

OCT 25 1993

Before the
Federal Communications Commission
Washington, DC

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of	)	MM Docket No. <u>93-107</u>
)	
DAVID A. RINGER	)	File No. BPH-911230MA
)	
ASF BROADCASTING CORP.	)	File No. 3PH-911230MB
)	
WILBURN INDUSTRIES, INC.	)	File No. BPH-911230MC
)	
SHELLEE F. DAVIS	)	File No. BPH-911231MA
)	
OHIO RADIO ASSOCIATES	)	File No. BPH-911231MC

For Construction Permit for an
FM Station on Channel 280A in
Westerville, OH

To: Administrative Law Judge
Walter C. Miller

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Dan J. Alpert, Esquire

Counsel for Shellee F. Davis

The Law Office of Dan J. Alpert
1250 Connecticut Avenue, N.W.
7th Floor
Washington, D.C. 20036

October 25, 1993

No. of Copies rec'd
List ABCDE

046

OCT 25 1993

Before the
Federal Communications Commission
Washington, DC

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of	)	MM Docket No. 93-107
)	
DAVID A. RINGER	)	File No. BPH-911230MA
)	
ASF BROADCASTING CORP.	)	File No. BPH-911230MB
)	
WILBURN INDUSTRIES, INC.	)	File No. BPH-911230MC
)	
SHELLEE F. DAVIS	)	File No. BPH-911231MA
)	
OHIO RADIO ASSOCIATES	)	File No. BPH-911231MC

For Construction Permit for an
FM Station on Channel 280A in
Westerville, OH

To: Administrative Law Judge
Walter C. Miller

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Dan J. Alpert, Esquire

Counsel for Shellee F. Davis

The Law Office of Dan J. Alpert
1250 Connecticut Avenue, N.W.
7th Floor
Washington, D.C. 20036

October 25, 1993

SUMMARY

These are the proposed findings of fact and conclusions of law of Shellee F. Davis ("Davis"). As seen herein, Davis is the clear-cut winner in this proceeding. She is entitled to 100% quantitative integration credit, and she is the only applicant which brings to her application minority involvement and extensive past local ownership/civic participation, which are the two facts most significantly considered by the Commission under the Standard Comparative Issue.

Specifically, as seen herein, Davis, David A. Ringer ("Ringer"), ASF Broadcasting Corp. ("ASF"), and WII (Wilburn Industries, Inc.), all enjoy a decisive and substantial quantitative integration preference over Ohio Radio Associates ("ORA"), insofar as ORA's principals have proposed no day-to-day integration into the operations of its proposed station. Moreover, Davis is entitled to two substantial enhancements to her 100% quantitative integration credit (for minority involvement and past local residency/civic activities), a slight enhancement (for future residency), a slight preference over Ringer, ASF, and WII (for auxiliary power), and a slight preference over WII for comparative coverage, and a substantial quantitative integration preference over ORA. ASF, in contrast, is entitled only to a single slight enhancement to its quantitative integration credit (for past broadcast experience), a slight preference over WII for comparative coverage, a slight preference over Ringer for past broadcast experience, and a substantial quantitative integration preference over ORA; Ringer is entitled to only to a one slight enhancement to his quantitative integration credit (for future residency) and one very slight enhancement (for past broadcasting experience), a slight preference over WII for comparative coverage, and

a substantial quantitative integration preference over ORA; and WII is entitled to absolutely no enhancements to its 100% quantitative integration credit or other preferences other than a substantial quantitative integration preference over ORA. ORA receives a slight preference over ASF, Ringer, and WII for auxiliary power; and one slight preference over WII for comparative coverage.

In short, due to her entitlement to a greater number of enhancements and preferences, Davis is the comparatively superior applicant in this proceeding. Accordingly, her application should be granted.

TABLE OF CONTENTS

A. PROCEDURAL BACKGROUND	1
B. PROPOSED FINDINGS OF FACT	3
1. DAVID A. RINGER	3
a. Diversification	3
b. Integration	3
1) QUANTITATIVE	3
2) QUALITATIVE	4
a) Past Area Residency/Civic Activities	4
b) Future Area Residency	5
c) Minority Participation	5
d) Past Broadcast Experience	6
c. Auxiliary Power	6
2. ASF BROADCASTING CORPORATION	7
a. Diversification	7
b. Integration	7
1) QUANTITATIVE	7
2) QUALITATIVE	8
a) Past Area Residency/Civic Activities	8
b) Future Residency	9
c) Minority Participation	9
d) Past Broadcast Experience	9
c. Auxiliary Power	10
3. WILBURN INDUSTRIES, INC.	10
a. Diversification	10
b. Integration	11
1) QUANTITATIVE	11
2) QUALITATIVE	12
a) Past Area Residency/Civic Activities	12
b) Future Residency	12
c) Minority Participation	12
d) Past Broadcast Experience	12
c. Auxiliary Power	12
4. SHELLEE F. DAVIS	13
a. Diversification	13
b. Integration	13
1) QUANTITATIVE	13
2) QUALITATIVE	15
a) Past Local Residency/Civic Activities	15
b) Future Residency	18

c)	Minority Participation	18
d)	Past Broadcast Experience	18
c.	Auxiliary Power	18
5.	OHIO RADIO ASSOCIATES	19
a.	Diversification	19
b.	Integration	19
1)	QUANTITATIVE	19
2)	QUALITATIVE	19
a)	Local Residency/Civic Activities	19
b)	Future Residency	19
c)	Minority Participation	19
d)	Past Broadcast Experience	20
c.	Auxiliary Power	20
6.	COMPARATIVE COVERAGE	20
C.	PROPOSED CONCLUSIONS OF LAW	21
1.	DAVID A. RINGER	21
a.	Diversification	21
b.	Integration	22
1)	QUANTITATIVE	22
2)	QUALITATIVE	22
a)	Past Area Residency/Civic Activities	22
b)	Future Residency	24
c)	Minority Participation	24
d)	Past Broadcast Experience	24
c.	Auxiliary Power	25
2.	ASF BROADCASTING CORPORATION	25
a.	Diversification	25
b.	Integration	25
1)	QUANTITATIVE	25
2)	QUALITATIVE	26
a)	Past Area Residency/Civic Activities	26
b)	Future Residency	29
c)	Minority Participation	29
d)	Past Broadcast Experience	29
c.	Auxiliary Power	29
3.	WILBURN INDUSTRIES, INC.	30
a.	Diversification	30
b.	Integration	30
1)	QUANTITATIVE	30
2)	QUALITATIVE	31
a)	Past Area Residency/Civic Activities	31
b)	Future Residency	31
b)	Minority Participation	31
d)	Past Broadcast Experience	31

c.	Auxiliary Power	31
4.	SHELLEE F. DAVIS	32
a.	Diversification	32
b.	Integration	32
1)	QUANTITATIVE	31
2)	QUALITATIVE	32
a)	Past Local Residency/Civic Activities	32
b)	Future Residency	35
c)	Minority Enhancement	36
d)	Past Broadcasting Experience	36
c.	Auxiliary Power	36
5.	OHIO RADIO ASSOCIATES	36
a.	Diversification	36
b.	Integration	37
1)	QUANTITATIVE	37
2)	QUALITATIVE	37
a)	Local Residency/Civic Activities	37
b)	Future Residency	37
c)	Minority Participation	37
d)	Past Broadcast Experience	38
c.	Auxiliary Power	38
6.	COMPARATIVE COVERAGE	38
D.	ULTIMATE CONCLUSIONS	41

Before the
Federal Communications Commission
Washington, DC

In re Applications of	)	MM Docket No. 93-107
)	
DAVID A. RINGER	)	File No. BPH-911230MA
)	
ASF BROADCASTING CORP.	)	File No. BPH-911230MB
)	
WILBURN INDUSTRIES, INC.	)	File No. BPH-911230MC
)	
SHELLEE F. DAVIS	)	File No. BPH-911231MA
)	
OHIO RADIO ASSOCIATES	)	File No. BPH-911231MC

For Construction Permit for an
FM Station on Channel 280A in
Westerville, OH

To: Administrative Law Judge
Walter C. Miller

**PROPOSED FINDINGS OF FACT AND CONCLUSION OF LAW OF
SHELLEE F. DAVIS**

Shellee F. Davis ("Davis"), by her attorney, hereby submits her proposed findings of fact and conclusions of law with regard to this proceeding for a construction permit for a new FM broadcast station of Channel 280A, Westerville, Ohio.

A. PROCEDURAL BACKGROUND

1. This channel previously was occupied by Station WBBY(FM), whose license renewal application was denied by the Commission in Mid-Ohio Communications, Inc., 5 FCC Rcd 4596 (1990). By Public Notice, Report No. CF-22 (Nov. 25, 1991), a window period for filing applications for the allotment was established, which closed on December 30, 1991. Id. Applications initially were filed for the allotment by nine applicants: David A. Ringer ("Ringer"), ASF Broadcasting Corporation ("ASF"),

Wilburn Industries, Inc. ("WII"), Juanita M. and James L. Dean, John C. Landy, Westerville Radio Partners, Shellee F. Davis ("Davis"), Westerville Broadcasting Company Limited Partnership ("WBC"), and Ohio Radio Associates, Inc. ("ORA"). Report Nos. 15169 (Jan. 9, 1992) and 15172 (Jan. 13, 1992). The application of Westerville Radio Partners later was amended to specify Kyong Ja Matchak ("Matchak") as an applicant. All of the applications that had been filed were accepted as tendered for filing on February 6, 1992. Report No. 15189. The last day for filing amendments as a matter of right therefore was March 9, 1992. 47 C.F.R. § 73.3522(a)(6). The applications were accepted for filing on February 21, 1992. Report No. NA-156. The application filed by Nita and James Dean and John C. Landy were dismissed by Letter sent on behalf of Dennis Williams, Chief of the FM Branch on July 14, 1992. Public Notice, Report No. 21425 (July 21, 1992).

2. By Hearing Designation Order adopted on April 7, 1993, and released on April 15, 1993, this proceeding was designated for hearing. David A. Ringer, 8 FCC Rcd 2651 (Chief, Audio Services Div. 1993). The following issues were designated for hearing:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by WBC would constitute a hazard to air navigation.
2. To determine which of the proposals would, on a comparative basis, best serve the public interest.
3. To determine, in light of the evidence adduced pursuant to the specified issues, which of the applications should be granted, if any.

Id. at 2653 ¶ 16. By Order, FCC 93M-171 (April 21, 1993), the Chief Administrative

Law Judge appointed Walter C. Miller as the Presiding Judge in this proceeding. By Memorandum Opinions and Order, FCC 93M-324 (June 3, 1993), the application filed by Kyong Ja Matchak (formerly Westerville Radio Partners) was dismissed for failure to prosecute. By Memorandum Opinion and Order, FCC 93M-510 (Aug. 9, 1993), the application filed by WBC also was dismissed. A pre-hearing conference was held in this proceeding on August 16, 1993 (TR 1-27). The Admissions Session was held in this proceeding on August 20, 1993 (TR 28-129). The hearing in this proceeding was held on August 31, 1993 (TR 134-449). The record was closed on October 6, 1993. Order, FCC 93M-642 (Oct. 8, 1993). There are five applicants remaining in this proceeding.

B. PROPOSED FINDINGS OF FACT

1. DAVID A. RINGER

a. Diversification

3. Ringer currently is a 25% owner, Treasurer, Secretary, and a Director of the corporation that is licensee of Station WYBZ(FM), Crooksville, Ohio. Ringer Exh. 4 at 1; TR 145-46. In the event Ringer's application is granted, Ringer will sell his interest and terminate his employment and any connection he has with Station WYBZ(FM). Id. at 1.

b. Integration

1) QUANTITATIVE

4. Ringer is an individual applicant. Ringer Exh. 1 at 1. In the event of a grant of his application, Ringer will participate in the management of his proposed facility at Westerville, Ohio. Ringer Exh. 2 at 1. He will serve as General Manager of the

proposed facility on a full-time basis, 40 hours or more per week. Ringer Exh. 2 at 1. His duties will include overall responsibility for sales, personnel, and implementation of the proposed station's EEO Program. Ringer Exh. 2 at 1. He currently is employed as a land developer. TR 157. In the event his application is granted, he will terminate all other employment. Ringer Exh. 2 at 1.

2) QUALITATIVE

a) Past Area Residency/Civic Activities

5. In his direct case exhibits, Ringer claimed an entitlement to credit for "local residence" from 1972-74 for his residence at 600 E. Town Street, Columbus, Ohio, and for his prior residence at 1000 Urlin Avenue, #1017, Columbus, Ohio from November 1986 - April 1992. Ringer Exh. 2 at 1. As reflected, in Davis Exh. 5, those residences are located outside of Ringer's proposed 1 mV/m contour. The distance to Ringer's 1 mV/m contour in the direction of Ringer's prior residence at 600 E. Town Street is 31.8 kilometers, but that residence was located 32.8 kilometers from Ringer's proposed transmitter site. Davis Exh. 5 at 1. Thus, the residence was located 1.0 kilometers outside Ringer's proposed 1 mV/m contour. The distance to Ringer's 1 mV/m contour in the direction of Ringer's prior residence at 1000 Urlin Avenue is 32.4 kilometers, but that residence was located 33.8 kilometers from Ringer's proposed transmitter site. Davis Exh. 5 at 1. Thus, the residence was located 1.4 kilometers outside Ringer's proposed 1 mV/m contour. Ringer's counsel has conceded that both residences were located outside the proposed 1 mV/m contour of Ringer's proposed station. TR 276-77.

6. Ringer also has claimed an entitlement to enhancement credit for his civic

involvement during 1986 and 1987 as a Volunteer for "Salvation Army" Christmas Drives in Columbus, Ohio, from 1987-91 as a Volunteer for the "Toys for Tots Program" in Columbus, Ohio, and in August 1991 as a fundraiser, organizer, and volunteer for "Children's Hospital" in Columbus, Ohio. Ringer Exh. 2 at 1-2. On cross-examination, Ringer conceded that some of these activities occurred outside his proposed 1 mV/m contour (TR 144), that he "can't remember where all of those activities took place" (TR 166), and that "[i]f these things were done within [his] home, then they would have been within the one millivolt [contour]." TR 145. As noted above, it was subsequently conceded by Ringer's counsel during the hearing that Ringer's past residences from such times he participated in such activities were both outside his station's proposed 1 mV/m contour. TR 276-77. See also Davis Exh. 5.

b) Future Area Residency

7. From April 1992 (after the "B cut-off date" in this proceeding) to the present, Ringer has resided at 417 West Sixth Avenue, Columbus, Ohio, which is within the 1 mV/m contour of his proposed station. Ringer Exh. 2 at 1. In the event his application is granted, he will relocate to Westerville. Ringer Exh. 2 at 1.

c) Minority Participation

8. Ringer has not claimed entitlement to any enhancement credit for minority involvement. See Ringer Exh. 2.

d) Past Broadcast Experience

9. Ringer has claimed credit for his past broadcast experience as follows:

<u>Dates</u>	<u>Station - Locations - Positions</u>
1961-62	WMUB(FM) Miami University Oxford, OH News Reporter
1969-72	WLNO(FM) London, OH Afternoon and Weekend Program Director Full time disk-jockey and production person
1990-Present	WYBZ(FM) Crooksville, OH Secretary, Treasurer, and Director

Ringer Exh. 2 at 2; TR 159. With respect to Station WYBZ, he is not employed by the station. TR 158. He visits the station approximately one day per week, for eight hours a week. TR 158. His duties involve payment of the station's bills and production work at the station. TR 158.

c. Auxiliary Power

10. Ringer has stated that in the event his application is granted in this proceeding, he will install auxiliary power generators at both his proposed studio and transmitter locations. Ringer Exh. 3 at 1. Ringer did not, however, include in his original cost estimates any specific itemization for auxiliary power generating equipment. TR 145. He did not include such estimates in his budget until after depositions were taken in this proceeding. TR 167.

2. ASF BROADCASTING CORPORATION

a. Diversification

11. ASF's principals, nor apparently ASF itself, have any cognizable interest in any medium of mass communications. ASF voting stockholder Ardeth Frizzell has no interest in any medium of mass communications. ASF Exh. 2. ASF non-voting stockholder Thomas J. Beauvais is 50% owner of The Patten Corporation, which is the parent corporation of Station WBTZ, Pinconning, Michigan, and 50% non-voting owner of Stanton Broadcasting Corporation, permittee of a new FM broadcast station at Trussville, Alabama. ASF Exh. 2. He also is 50% owner of GT Leasing, Incorporated, which has an 80% ownership interest in Station WFGR, Grand Rapids, Michigan. ASF Exh. 2.

b. Integration

1) QUANTITATIVE

12. ASF is a corporation organized under the laws of the State of Ohio. ASF Exh. 1. Ardeth S. Frizzell is President, Secretary, sole Director, and owner of 250 shares of voting stock of ASF. ASF Exh. 1. Seven hundred and Fifty Shares of non-voting stock are owned by Thomas J. Beauvais. ASF Exh. 1.

13. In the event ASF's application is granted, Ms. Frizzell intends to be General Manager of the proposed station, and will oversee all aspects of the station's operation, including sales, programming, personnel, business development, and promotions. ASF Exh. 3 at 3. ASF states that all personnel will report to her, either directly or through intermediate supervisors. Id. She will devote a minimum of 40 hours per week, on a

daily basis, to the management of the proposed station, and will discontinue any then-existing business interest or employment in order to effectuate her commitment. ASF Exh. 3 at 3.

2) QUALITATIVE

a) Past Area Residency/Civic Activities

14. Throughout her entire life, Ms. Frizzell has lived outside of the 1 mV/m contour of her proposed station. ASF Exh. 3 at 2.

15. While employed at Station WBBY(FM), which was located within the 1 mV/m contour of her proposed station, Ms. Frizzell participated in drives to collect shoes for the homeless in 1990 and 1991, and helped to raise funds for TV Discovery Playground and for Children's Hospital. ASF Exh. 3 at 2. At the deposition in this proceeding, Ms. Frizzell conceded that the extent of her participation in the station's fundraising efforts for the Discovery Channel was to "talk to the people...from Discovery...[and] talked to the public service director and seen what she needed to do to finish implementing [the promotion]....That's all [she] did." TR 223. With respect to the station's fundraising efforts for Children's Hospital, she did "the same thing." TR 224. At the hearing, she stated that she was "stressed out" out at the deposition session, and that in addition to talking with the persons from the organizations, she would "work very closely together" with the public service director. TR 223. No information has been provided concerning the nature of her "help" and "participation" in those activities, the amount of time she spent participating in those activities, or whether the organizations that the activities allegedly benefitted were inside or outside ASF's proposed 1 mV/m

contour. See ASF Exh. 3.

b) Future Residency

16. Ms. Frizzell has not proposed to move inside the proposed 1 mV/m contour, even in the event ASF's application is granted. See ASF Exh. 3.

c) Minority Participation

17. ASF has not claimed entitlement to any enhancement credit for minority involvement. See Ringer Exh. 2.

d) Past Broadcast Experience

18. From 1973-85 Ms. Frizzell was employed at Stations WCOL and WXGT. ASF Exh. 3 at 1-2. From 1973-76 she was a market research assistant for the stations, collecting, compiling, and preparing research information for sales presentations. ASF Exh. 3 at 1. From 1976-78, she was promotions assistant, and was responsible for details and follow-through on various station promotions including paperwork and control of station-sponsored contests and prize inventory, and attended all outside promotions. ASF Exh. 3 at 1. From 1978-85 she was assistant bookkeeper at the station. From 1982-85, she was traffic coordinator/traffic assistant at the station, in which position she oversaw computer operations at the station, including the scheduling of worktime between traffic and accounting departments, maintaining the computer system, entering data, scheduling commercials, and proving invoices for billing. ASF Exh. 3 at 1-2.

19. From 1985 through 1991, Ms. Frizzell was employed at Station WBBY(FM), Westerville, Ohio. ASF Exh. 3 at 2. In 1985, she was traffic manager and bookkeeper for the station, and was responsible for accounts receivable and payables. ASF Exh.

3 at 2. Beginning in 1986, she was employed as business manager of the station, working with the sales staff to maintain accounts and new business development. ASF Exh. 3 at 2. Beginning in 1990 she was General Manager of the facility, supervising the station's 25 employee staff, and was responsible for all day-to-day operations of the station. ASF Exh. 3 at 2. That position ceased when the station discontinued operations on December 31, 1991. ASF Exh. 3 at 2.

20. Since February 1992, Ms. Frizzell has been business and traffic manager at Station WCKK-FM, London, Ohio. ASF Exh. 3 at 2.

c. Auxiliary Power

21. ASF intends to install auxiliary power generators at both the studio and the transmitter and transmitter site, so that broadcasting can continue in the event of a power outage. ASF Exh. 4. Ms. Frizzell did not, however, include in ASF's cost estimates any estimate for auxiliary power generating equipment. TR 242. She did not become aware of the cost of auxiliary power generating equipment until after the depositions were conducted in this proceeding. TR 242.

3. WILBURN INDUSTRIES, INC.

a. Diversification

22. Neither WII nor its principals, have any interest in or connection with any medium of mass communications. WII Exh. 1.

b. Integration

1) QUANTITATIVE

23. WII is a corporation organized under the laws of the State of Ohio. WII Exh. 1. Charles W. Wilburn is President, Secretary, Treasurer, Director, and owner of 375 shares of voting stock in the corporation. WII Exh. 1. Bernard P. Wilburn owns 375 shares of non-voting stock, and is neither an officer nor director of the corporation. WII Exh. 1. Charles and Bernard Wilburn are father and son. TR 287. WII originally was established sole with voting stock, with Charles and Bernard Wilburn each owning 50% of the voting stock of the corporation. TR 294, 362. Prior to that time, it was the principals' intention that they both would share the load, work, and control of WII, and both be employed part time at the proposed station. TR 362. Upon advice of FCC legal counsel, it was decided that a reorganization of the corporation would be beneficial, and that "the way to go" was to have all of the controlling ownership working a full 40 hours per week at the station. TR 362, 332. Originally, non-voting stockholder Bernard Wilburn intended to hold the position of assistant to the programming director and to work 20 hours per week at the station. TR 363, 364. Originally, voting stockholder Charles Wilburn was going to be assistant to the public service director, and was intending to share the position of general manager with his son, and also was proposing to work at the station a minimum of only 20 hours per week. TR 300, 303, 331, 365.

24. If WII's application is granted, Charles Wilburn will be employed, at least 40 hours per week, at the proposed station as General Manager of the facility. WII Exh. 2 at 1. As General Manager he will oversee the day-to-day operations of the Station, and

will supervise its programming (including public service programming), sales, promotions, and internal administrative activities. WII Exh. 2 at 1. He also will be responsible for hiring, promoting, and terminating employees, and will oversee the implementation of the station equal employment opportunity program. WII Exh. 2 at 1. He will terminate his present law practice and limit his other business activities in order to effectuate that commitment. WII Exh. 2 at 1-2.

2) QUALITATIVE

a) Past Area Residency/Civic Activities

25. WII has not claimed credit for past local or area residency or past civic involvement. See WII Exh. 2.

b) Future Residency

26. If WII's application is granted, he will move to Westerville, Ohio. WII Exh. 2 at 1.

c) Minority Participation

27. WII has not claimed entitlement to any enhancement credit for minority involvement. See WII Exh. 2.

d) Past Broadcast Experience

28. WII has not claimed entitlement to any enhancement credit for past broadcast experience. See WII Exh. 2.

c. Auxiliary Power

29. WII has not claimed any entitlement to a preference for auxiliary power.

4. SHELLEE F. DAVIS

a. Diversification

30. Davis neither owns nor control any medium of mass communications. Davis Exh. 1 at 7.

b. Integration

1) QUANTITATIVE

31. When Shellee Davis' application is granted, Shellee Davis will serve as General Manager of the station and will work full-time, a minimum of 40 hours per week in that capacity. Davis Exh. 1 at 1. Shellee Davis is the owner and founder of Britt Business Systems, Inc. ("Britt"). Davis Exh. 1 at 2. She will terminate all other paid employment and will sell her existing business in order to effectuate her integration commitment. Davis Exh. 1 at 1. A portion of the company that previously was owned by Davis but was operated by her brother-in-law, Benjamin Davis, in Cleveland, Ohio, already has been transferred to Benjamin Davis in March-April 1993. TR 431. She also is in the process of gathering information in anticipation of the sale of the remainder of Britt, and is collecting names of interested purchasers of the business (TR 383-84), researching publications where other businesses are being sold (TR 384), and is making arrangements for the business to be formally appraised (TR 384, 387). Although Ms. Davis does not know the precise amount of time it will take her to sell her business, she believes the business is very marketable. TR 386. Approximately 80-85% of Britt's business is through sale of Xerox products. TR 430. Under her contract with Xerox, although Ms. Davis ability to assign her dealership contract with Xerox is subject to the

written approval of Xerox, the contract specifically states that consent will not be unreasonably withheld. Ringer Exh. 6 at 5 at Section L.1.1. Approximately 10-15% of the remaining portion of her business is not restricted by any contract. TR 430. Ms. Davis currently works about 60 hours a week in conjunction with her existing business. TR 400. Even in the event she could not sell Britt for an acceptable price, in the event she is awarded the permit in this proceeding, she would cease operating Britt. TR 420. Ms. Davis specifically has confirmed on cross-examination that she does not intend, and could not, operate both businesses simultaneously. TR 400.

32. As General Manager, Ms. Davis' duties will include overseeing and assuming ultimate responsibility for the day-to-day activities at the station, including sales, on-air, and general office departments. Davis Exh. 1 at 1. She will also be responsible for overseeing on-air logs and traffic, sales to agency and local accounts, the hiring of sales and office staff, and managing the Public File, the Equal Employment Opportunity Program, and the commercial production undertaken by the station. Davis Exh. 1 at 1.

33. Davis is well established and has been successful in the past in the Westerville-area business community. Ms. Davis was a 1991 "Columbus Chamber of Commerce Small Business Person of the Year" Finalist, which is an award given to small business owners who exemplify high business standards and extensive community involvement (Davis Exh. 1 at 4 and Atts. E & F); 1991 Department of Commerce Minority Business Development Council "Regional Retailer of the Year," which is an award given for business excellence in retail trade (Davis Exh. 1 at 4 and Att. G); 1991

Winner of the Ernest & Young, Merrill Lynch & Co., Inc. Magazine "Entrepreneur of the Year" Award in the category of "Emerging Entrepreneur," which is an award given to area business people who have excelled in business and community involvement (Davis Exh. 1 at 5 and Att. J); and 1990 Columbus Chamber of Commerce "Minority Business of the Year" award winner (Davis Exh. 1 at 5 and Att. L), which is an award given for business achievements recognized by local businesses and corporations. She operated the number one Xerox regional dealership in 1989, and her operation has been among the top five Xerox dealerships nationally from 1988-91. Davis Exh. 1 at 5.

2) QUALITATIVE

a) Past Local Residency/Civic Activities

34. Ms. Davis has resided in Westerville or the Westerville area for the past nine years. From 1984 - 85 she lived at 1957 E. Prince George Drive, Columbus, Ohio; in 1985 - 86 she lived at 338 Olentangy-Forest Dr. in Columbus, Ohio; in 1986 - 92 she lived at 5518 Moccasin Dr. in Westerville, Ohio; and from 1992 to the present she has lived at 463 Jessing Trail, Worthington, Ohio, which is in Columbus, Ohio, in the area of Columbus which is directly adjacent to Westerville, Ohio. Davis Exh. 1 at 1.

35. Ms. Davis also has been involved in civic and other activities which have enhanced her knowledge of the needs and interests of the service area of her proposed station within the 1 mV/m contour of her proposed station.

Her business is a member and Ms. Davis is a participant in the Columbus Chamber of Commerce from 1988 to the present. Davis Exh. 1 at 2 and Att. B.

She has belonged to a national women's civic organization called The Columbus Chapter of Links, Inc. for the past four

years. Davis Exh. 1 at 2. In 1990 the organization's Project Lead program enabled her to work closely with sixth and seventh graders to help improve their self-esteem and offer alternatives to promote a more positive life-style. Id. The organization adopted New Johnson Park Middle School and conducted various seminars for eight hours per week for a year. Id. She was chairperson of the vocational education and career options module for a six week period. Id. She also was the chairperson of the Arts Committee for two years. Id. Her committee was responsible for the promotion of local artists and exposing the world of art to the minority community. Id.

She participated in a United Way program called Project Diversity from 1990 to 1991, focusing on the preparation of minority men and women to serve as board members. Davis Exh. 1 at 2-3 and Att. C. She continued her involvement with the program by serving on the Advisory Committee to plan future Project Diversity programs. Davis Exh. 1 at 3.

She has been a member of the Columbus Speech and Hearing Board from 1991 to the present. Davis Exh. 1 at 3. The Columbus Speech and Hearing Board directs the operations of the Columbus Speech and Hearing Center, which is an organization in Columbus which helps improve the quality of life for speech and hearing-impaired people. Id. Ms. Davis is on the Board of Directors of the Center, in which capacity she attends meetings, assists with the fundraising activities for the Center, works on the Program Committee, and is a past member of the Finance Committee. Id. On the Program Committee she helped implement marketing actions to promote the activities of the Speech and Hearing Center to members of the overall public. Id.

She has been a member of the New Salem Baptist Church Business Development Board from 1991 to 1993. Davis Exh. 1 at 3. The New Salem Baptist Church Business Development Board directs the business activities of the New Salem Baptist Church. Id. In that activity, Ms. Davis was instrumental in overseeing the construction and opening of a senior-citizens housing complex in Columbus, and was involved in the decision-making process for numerous other Church civic activities serving the local Columbus community. Id.

From 1990 through 1992 she was involved in mentoring with two established programs. Davis Exh. 1 at 3. She was

assigned to two young women for one hour or more per month through the Columbus Minority Business Center. Id. Also, through a pilot program of the U.S. Small Business Association called the "Women's Network for Entrepreneurial Training," she is assigned a protege on a scheduled basis. Davis Exh. 1 at 3-4 and Att. D. Informally, from 1990 to the present she has been frequently invited and has accepted speaking engagements to speak with people interested in starting their own business or who need direction in their current business. Davis Exh. 1 at 4. She provides the time to advise them on the resources and the contacts she has had available. Id.

In 1988 Ms. Davis instituted a project through her business where she keeps on-staff a student from one of the Columbus high school career centers who is studying business. Davis Exh. 1 at 4. The program continued through 1992. Id. On a part-time basis the student assists the office manger with a variety of duties such as answering the phones, filing, typing, minor bookkeeping and data entry on their computer. Id. Ms. Davis' intention is to give the student who participates in the program hands-on business experience in a business environment. Id. They learn what makes the operation flow, the importance of detail (which is essential in successful businesses), and how to use better judgement about their career direction. Id.

Ms. Davis participated in fundraising efforts for the King Center Annual Campaign Chair for Black Owned Businesses in 1991-92. Davis Exh. 1 at 6 and Att. M. This organization solicited financial support for the King Center, which is a multi-cultural center that focuses on programs for children.

Ms. Davis was a Center for New Directions Panelist in 1991 where she was a speaker to women who want to start their own businesses. Davis Exh. 1 at 6 and Att. N.

Ms. Davis was a Member of the United Way Business Development Committee in 1991, in which capacity she solicited donations from other minority businesses. Davis Exh. 1 at 6.

Ms. Davis was a Linden-McKinley High School Presenter in 1991, where she was a speaker to high school students about careers in future technologies. Davis Exh. 1 at 6 and Att. O.

Ms. Davis was a Columbus Chamber of Commerce Project

Future Mentor in 1991 in which she employed a high school student for six weeks to provide real-life work experience. Davis Exh. 1 at 6 and Att. P.

Ms. Davis was a Red Cross Neighborhood Volunteer in 1990, in which capacity she solicited donations door to door. Davis Exh. 1 at 7.

Ms. Davis has been on the Columbus Regional Minority Supplier Development Council's Input Committee from 1990-present, in which she participates in formation of the organization's programs. Davis Exh. 1 at 7.

Ms. Davis has been an Ohio State University's Young Black Scholarship Program participant from 1987-present, in which she assists her Link Sisters in mentoring and raising funds to allow local high school students to prepare for college. Davis Exh. 1 at 7.

b) Future Residency

36. Davis has proposed to continue to reside in or adjacent to Westerville. Davis Exh. 1 at 1.

c) Minority Involvement

37. Davis is of African-American descent. Davis Exh. 1 at 1.

d) Broadcast Experience

38. Davis has not claimed enhancement credit for past broadcast experience. See Davis Exh. 1.

c. Auxiliary Power

39. Davis will install auxiliary generating equipment at her station in order to allow for the continued operation of the station during power outages. Davis Exh. 2.