

**CONCURRING STATEMENT OF
COMMISSIONER MICHAEL J. COPPS**

Re: *Applications of Jeffrey B. Bate for a New AM Broadcast Station at Mesquite, Nevada and Jeffrey Eustis for a New AM Broadcast Station at Johnstown, Colorado, File Nos. BNP-20000128ACL and BNP-20000127ACD; and Applications of Jeffrey B. Bate for a New AM Broadcast Station at St. George, Utah and Andrew Johnson for a New AM Broadcast Station at Winchester, Nevada, File Nos. BNP -20000128ACK and BNP-20000201ADP*

You'll never hear a bad word about localism. Everyone claims to want it. Everyone recognizes that it is one of the core values of our broadcasting system, woven into the very DNA of the Communications Act. Even broadcasters do not dispute the obligation to serve their local communities—although they assert that additional government regulation is unnecessary because localism is their ace-in-the-hole against services like satellite radio and the Internet.

For something as universally acclaimed as localism, the question is why don't we have more of it? Why do we see more national play lists, outsourced news, and homogenized entertainment? The answer is perhaps not surprising: follow the money or, more accurately, the stock price. Some big media companies—and I stress the word *some*—believe that doing those things can improve their bottom line and thereby impress Wall Street. Unfortunately, over the past quarter century, the FCC has given the green light to such business plans by loosening its structural ownership rules and failing to hold broadcasters accountable for serving their local communities during license renewal.

But that is far from the end of the FCC's complicity. Consolidation and cost-cutting are one way for broadcasters to try to impress Wall Street. Another is to maximize the size of the potential audience they can sell to advertisers. That has led many broadcasters to try to move as close to urban areas as the FCC will allow—even if the stations are ostensibly licensed to serve a more rural community. Too often, the FCC has willingly enabled such urban migration to an excessive degree. While standing alone these actions may seem relatively minor, over time they have taken a real toll.

These particular cases deal with the allotment process for new AM radio licenses. To effectuate our statutory obligation “to provide a fair, efficient, and equitable distribution of radio licenses,” the Commission applies a series of priorities to determine whether a dispositive preference should be awarded to one proposal over another. If no dispositive preference is awarded, the mutually exclusive applications proceed to auction. As it happens, very few mutually exclusive AM station applications have proceeded to auction since the Commission began using these procedures for AM stations in 2000. The Commission generally manages to avoid an auction by awarding a dispositive preference—typically under the catch-all priority for “other public interest matters.”

Here's where the Commission stacks the deck in favor of urban applicants. It awards a dispositive preference to the applicant that proposes to serve the greatest number of people. In these cases, the applicant for Johnstown, CO wins over the applicant for Mesquite, NV because Johnstown is located near the urban areas of Fort Collins and Denver. Similarly, the applicant

for Winchester, NV wins over an applicant for St. George, UT because Winchester is part of the Las Vegas metropolitan area and thus serves more people than the St. George proposal.

The bottom line is that urban markets win over rural markets almost every time.¹ The rural applicant never even gets the chance to bid at auction because the urban applicant is awarded a dispositive preference. This approach is contrary to the Commission's obligation under Section 307(b) to distribute broadcast licenses equitably among the states and local communities, as well as Congress' policy judgment that mutually exclusive broadcast applications generally be resolved by auction.

The good news is that relief could be on the way. I am pleased that my colleagues recently joined with me to adopt the Rural Radio Service Notice of Proposed Rulemaking.² This proceeding will enable us to undertake a long overdue examination of our radio allotment and assignment criteria. I hope this review will move forward quickly. It's time to end the localism bait-and-switch and make sure that our rules match our rhetoric.

¹ There is a potential preference for very rural communities that currently receive the signals of four or fewer radio stations (regardless of the communities those stations are licensed to). Communities that receive five or more radio services are considered "abundantly served." Thus, for allotment purposes, the Commission does not distinguish between a community that receives five stations and a community that receives fifty. That is in sharp contrast to the factor of population served, discussed above, where the Commission favors applicants that propose to serve more people, even where the differences are relatively small.

² *Policies to Promote Rural Radio Service and Streamline Allotment and Assignment Procedures*, Notice of Proposed Rule Making, FCC 09-30, (rel. Apr. 20, 2009).