

AM Station Assignment Standards  
 Minority Ownership of Broadcast Facilities  
 Rule Making, Petition for, Denied

Petition for rule making seeking reservation of frequency 530 or 531 kHz for minority-owned broadcast stations denied. Final Acts of WARC will not be effective until January 1, 1982, and Commission believes now is an inappropriate time to act on proposal.

FCC 80-594

BEFORE THE  
 FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

In the Matter of

Amendment of Parts 2 and 73 of the Commission's Rules to provide for the use of frequency 530 or 531 kHz for AM broadcasting, and to set aside such frequency for minority ownership.

RM-3629

MEMORANDUM OPINION AND ORDER  
 (PROCEEDING TERMINATED)

(Adopted: October 9, 1980; Released: October 31, 1980)

BY THE COMMISSION: COMMISSIONER JONES ABSENT.

1. The Commission has before it a petition filed on February 5, 1980, by the National Black Media Coalition ("NBMC") requesting initiation of a rule making proceeding to consider designation of the frequency 530 or 531 kHz<sup>1</sup> for the sole use of AM broadcasting, and reserving stations on that frequency for minority owners.<sup>2</sup> In connection with its principal request, NBMC also seeks that the Commission (1) issue a Public Notice to the effect that applications for Travelers' Information Stations ("TIS") on 530 kHz will no longer be accepted; (2) return applications for TIS currently on file and ask each applicant to specify 1610 kHz for the proposed facility; (3) take the action necessary to remove existing TIS from 530 kHz to 1610 kHz; and (4) request NTIA to study the availability of alternative frequencies for use by

<sup>1</sup> 531 kHz would be an available alternative to 530 kHz, were 9 kHz spacing adopted by the Western Hemisphere Conference and the United States.

<sup>2</sup> NBMC seeks to incorporate by reference Proposal 28 of its October 5, 1979, petition (RM-3502) requesting similar relief. However, this proposal was denied via *Memorandum Opinion and Order*, RM-3502, released April 1, 1980. Therefore, we are constrained from considering it in connection with the instant petition.

federal government-operated stations currently operating between 524 and 535 kHz.<sup>3</sup>

### *I. Background*

2. Prior to 1979, the frequencies between 510 and 535 kHz were generally only available for government uses.<sup>4</sup> They, and the frequencies between 1605 and 1715 kHz, were allocated to aeronautical radionavigation, fixed, land and maritime mobile and radio location services. As of August 31, 1977, the Commission's rules were amended to permit stations in the Local Government Radio Service to use the frequencies 530 and 1610 kHz as Travelers' Information Stations, low power transmissions providing "noncommercial voice information pertaining to traffic and road conditions, traffic hazard advisories, directions, availability of lodging, rest stops and service stations."<sup>5</sup> Broadcasting and aeronautical radionavigation use of the frequencies 525 to 535 kHz is secondary to the primary governmental mobile services described above, and is permitted on a noninterference basis. NTIA coordinates TIS applications for 530 kHz, since the frequency is shared.

3. NBMC states that there are currently three TIS stations in operation on 530 kHz, at the Los Angeles, St. Paul and Tulsa airports.<sup>6</sup> Additionally, there are 76 nonbroadcast stations operated by the federal government on 530 kHz, and 40 more between 524 and 535 kHz, used by the military, Coast Guard and Departments of Interior and Transportation. For the most part these are low power facilities used as land, maritime and aeronautical mobile stations and aeronautical radio beacons. Because they and TIS are extremely localized services using low power, shared use is possible without interference.<sup>7</sup>

### *II. Recent Developments*

4. In 1979, the United States proposed a Table of Frequency Allocations to the World Administrative Radio Conference (WARC) which allocated the frequencies between 525 and 535 kHz in Region 2

<sup>3</sup> Grant of these requests would clear the frequency 530 kHz of other existing or proposed uses, should it be reserved for exclusive AM broadcast usage.

<sup>4</sup> Ship telegraph and land stations were permitted to use the frequency 512 kHz for calling when Channel 500 was in use for distress purposes.

<sup>5</sup> See *Report and Order*, Docket No. 20509, 42 Fed. Reg. 31594, published June 22, 1977. TIS stations are assigned to 1610 kHz when an AM station on 540 kHz would create interference to a 530 kHz operation.

<sup>6</sup> Commission records indicate that 38 TIS are licensed on 530 kHz, primarily in Virginia, Georgia, Wyoming and California.

<sup>7</sup> Commission sharing studies indicate that a power ceiling of 50 watts is necessary to prevent interference.

(Western Hemisphere) to mobile, aeronautical radionavigation and broadcast services on an equal, primary basis.<sup>8</sup> Such stations would have a maximum mean power to 50 watts.<sup>9</sup> The proposal used the term "broadcast services" to refer to TIS. Although domestically TIS is considered a mobile service, it falls into the international definition of broadcasting. The United States did not intend that the allocation would be used for AM broadcast purposes in this country.<sup>10</sup> The WARC, however, adopted a maximum power limitation for the band 525 to 535 kHz of one kilowatt (1,000 watts) daytime and 250 watts nighttime.<sup>11</sup> The internationally acceptable higher powers are commensurate with those permitted for Class IV AM operation.

5. NBMC has twice in the past unsuccessfully requested the Commission to reserve 530 kHz for AM broadcast usage.<sup>12</sup> These previous requests were denied, in part, because of International Telecommunications Union agreements limiting the power of broadcast stations at 530 kHz.<sup>13</sup> On the grounds that the increased power level for the band 525 to 535 kHz adopted by the WARC would now permit Class IV AM facilities on the band, NBMC now seeks reservation of the frequency 530 or 531 kHz for AM broadcasting generally and minority ownership, in particular.

### III. Discussion

6. In support of its petition, NBMC points to the Commission's commitment to fostering minority ownership and control of broadcast facilities, stating that, were its petition granted, over 100 additional minority-owned Class IV AM stations could soon be in operation. This, according to NBMC, could double the one percent of all radio stations currently owned by Blacks. NBMC further points out that the great majority of Black-owned AM facilities today are situated at the upper end of the AM band, where propagation characteristics are vastly inferior to those at the lower end. Thus, NBMC asserts, stations operating on 530 kHz would be a more effective way to help Blacks achieve parity with non-minority broadcasters.

7. Comments on the instant petition were received from the American Broadcasting Companies, Inc. ("ABC") and a group of radio broadcast licensees filing jointly ("Joint Licensees"). Both are substantially in agreement that, while the NBMC proposal might have some

<sup>8</sup> *Report and Order*, Docket No. 20271, 44 Fed. Reg. 2683, published January 12, 1979, Appendix 5 - Table of Frequency Allocations, p. A-38.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*, p. 28, paragraph 36.

<sup>11</sup> "Staff Report to the Commission on the Results of the 1979 World Administrative Radio Conference," ("Staff Report"), January 15, 1980, page 5. The previous power limitation for the band 525 to 535 kHz was 250 watts, day and night.

<sup>12</sup> *Eighth Notice of Inquiry*, Docket No. 20271, Reply Comments of NBMC, August 2, 1978, pp. 8-9; *Report and Order*, Docket No. 20509, *supra*, paragraph 41.

<sup>13</sup> *Report and Order*, Docket No. 20509, *supra*, paragraph 44.

merit, the Commission should not continue to treat radio spectrum matters in a piecemeal fashion. While not specifically endorsing NBMC's proposal, ABC supports the concept of assignment priorities designed to further minority ownership of radio stations; the Joint Licensees concur. Both, however, urge that we consider this and related spectrum allocation matters in the context of a comprehensive AM and FM radio planning proceeding. In fact, just such a comprehensive overview has been instituted in response to requests by ABC, the National Association of Broadcasters and others. See *Requests for Formation of New Government-Industry Advisory Committee on AM and FM Radio Broadcasting, and for Institution of Consolidated Inquiry Proceeding on AM and FM Radio*, adopted September 10, 1980, released —, — Fed. Reg. —, published —.

8. We are not in disagreement with NBMC's contention that Black Americans and other minorities should be afforded the opportunity to gain ownership and control of AM broadcast facilities on an equal footing with non-minorities.<sup>14</sup> However, we are inclined to regard NBMC's present request as somewhat premature, for several reasons.

9. In the first place, WARC's increase of the power limitation for the band 535 to 535 kHz by no means automatically renders feasible AM broadcasting operation there. The Final Acts of WARC will not be effective until January 1, 1982, and we do not believe it appropriate for us to act on NBMC's proposal (predicated as it is on the changed power limits) at least until that time.<sup>15</sup> Further, the Senate has not yet ratified the treaty,<sup>16</sup> and, should it fail to do so, the United States would continue to operate under the previous BARC standards, that being the most recent treaty recognized by this country. It is even conceivable that the United States will choose to retain a lower power maximum domestically than that prescribed by the WARC.<sup>17</sup> In the event that the United States accepts power maximums and permits standard broadcast usage of the frequency 530 kHz, the problem of removing the aeronautical radionavigation operations to another frequency is not a simple one. Sharing studies conducted previously have indicated that nondirectional beacons cannot share a frequency with AM broadcasting, on account of interference. Not only would any switch have to be coordinated by NTIA and FAA, but it is by no means clear to what frequency the radionavigation use could be removed, in

<sup>14</sup> For example, in connection with the Clear Channel proceeding, Docket No. 20642, 45 Fed. Reg. 43172 (1980), minority ownership has been made one of the five threshold qualifications for applying for 25 newly available AM channels, on which a possible total of 125 fulltime stations could operate. We see no reason to delay this opportunity to increase the number of AM stations to satisfy an immediate demand.

<sup>15</sup> Staff Report, *supra*, p. 22.

<sup>16</sup> Indeed, as of this date, the State Department has only recently transmitted the treaty to the Senate.

<sup>17</sup> The international Radio Regulations permit nations to act in derogation of international standards on a domestic basis, as long as they do not interfere with internationally-sanctioned uses.

light of the extremely limited spectrum space in that range. Finally, the removal of TIS from 530 to 1610 kHz involves time factors which are beyond our immediate control. The WARC adopted a broadcasting allocation between 1605 and 1705 kHz. See Staff Report, *supra*, page 5. It may ultimately be deemed desirable to remove all TIS to the upper end of this band. However, the use of the band for broadcasting is subject to a plan which will be established by a Region 2 conference sometime in 1985. The WARC recommended a two-phased approach to adopting the exclusive use of the band for broadcasting: use of 1625 to 1665 kHz for broadcasting not to commence before July 1, 1987, and like use of 1665 to 1705 kHz not to commence before July 1, 1990. This use of broadcasting on the higher band may effectively eliminate the possibility of switching government-operated nonbroadcasting facilities on the 525 and 535 kHz band to this higher band. It is also not clear at present that it will be feasible to retain TIS on 1610 kHz, although under international standards TIS is a broadcast use. See Staff Report, *supra*, page 6. In conclusion, it is obvious that the 1979 WARC represents merely the beginning of readjustment of uses at either end of the AM broadcast spectrum in Region 2, and that painstaking national and hemispheric coordination throughout the next decades will be required, before we are able to reap the fruits of these changes.

10. We are also currently considering a number of other options which could possibly better serve NBMC's and our mutual goal of fostering minority ownership and control of AM stations. These include the already accomplished reduction of interference protection on the Clear Channels and the proposed reduction in AM channel spacing from 10 to 9 kHz, each of which could contribute additional AM outlets. However, in many instances, such developments depend on international radio agreements not entirely in our control.

#### IV. Conclusion

11. In light of the foregoing, we believe that the public interest would best be served if consideration of the instant petition were postponed until our schedule, and the elimination of technical and procedural impediments which are beyond our control, permit vigorous examination of the NBMC request on its merits. Accordingly, we are denying NBMC's petition without prejudice.<sup>18</sup> We do, however, invite NBMC and other interested parties to participate in the *Advisory Committee on Radio Broadcasting* which is currently considering present and prospective radio spectrum allocations and priorities. See, *Requests for Formation of a New Government-Industry Advisory Committee on AM and FM Radio Broadcasting, supra*.

<sup>18</sup> If and when NBMC returns to the Commission with a like request, we would encourage submission of a sharing study to illustrate how the frequency 530 kHz could be shared among aeronautical radionavigation, TIS and AM broadcasting, since, as noted in paragraph 9, *supra*, it may well be impossible to clear the frequency for AM broadcast use exclusively.

12. Accordingly, IT IS ORDERED, That pursuant to Sections 4(i) and 303(c), (d), (g), (i) and (r) of the Communications Act of 1934, as amended, and Section 1.407 of the Commission's Rules, RM-3629, filed by the National Black Media Coalition, IS DENIED, without prejudice.

13. IT IS FURTHER ORDERED, That this proceeding IS HEREBY TERMINATED.

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