

**DISSENTING STATEMENT OF
COMMISSIONER NATHAN SIMINGTON**

Re: *Priority Application Review for Broadcast Stations that Provide Local Journalism or Other Locally Originated Programming*; Notice of Proposed Rulemaking; MB Docket No. 24-14

Washington D.C., perhaps because it is full of lawyers who are frustrated writers, is replete with aphoristic language and metaphorical imagery. We inhabit a land of stalking horses and trial balloons; open doors and ropes on which to push. Yet, for me, the language that this item recollects is that of Chicagoan Emily Nicklin, the first female partner to serve on the Kirkland & Ellis executive committee in the mid-1980s. Emily described other partners at the firm as “wolves in wolves’ clothing”—meaning, presumably, that they lacked the decency or even wherewithal to hide their ambitions or aggression. A good thing, perhaps, when it comes to counsel! Less so when it comes to nominally public-minded regulation.

Commission leadership has clothed recent regulatory revanchism in broadcast in the language of localism, and this item is no different. It purports to serve localism by providing an incentive to broadcasters to create or retain sources of “locally-originated programming.” If broadcasters wish to have their broadcast license applications fast-tracked,—that is, timely processed—and those applications are otherwise encumbered by a hold, petition to deny, or “other processing issue” (left to the staff’s discretion), then staff will timely act on the application. While the language of the item suggests that this means that broadcasters with locally-originated programming have a leg up, what it *actually* means is that any broadcaster who originates news for Market A from a studio in Market B might now have any application—at least for which a “processing issue” credibly can be discovered or manufactured—slowed. This is a collateral attack on the Commission’s elimination of the Main Studio Rule, and the item all but says so.

But, does it serve localism? Well, I guess truth will out. If, as it turns out, local broadcasters with locally-originated programming, per the item’s definition, pour in to thank the Commission for its leadership in correcting a longstanding issue with application processing time, I will happily admit my mistake, eat humble pie at an Open Meeting, and may even vote to approve the final order. Or had an actual shot clock system been proposed instead of an approach to application processing that represents a flexible vacuity meant to arm the political opponents of broadcasters, there might have been some reason to support the item, and perhaps some commenters will agree. Instead, what I think more likely is that broadcasters will come in worried, as I am, about weaponization of application processing, and may even demonstrate by a review of application processing times that this item, unlike a refresh of the vMVPD record, is an answer to a question that no one asked.

Yet again, when it comes to broadcast, the Commission has forgotten its shearling coat—it is a wolf in wolf’s clothing. And when it comes to wolves, best not to answer the door. I dissent.