Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

"Pre-sunrise" operation by  )
Class II stations under  )
pre-sunrise service authorization  )
don U. S. I-A clear channels.  )

Docket No. 17562

FURTHER NOTICE OF PROPOSED RULE MAKING
Adopted: October 11, 1967; Released: October 17, 1967

By the Commission: Commissioners Bartley and Wadsworth absent; Commissioner
Johnson not participating.

1. The Commission today adopted a Memorandum Opinion and Order
generally affirming its June 28 Report and Order dealing with the oper-
ation of standard broadcast stations prior to local sunrise—Docket
No. 14419, 8 FCC 2d 698 (1967). A matter left unresolved, however, is
the pre-sunrise status of Class II daytime-only and limited time stations
operating on U.S. I-A clear channels and located to the east of the dominant
assignment. The rules adopted in Docket No. 14419 exclude operation prior
to local sunrise by Class II stations so situated.

2. Former Section 73.87(a)(2), while somewhat ambiguous, was never
intended to provide pre-sunrise operating privileges for Class II stations
located east of a co-channel U.S. I-A dominant station. Only two Class II
stations in this category are known to be operating pre-sunrise: WHCU, Ithaca,
New York, and WHLO, Akron, Ohio. Both filed petitions for reconsideration
of the June 28 Report and Order, as well as PSA proposals accompanied by
elegibility waiver requests. Both seek to continue pre-sunrise operation
on the basis of 6:00 a.m./500 watts. WHCU (Cornell University) operates
on 870 kc/s, to which WWL, New Orleans, holds the I-A nighttime priority.
WWL is aware of the operation and thus far has not objected. Because of
the northward directionality of WWL's signal, WHCU would have to reduce
power to 2.6 watts in order to afford 0.5 mv/m 50% skywave protection. In
the case of WHLO, the dominant station (KFI, Los Angeles, California) objects
to continued pre-sunrise activity. WHLO's situation is further complicated
by adjudicatory proceedings in Docket No. 11290, in which Radio Station WOI
is seeking a Special Service Authorization (SSA) for early morning operation
at Ames, Iowa.

3. The above pleadings and waiver requests filed by WHCU and WHLO
raise basic issues concerning the public value of such Class II usages
vis-a-vis co-channel U.S. I-A nighttime services which they would inevitably
limit, to some degree, and secondary issues going to the circumstances under
which such usages should be allowed and the degree of skywave interference
protection to be afforded to U.S. I-A stations, which at present derive their basic protection from the exclusivity of the I-A nighttime priority within the North American Region.

4. We have accordingly concluded that the scope of this proceeding should be enlarged to explore the questions posed above. Authority for this action is contained in Sections 4(1), 303(c) and 303(r) of the Communications Act of 1934, as amended.

5. Pursuant to applicable procedures set out in Section 1.415 of the Commission's Rules, interested parties may file comments on or before November 20, 1967, and reply comments on or before November 30, 1967, 1987. All submissions by parties to this expanded proceeding, or by persons acting on behalf of such parties, must be made in written comments, reply comments or other appropriate pleadings, except that the written submissions of Radio Stations WACU and WHLO already on file in Docket No. 14419 will be considered in this proceeding and need not be resubmitted.

6. In accordance with the provisions of Section 1.419 of the Rules, an original and 14 copies of all written comments, replies, pleadings, briefs, and other documents shall be furnished the Commission.

FEDERALCOMMUNICATIONSCOMMISSION

Ben F. Waple
Secretary