we have decided to defer change of the daytime protection to Class I-A stations until such time as it may become appropriate to conduct separate rule making on possible revision of daytime protection for both Class I-A and Class I-B stations.

F. Minority-Owned Stations

71. Having determined that there remains a need for wide area service as well as additional local service, we turn to the competing demands for spectrum space among the various proponents of increased local service. Paramount among the competing needs which new stations can help to satisfy are, in our view, the needs for more minority-owned stations, of which there are fewer than 200 among over 8000 AM and FM stations, and for unlimited-time service to as many as possible of the communities lacking nighttime primary service which a locally assigned daytime-only station could readily provide if permitted to operate during nighttime hours. As we have already noted, we attach high importance to fostering the participation of heavily under-represented minorities in the ownership and the operation of broadcast stations. All three branches of the Federal Government have recognized this as a major need.*

72. Realization of this objective in the larger cities, where the largest minority populations are found, is at present impeded by the restrictions of Section 73.37(e)(2) of our Rules. These and related restrictions were adopted in order to stem a flood of applications for AM facilities in major cities already served by numerous stations. Those applications were fast depleting the relatively little AM spectrum space still available in many other, less densely populated areas of the country, *Notice of Proposed Rule Making, AM Station Assignment Standards*, 19 F.C.C. 2d 472 (1969) and *Report and Order, AM Assignment Standards*, 39 F.C.C. 2d 645 (1973). The rules

* *TV 9, Inc.* v. *FCC*, 495 F. 2d 929 (1973), *cert. denied*, 418 U.S. 986. *Garrett* v. *FCC*, 513 F. 2d 1056 (1975); see also *FCC Statement of Policy on Minority Ownership of Broadcasting Facilities*, FCC 78–322, May 25; 1978; and Office of Telecommunications Policy (OTP) Petition for Issuance of Policy Statement, filed with the FCC on January 31, 1978.

restricting additional AM stations in multi-station cities have conserved AM spectrum for stations meeting the needs for first aural primary radio service, first and second local outlets (where FM channels were not assigned and available) and at least two satisfactory signals throughout over 80% of the city. However, they also hinder our effectuation of the now recognized need for more minority-owned stations in the very cities where that need is greatest because minority populations are most numerous. We, accordingly, are amending the rules to qualify for consideration applications for AM stations more than 50% of the ownership interest of which is held by minority persons,** see *Grayson Enterprises, Inc.*, FCC 80–175 (1980), and *William M. Bernard*, 44 R.R. 2d 525 (1978). Minority applicants would be subject to all the procedural and substantive requirements for their comparative consideration with any mutually exclusive applicants meeting any of the other qualifying conditions of the rules. Such other applications could propose a first or second locally assigned radio station for a nearby underserved community, a noncommercial service under another qualifying condition being added to the rules, or they could qualify for consideration under waivers of Section 73.37(e)(2) based on any other grounds that might so warrant. The rule change we adopt now is applicable only to the 25 Class I-A channels which are the subject of this proceeding, and it creates no irrebuttable presumption as to how or where or to whom the newly available spectrum will be assigned. That will be governed by the principles and practices normally applicable to competing demands for broadcast stations.* * *

** Minorities include: Blacks, not of Hispanic origin; Hispanics; American Indians or Alaskan Natives; and Asians or Pacific Islanders.

* * * This amendment of our rules to permit acceptance of applications by minority-controlled groups is fully consistent with the judgment of the Supreme Court and with Justice Powell's controlling opinion in *Regents of University of California* v. *Bakke*, 438 U.S. 265 (1978). The First Amendment interest in "a robust exchange of ideas" (*Id.* at 313) furthered by demographic diversity in the context of medical school admissions, is indistinguishable from the First Amendment interest in "an uninhibited marketplace of ideas" which the Court has held to be of paramount interest in broadcasting. *Red Lion Broadcasting Co.* v. *FCC*, 395 U.S. 367, 390 (1969). The latter interest is furthered by diversity of ownership of broadcast facilities. *Garrett* v. *FCC, supra; TV 9, Inc.* v. *FCC, supra; FCC Statement of Policy on Minority Ownership of Broadcast Facilities, supra.* Similarly, the means we here choose to implement this important interest runs parallel to the approach Mr. Justice Powell would have approved in *Bakke:* We set no quotas; race is only one among a number of factors that will go into the decisional mix to determine whether AM applications will be accepted for filing, see Section 73.37(e)(2) of our Rules; and, once a minority application is accepted for filing, it will be tested on a comparative basis against any mutually exclusive application filed consistent with Rule 73.37(e)(2) or pursuant to waiver of that Rule.

Concededly, rather than amending Section 73.37(e)(2), we could reach the same result by stating that we invite applications for waiver by minority-controlled groups. However, that approach would be administratively wasteful. We know, for example, that the prospect of minority ownership will be of sufficient public interest import to

G. Local Outlets

73. No amendment to Section 73.37(e) is needed to facilitate realization of the other objective which, in the already discussed circumstances of radio service today, stands out as among the most important purposes which Class I-A spectrum space could serve: the provision of a first local nighttime aural broadcast outlet to communities to which no FM channel is assigned. Acceptance of such applications is already provided for in Section 73.37(e)(2)(ii) of our rules. The authorization of unlimited-time operation by daytime-only stations already serving such communities would additionally make a desirable, practicable and prompt start toward eliminating daytime-only operation limitations. It would do so in those communities where the existence of daytime-only stations invites the presumption of requisite economic support for local radio for a first unlimited-time local radio outlet.

H. Noncommercial Stations

74. Several comments additionally asked that we amend the rules to qualify for acceptance and consideration applications proposing to operate a station noncommercially. As stated in the *Further Notice,* we are unable to act favorably on the separate proposal by the Corporation for Public Broadcasting and National Public Radio that we establish and reserve AM station assignments for possible future noncommercial use. There is too much immediate need for clear channel spectrum space to justify its retention for future noncommercial use, in addition to the 20 FM channels already so reserved. Present needs dictate that any possible reservation of AM spectrum for noncommercial use be deferred for possible consideration of the best ways to use any new AM channels which may be created through reduction of channel spacings to 8 kHz or widening the AM band. While regretfully unable to reserve clear channel spectrum for future noncommercial use, we find merit in the proposal that we add to the threshold preconditions in Section 73.37(e)(2) of the rules the provision of a noncommercial broadcast service. This will facilitate the consideration of proposals for immediate use of the newly available clear channel spectrum space for additional noncommercial broadcast stations.

I. Individual Station Requests

75. Numbers of parties have asked that we open the way to other uses of the Class I-A spectrum space in the cases of individual stations. As we said in the *Further Notice,* however, we cannot in this

raise, as a threshold matter, the question whether our general prescription against additional AM assignments to the larger cities should be reassessed in a particular case. On the other hand, we cannot foretell what other circumstances might justify a similar departure from the general rule, and we therefore leave these questions to *ad hoc* determination in the context of individual waiver requests.

proceeding, which is directed to revisions of the rules governing clear channel usage nationwide, consider individual requests. These can be considered in applications which are filed either in accordance with the new rules or pursuant to rule waivers found to be meritorious in individual cases. We have, in Section VII(F), (G) and (H), identified certain types of stations which we believe warrant consideration for use of the newly available spectrum space. Having made routine provisions in the rules for considering applications meeting those purposes, we remain ready to consider requests for other meritorious uses which are proposed in applications accompanied by appropriate waiver requests.

J. Power and Protection For New Assignments

76. We think that, in all cases but one, a maximum nighttime power of 1 kW for the newly assigned Class II stations strikes an optimal balance between a 250-watt power ceiling such as is applied to Class IV stations, and higher power up to 50 kW, as generally permitted in the past for Class II stations. Allowing for considerable variation in the ranges of AM service at lower and higher frequencies, and at different soil conductivities, 1 kW will generally suffice to provide satisfactory signals throughout most large cities where minority populations predominantly live, or to smaller cities and nearby rural areas which now lack local nighttime service. We recognize, however, that the provision of a first nighttime primary service to 25% of the area or population of proposed interference-free service areas, as provided in Section 73.37(e)(2)(i), in many cases could be realized only with powers in excess of 1 kW. Accordingly, we permit nighttime power up to 50 kW for unlimited-time Class II stations meeting that requirement as to a first primary service. We believe, however, that FM stations, which are capable of serving areas with a radius up to 65 miles, with less far-reaching preclusive effect than AM stations, offer more promise for nighttime primary service gains, especially in the less densely populated parts of the West where FM channels are relatively plentiful.

77. We also adopt—as an optimal balance between adequate service areas and maximum numbers of stations—the requirement that Class II stations authorized under the new rules protect each other to their 10 mV/m contours. This should generally make possible interference-free service over areas within a radius of 10 miles, more or less, thus adequately serving the intended local service purposes of 1 kW stations, while optimally increasing the potential numbers of such stations. As already noted, we find it undesirable to attempt to crowd large numbers of stations (up to 150 or more per channel) on the Class I-A channels in the Class IV mode, as we are urged by DBA to do. In all the circumstances we have discussed, we believe that the conditions we now establish for unlimited-time stations on the Class I-A channels

afford optimal opportunity for achievement of the stated goals for their use.

K. Alaskan Stations

78. A number of parties ask that we remove the requirement of Section 73.25(a)(4) of the rules under which Class II stations operating in Alaska on Class I-A channels are forbidden to place a signal of more than 0.025 mV/m 10% skywave at any place within the 48 contiguous states. We so proposed, and for the reasons stated in the *Further Notice*, we now adopt the requested rule change. Class II stations in Alaska will be the required to protect the .5 mV/m 50% skywave contours of co-channel Class I-A stations, rather than the northern border of the 48 states as heretofore.

79. The *Further Notice* had also referred to a request that we permit Alaskan stations, in calculating the field intensity of their signals within the lower 48 states, to use the curves in Figure 2 under Section 73.190 of the rules, rather than Figure 1(a). We have been urged to take this step on the basis of experience and data already available, rather than to await the results of further study as proposed in the *Further Notice*. We find that the data available are insufficient to reform the curves through formal rule change. On the strength of the indications which are in hand, we are, however, prepared in the interim until full studies can be completed, to give favorable consideration to applications for waiver of the requirement that Figure 1(a) be used and for permission to use Figure 2 instead for purposes of evaluating applications for new and changed facilities in Alaska. When we are in a position to construct and adopt a suitable substitute curve it would thereafter govern our action on Alaskan applications. Meanwhile, however, we will consider the approval of waiver requests under which Alaskan applicants could calculate the field intensities of their signals in the 48 states in accordance with the curves in Figure 2 of Section 73.190.

L. Adjacent Channels

80. As proposed in the *Further Notice*, we now revoke Section 73.3569 of the rules, which had restricted the use of channels adjacent to the Class I-A channels in order to prevent such use from interfering with such new stations or modified facilities as we might finally decide to permit under revisions to the Class I-A clear channel allocations rules. Having now decided on those rule changes, we find there is no longer justification for continuing the freeze on the adjacent channels.

M. Daytime-Only and Limited-Time Stations

81. We are sympathetic to the difficulties which daytime-only limitations impose on station operation. It is desirable to release as many as possible of them from those limitations. In providing for use of the limited amount of clear channel spectrum space, however, we must focus on those in communities which are served locally only by

daytime AM stations, and have no locally assigned unlimited-time AM or FM stations and no locally assigned FM channel.

82. Several commenting parties recommended revision of the requirements for pre-sunrise operations by daytime-only stations. We have under consideration other possible amendments to the rules governing pre-sunrise operations, and have decided that it will be more orderly to consider in a separate proceeding pre-sunrise requirements for both the Class I-A channels which are within the scope of this proceeding and the Class I-B channels as well, which are not within Docket 20642. We expect to inaugurate such a separate proceeding in the near future.

83. A special problem is presented by limited-time stations on the Class I-A clear channels which, in addition to daytime operation, are authorized to operate beyond local sunset and until sunset at a co-channel Class I-A station located farther west, or before local sunrise from the time of sunrise at a Class I-A station farther east. Their continued operation during the part of the nighttime when their present license permits (it varies for individual stations, from about 1 to 3 hours) would preclude the use, in some areas, of particular channels for unlimited-time stations which would not be similarly confined to only a few nighttime hours, and which, because of their location, may be better able to serve a recognized public need.

84. Because the small numbers of limited-time stations which are sufficiently distant from the co-channel Class I-A stations would be able to provide longer hours of programming service with a minimum of delay, we think it desirable to permit them to apply for interim authorizations for operation during additional nighttime hours with facilities which will duly protect the co-channel Class I-A stations and meet other pertinent prerequisites of the rules. Such applications should be accompanied by requests for waiver of their failure to meet any of the preconditions in Section 73.37(e)(2) as now amended.

85. We are giving consideration to the inauguration of a separate rule making proceeding inviting comment on whether, and if so, under what conditions, we should accept and consider applications for unlimited-time stations which would involve interference to or from existing limited-time stations, and whose grant would, accordingly, curtail the nighttime interference-free primary service which the limited-time stations are able to render under their existing licenses. This would enable us to opt, ultimately, for whichever competing applications promise to yield the greatest public benefit, and would avoid letting limited-time operations (which are a relic of AM assignment practices discontinued in 1959) block more fruitful unlimited-time use of Class I-A channels. Interested parties would have full opportunity to comment on the special problems of limited time operations in the separate proceeding we will inaugurate if we decide to open the way for consideration of the comparative merits of new

unlimited-time station assignments which would involve interference between them and existing limited-time stations.

N. Existing Service

86. The protection which newly assigned unlimited-time stations individually afford to the 25 Class I-A clear channel stations listed in Attachment I will generally enable people living within about 700 miles of the Class I-A transmitters to continue to receive the service they now provide. The primary service areas, which range from 80 to 150 miles or more from the principal communities of the Class I-A stations, will undergo no change. A limited amount of intermittent interference may be expected to occur not more than 10% of the time at some outermost portions of the secondary service areas. Generally the areas which will receive interference from up to 100 new unlimited-time station assignments on the Class I-A channels, are those where the signals of Class I-A stations may now be received satisfactorily less than half the time.

VIII. International Considerations

87. We will, as proposed in the *Further Notice*, open the 25 Class I-A clear channels to the filing of applications which either comply with one or more of the qualifying pre-conditions in the amended rules or are tendered with an accompanying request for waiv er of those pre-conditions and a showing of the grounds for grant of the waiver. Meanwhile, a deadline which was adopted by the Region 2 MF Broadcasting Conference at its recent First Session has necessitated the submission to the International Frequency Registration Board (IFRB), no later than May 31, 1980, of a basic inventory of United States AM station assignments which, along with those of other Region 2 countries, are proposed for inclusion in a Plan listing station assignments in the Western Hemisphere. The Regional Conference is expected to adopt such a Plan at its 1981 Second Session as the initial basis for carrying out reciprocal undertakings, to be spelled out in a new Region 2 agreement, which will be drawn up to prescribe the mutual protection Region 2 countries will provide against objectionable interference by AM stations operating in their respective territories. It has been agreed that each country should include in its inventory listing, along with existing stations, those station assignments which have been authorized, or are expected to be authorized during an initial period after such agreement enters into force, *i.e.*, by December 31, 1982.

88. Fairness to our neighboring countries as well as to U.S. needs demands that we make the earliest possible disclosure of the station assignments which we expect to result from opening up the 25 clear channels, on which the United States currently enjoys priority of use under existing agreements between ourselves and other North American countries. We have, accordingly, included in a list prepared for the May 31, 1980, submission, and will separately announce, those Class II

station assignments at specified places which—allowing for co-channel and adjacent channel protection constraints—can satisfy the more pressing needs for more minority-owned stations and for first locally assigned unlimited time aural broadcast stations.

89. Subject to possible grants of applications for stations in other places serving other meritorious purposes for which it was less practicable to predict specific locations—such as stations providing a first nighttime primary service—we believe that the method we adopted of projecting stations located where they could serve cities with the largest numbers of minority populations, and the most populous detached (non-suburban) communities where existing daytime-only stations could readily provide a first local nighttime radio service, projects as closely as possible the distribution of stations which will eventually be authorized after applications have been received and processed. Stations which conform substantially with the assignments projected in our May 31, 1980, submission will have more probable assurance of protection from interference by subsequently notified new stations in neighboring countries than will non-conforming facilities which would have to be included in subsequent submissions of modifications to the initial hemispheric station inventory.

90. The happenstance that our clear channel allocations changes coincide with the establishment of an initial station inventory may thus result in constraints which would not otherwise arise in the use of the 25 clear channels on which existing agreements accord priority to the United States. In responding, as we have, to the Region 2 call for a station inventory by May 31, 1980, we believe we have acted with due regard both for domestic needs and fairness to neighboring countries. By including the locations and facilities of those unlimited-time Class II stations which it can be anticipated will optimally serve the most demanding needs for clear channel spectrum space, we give parties both in the United States and our neighboring countries the benefit of the earliest possible disclosure of the projected distribution of unlimited-time Class II operations on the Class I-A clear channels.

IX. Applications Processing

91. We recognize that, under present processing and hearing procedures, it may be difficult to achieve the optimum position of placing a station on the air by the December 31, 1982, date. We will, therefore, examine revisions to our processing rules in order to provide as expeditious a handling as possible consistent with the public interest. We will also examine avenues within our hearing procedures by which mutually exclusive applicants could conclude hearings in time to place a station on the air by that date.

X. Orders

92. For the reasons stated, and pursuant to authority under Sections 1, 4(i) and (o), and 303(a) through (d), (f), (g), (h) and (r) of the Communications Act of 1934, as amended, IT IS ORDERED, That,

effective August 1, 1980, the rule amendments set out in Attachment III ARE ADOPTED; and

93. IT IS FURTHER ORDERED, That the rule making petitions, RM's-434, 441, 478, 530 and 2474, seeking increase of the 50 kW power maximum for Class I-A stations ARE DENIED; and

94. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

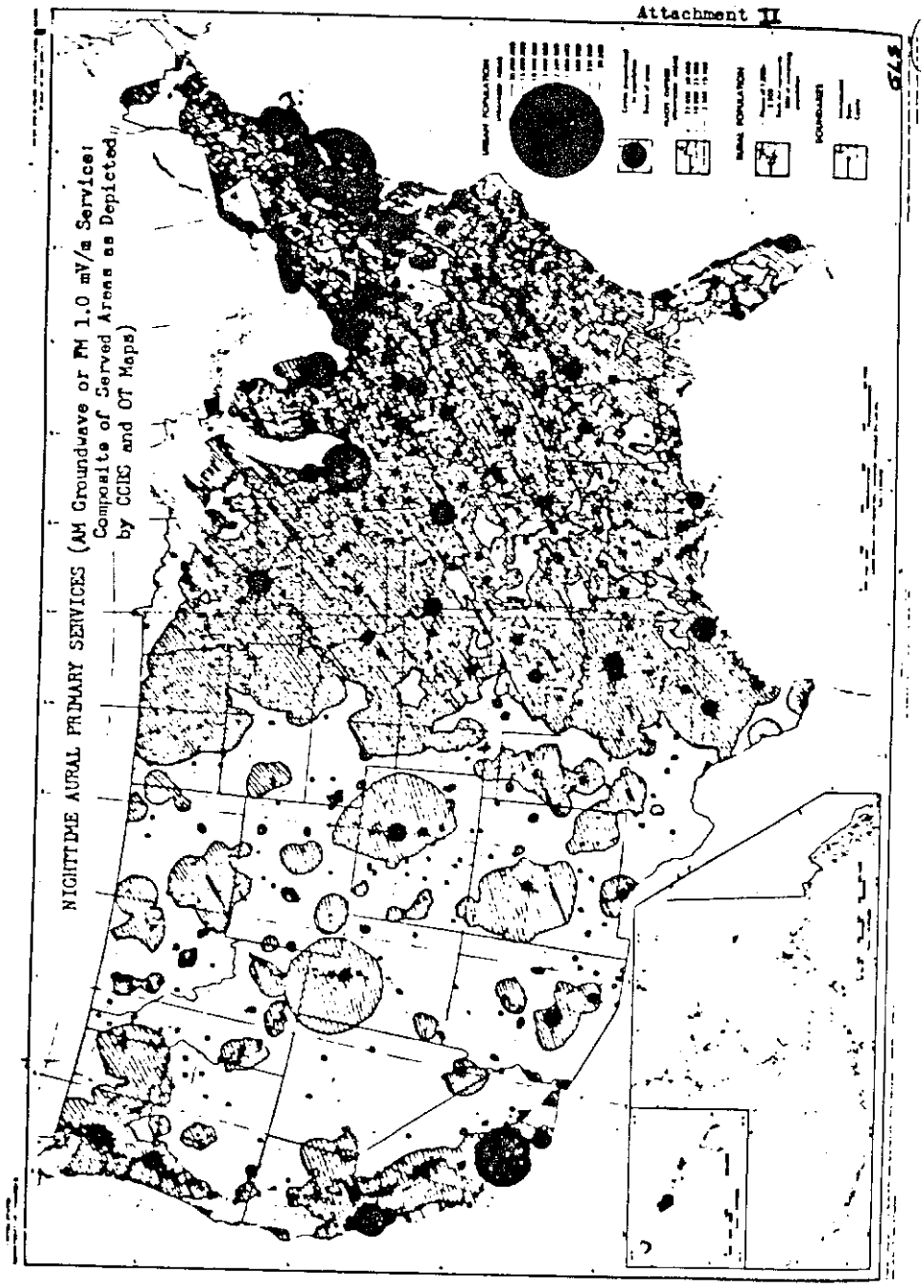
For further information concerning this proceeding, contact Louis C. Stephens, Broadcast Bureau, (202) 632–7792, Molly Pauker, Broadcast Bureau, (202) 632–6302, or Gary L. Stanford, Broadcast Bureau, (202) 632–9660.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO, *Secretary.*

Attachment I

Class I-A Clear Channels

Frequency (kHz)	Class I-A Assignment	Unlimited Time Class II Assignments (Co-terminous States)
640	KFI, Los Angeles, Ca.	none
650	WSM, Nashville, Tn.	none
660	WNBC, New York, N.Y.	none
670	WMAQ, Chicago, Ill.	Class II-A, Boise, Idaho
700	WLW, Cincinnati, Ohio	none
720	WGN, Chicago, Ill.	Class II-A, Las Vegas, Nev.
750	WSB, Atlanta, Ga.	none
760	WJR, Detroit, Mich.	Class II-B, San Diego, Ca.
770	WABC, New York, N.Y.	Class II-A, Albuquerque, N.M.
780	WBBM, Chicago, Ill.	Class II-A, Reno, Nev.
820	WBAP, Fort Worth, Tx.	none
830	WCCO, Mineapolis, Minn.	Class II-B, New York, N.Y.
840	WHAS, Louisville, Ky.	none
870	WWL, New Orleans, La.	none
880	WCBS, New York, N.Y.	Class II-A, Lexington, Neb.
890	WLS, Chicago, Ill.	Class II-A, St. George, Utah
1020	KDKA, Pittsburgh, Pa.	Class II-A, Roswell, N.M. Class II-B, Los Angeles, Ca.
1030	WBZ, Boston, Mass.	Class II-A, Casper, Wyo.
1040	WHO, Des Moines, Iowa	none
1100	WWWE, Cleveland, Ohio	Class II-A, Grand Junction, Col. Class II-B, San Francisco, Ca.
1120	KMCX, St. Louis, Mo.	Class II-A, Eugene, Ore.
1160	KSL, Salt Lake City, Utah	none
1180	WHAM, Rochester, N.Y.	Class II-A, Kalispell, Mont.
1200	WOAI, San Antonia, Tx.	none
1210	WCAU, Philadelphia, Pa.	Class II-A, Guymon, Okl.


Attachment II
NIGHTTIME AURAL PRIMARY SERVICES (AM Groundwave or FM 1.0 mV/m Service)
Composite of Served Areas as Depicted
by CCMS and Of Maps)

Attachment III

Rules Revisions

1. In Section 73.21, paragraph (a)(2)(ii) is amended to read as follows:

§73.21 Classes of AM broadcast channels and stations.

(a) * * *

(1) * * *

(2) * * *

(i) * * *

(ii) *Class II-B station.* A Class II-B station is an unlimited-time Class II station other than those included in Class II-A.

(A) Except as subparagraphs (B) and (C) provide otherwise, a Class II-B station shall operate with power not less than 0.25 kW nor more than 50 kW.

(B) Class II-B stations authorized before June 1, 1980, to operate on any of the 25 Class I channels listed in Section 73.25(a) shall operate with the powers authorized as of June 1, 1980, or such other power as the Commission may subsequently authorize.

(C) The nighttime power of Class II-B stations which are authorized after June 1, 1980, to operate in any of the contiguous 48 states on any of the Class I channels listed in Section 73.25(a), and which do not meet the requirements for primary service set out in Section 73.37(e)(2)(i), shall not exceed 1 kW.

(D) Class II-B stations which are authorized after June 1, 1980, to operate in any of the contiguous 48 states on any of the Class I channels listed in Section 73.25(a), and which meet the requirements for primary service set out in Section 73.37(e)(2)(i), shall operate with power not less than 250 watts nor more than 50 kW.

* * * * * * *

2. In Section 73.25, paragraphs (a)(1) and (2) are amended, paragraphs (a)(3), (4), and (5) and Note 1 are deleted in their entirety, Note 2 is amended and redesignated as Note 1, and existing Notes 3, 4 and 5 are redesignated as Notes 2, 3 and 4 to read as follows:

§73.25 Clear channels; Classes I and II stations.

* * * * * * *

(a) * * *

(1) On 670, 720, 770, 780, 880, 890, 1020, 1030, 1100, 1120, 1180, and 1210 kHz, one Class II-A unlimited time station, assigned and located pursuant to the provisions of Section 73.22; and

(2) On any of the 25 channels listed at the beginning of this paragraph:

(i) the unlimited time, limited time, daytime-only, specified hours, and time-sharing Class II stations authorized prior to June 1, 1980, to operate on those channels; and

(ii) additional unlimited time Class II-B stations authorized after June 1, 1980.

Note 1: Questions relating to the use of 830 kHz for a Class II station at New

York, New York, which are pending in Docket Nos. 11227 and 17588, will be decided in that consolidated proceeding.

Note 2: * * *

Note 3: * * *

Note 4: * * *

* * * * * * *

3. In Section 73.37, paragraph (e)(2) is amended by inserting two new subparagraphs to read as follows:

§73.37 Applications for broadcast facilities, showing required.

(e) * * *

(1) * * *

(2) * * *

(i) * * *

(ii) * * *

(iii) That at least 20 percent of the area or population of the community designated in the application receives fewer than two aural services at night from authorized stations, and that no FM channel is available for use in that community, or,

(iv) That minority persons hold over 50% of the ownership interests in the applicant for a Class II-B station on one of the 25 Class I channels listed in Section 73.25(a), or,

(v) That the applicant proposes to operate a Class II-B station noncommercially on one of the 25 Class I channels listed in Section 73.25(a).

* * * * * * *

4. In Section 73.182, paragraphs (a)(1) and (2) are amended, paragraphs (i) and (o) are amended, and the table is amended to read as follows:

§73.182 Engineering standards of allocations.

* * * * * * *

(a) * * *

(1) * * *

(i) The Class I station in Group I-A are those assigned to the channels allocated by Section 73.25(a). The power of these stations shall be 50 kW. The Class I stations in this group are afforded protection as follows:

(A) *Daytime.* To the 0.1 mV/m groundwave contour from stations on the same channel, and to the 0.5 mV/m groundwave contour from stations on adjacent channels.

(B) *Nighttime.* To the 0.5 mV/m 50% skywave contour from stations on the same channel, and to the 0.5 mV/m groundwave contour from stations on adjacent channels.

* * * * * * *

(2) Class II stations are secondary to stations which operate on clear channels with powers not less than 250 watts nor more than 50 kW, except that Class II-A stations

shall not operate nighttime with less than 10 kW, and Class II-B stations coming within Section 73.21(a)(2)(ii)(C) shall not operate with nighttime power exceeding 1 kW. Class II stations are required to use directional antennas or other means to avoid causing interference within the normally protected service areas of Class I stations or other Class II stations. (For special rules concerning Class II-A stations, see Section 73.22.) These stations normally render primary service only, the area of which depends on the geographical location, power, and frequency. This may be relatively large but is limited by and subject to such interference as may be received from Class I stations. However, it is recommended that Class II stations be so located that the interference received from other stations will not limit the service area to greater than 2.5 mV/m groundwave contour nighttime and 0.5 mV/m groundwave contour daytime, which are the values for the mutual protection of this class of stations with other stations of the same class. There are three exceptions:

(i) Class II-A stations are normally protected at night to the limit imposed by the co-channel Class I-A station;

(ii) Class II-B stations coming within Section 73.21(a)(2)(ii)(D) are normally protected at night to the limit imposed by the co-channel Class I-A station or the higher limit, if any, imposed by previously authorized facilities of other stations; and

(iii) Class II-B stations coming within Section 73.21(a)(2)(ii)(C) are normally protected at nighttime to their 10 mV/m groundwave contour, or the higher limit, if any, imposed by previously authorized facilities of other stations.

* * * * * * *

(i) Secondary service is delivered in the areas where the skywave for 50% or more of the time has a field strength of 0.5 mV/m or greater. It is not considered that satisfactory secondary service can be rendered to cities unless the skywave approaches in value the groundwave required for primary service. The secondary service is necessarily subject to some interference and extensive fading whereas the primary service area of a station is subject to no objectionable interference or fading. Class I stations only are assigned on the basis of rendering secondary service.

* * * * * * *

(o) Objectionable nighttime interference from another broadcast station is the degree of interference produced when, at a specified field intensity contour with respect to the desired station, the field intensity of an undesired station (or the root-sum-square value of field intensities of two or more stations on the same frequency) exceeds for 10% or more of the time the values set forth in these standards.

* * * * * * *

[Insert the following line on the table in Section 73.182 between the line] starting with "II-B and II-D" and the line starting with "III-A:"

Class II-B and II-D[8]	do	0.25 kW to 1 kW[8]	do	10,000 uv/m[8]	do	500 uv/m[8]

* * * * * * *

[On the present line for Class III-A stations, change "do" in the last column to read "125 uv/m."]

* * * * * * *

[Add the following new footnote on a new line after footnote 7:]

[8] Applies only to nighttime operations of Class II-B stations coming within Section 73.21(a)(2)(ii)(C), and to the operation of limited-time Class II-D stations during nighttime hours other than those during which they were authorized to operate as of June 1, 1980.

* * * * * * *

5. Section 73.3569 is deleted in its entirety and marked "Reserved."

SEPARATE STATEMENT OF CHARLES D. FERRIS, CHAIRMAN

May 29, 1980

RE: CLEAR CHANNEL STATIONS

Our society relies on radio broadcasting to satisfy many diverse needs. In an era that often forces us to make tough choices between conflicting goals, today's clear channel decision represents a welcome compromise that will satisfy dual needs. The benefit of wide-area nighttime coverage from clear channel stations remains while up to 125 new AM stations can be added. These new stations will be targeted for applicants furnishing a first fulltime service in communities now without it, proposing significant minority ownership, or offering a noncommercial service to communities that do not now have public radio.

By protecting the 25 clear channel stations from interference across a diameter of 1400 to 1500 miles, most people who now listen to "skywave" broadcasts will continue to hear them. Reception beyond a radius of 700 miles has been at best unreliable even under our present protection standards.

Today's results are designed to be consistent with, and some are compelled by, the results of international negotiations. If we had not acted to place additional stations on the clear channel frequencies, the U.S. might have lost rights to interference protection on these frequencies along our borders. An inventory of the expected station authorizations is due to the International Frequency Registration Board (IFRB) by May 31, 1981. We intend to process applications for these new stations as quickly as possible in order to protect our national interests. We are required to have a basic inventory to the IFRB by May 31, 1980. This has spurred our action today.

Today's action should only be considered a first step to bring greater diversity of service to American radio. The AM band expansion approved at the 1979 World Administrative Radio Conference, which will be phased in over the coming decade, will also increase the public's choices. The reduced 9 kHz spacing the United States advocates in the international arena will also help radio be competitive for the attention

of consumers in the face of our nation's growing demand for specialized radio services.

STATEMENT OF COMMISSIONER ANNE P. JONES APPROVING IN PART AND ABSTAINING IN PART

May 29, 1980

IN RE: AM CLEAR CHANNEL PROCEEDING

I approve all of the Commission's action in this matter except for the limitations imposed on the disposition of new station assignments which this action will make available.

Although mention is made in the Report and Order of the possibility of meritorious waivers, it is my understanding that waivers will be disfavored and applications for these new assignments will, as a practical matter, be reserved for noncommercial or first-time local service and for stations in which minorities have at least a majority ownership interest. I find this exclusion (as a practical matter) of all other applicants from consideration for licensing of these new assignments very troubling. I am abstaining from voting on this aspect of the proposal because I am reluctant to dissent from a goal which was adopted prior to my joining the Commission.