

5. OHIO RADIO ASSOCIATES

a. Diversification

40. Neither ORA nor its stockholders control, own, or have any cognizable interest with any medium of mass communications other than minor stock interests of five percent or less in publicly traded companies. ORA Exh. 1 at 1.

b. Integration

1) QUANTITATIVE

41. ORA is an Ohio corporation, which is composed of four stockholders. John J. Carney is President, Director, and a 25% stockholder; Joseph D. Carney is the Secretary, Vice President, Director, and a 25% stockholder; James A. Carney is the Treasurer, a Vice President, a Director, and a 25% stockholder; and John M. Mino is Assistant Secretary, Assistant Treasurer, a Vice President, a Director, and a 25% stockholder. ORA Exh. 1 at 1.

42. ORA does not propose to integrate its owners into management and does not claim any comparative credit for integration. ORA Exh. 1 at 1.

2) QUALITATIVE

a) Local Residency/Civic Activities

43. ORA has not claimed credit for past local residency. See ORA Exh. 1.

b) Future Residency

44. ORA has not claimed credit for past local residency. See ORA Exh. 1.

c) Minority Participation

45. ORA has not claimed entitlement to any enhancement credit for minority

involvement. See ORA Exh. 1.

d) Past Broadcast Experience

46. ORA has not claimed entitlement to any enhancement credit for past broadcast experience. See ORA Exh. 1.

c. Auxiliary Power

47. ORA will provide auxiliary power generating equipment at its studio and tower site. WII Exh. 1 at 1.

6. COMPARATIVE COVERAGE

48. The overall population that would be served by the applicants is as follows:

<u>Applicant</u>	<u>Area</u> (sq. km)	<u>Population</u> (1990 census)
Davis	2,319	629,837
ASF	2,052	607,783
Ringer	2,363	604,567
ORA	2,476	597,617
WII	1,828	404,608

Joint Exh. at 2.

49. New fourth and fifth nighttime aural service will be provided by ORA. Joint Exh. at 4. The area and population to be served by new fourth or fifth nighttime aural service is as follows:

<u>Service</u>	<u>Area</u> (sq. km)	<u>Population</u> (1990 census)
New Fourth Nighttime Service	19	183
New Fifth Nighttime Service	61	2,251

Joint Exh. at 4.

C. PROPOSED CONCLUSIONS OF LAW

50. In its Policy Statement on Comparative Broadcast Hearings, 1 F.C.C.2d 393 (1965), recon. denied, 1 F.C.C.2d 918 (1965) ("Policy Statement"), the Commission set out the criteria governing the disposition to comparative broadcast hearings under the two primary objectives of best practicable service to the public and maximum diffusion of control of the media of mass communications. The factors that are significant with respect to the standard comparative issue in this proceeding are: diversification of control of the media of mass communications (diversification); full-time participation in station operation by owners (integration); efficient use of frequency (comparative coverage); and auxiliary power. Policy Statement, 1 F.C.C.2d at 394-98; Addendum to Policy Statement on Comparative Broadcast Hearings, 6 R.R.2d 861 (1966). The comparative qualifications of the applicants are therefore discussed under these headings, where appropriate below.

1. DAVID A. RINGER

a. Diversification

51. Ringer currently is a 25% owner, Treasurer, Secretary, and a Director of the corporation that is licensee of Station WYBZ(FM), Crooksville, Ohio. Finding ¶ 3.

In the event Ringer's application is granted, Ringer will sell his ownership interest and terminate his employment and any connection he has with Station WYBZ(FM). Finding ¶ 3. Ringer therefore does not receive a diversification demerit.

b. Integration

1) QUANTITATIVE

52. Ringer has proposed to work full-time, at least 40 hours per week, in a management position, as General Manager of his proposed facility and has pledged to terminate all other employment. Finding ¶ 4. The Commission has stated that it will give "particular weight" to staff positions held by owners in this position. Policy Statement, 1 F.C.C.2d at 395. Therefore, Ringer receives 100% full-time quantitative integration credit and receives a score of 10,000 under the Hirschman-Herfindahl Index. Omaha TV 15, Inc., 4 FCC Rcd 730, 734 (1988).

2) QUALITATIVE

a) Past Area Residency/Civic Activities

53. Ringer did not begin residing within the 1 mV/m contour of his proposed station until after March 9, 1992, the last date for filing amendments as a matter of right under Section 73.3522(a)(6) of the Commission's Rules (historically referred to as the "B cut-off date"). Finding ¶¶ 1, 7. Prior to that time, he lived just outside the 1 mV/m contour of his proposed station. Finding ¶ 5. Therefore, under Armando Garcia, 3 FCC Rcd 1065 (Rev. Bd. 1988), rev. denied, 3 FCC Rcd 4767 (1988). Ringer is entitled to no enhancement credit for his past residencies just outside his proposed station's 1 mV/m contour. Id. at 1068 ¶ 17. Moreover, Ringer is entitled to no credit

for past residency to the extent it commenced only after the B cut-off date in this proceeding. "Few principles are more firmly fixed in our case law than that which holds that an applicant may not seek to improve or upgrade its comparative posture after the 'B' cut-off date for amendments as of right." Mountain Media, Inc., 101 F.C.C.2d 787, 788 ¶ 3 (Rev. Bd. 1985).

54. Ringer also has participated in civic activities while residing at his past residences. Finding ¶ 6. Credit only is given for civic activities which occur within the 1 mV/m contour of a proposed station. Radio Jonesboro, Inc., 96 F.C.C.2d 1106, 1109 ¶ 5 (Rev. Bd. 1984), aff'd, 100 F.C.C.2d 941 (1985).¹ On cross-examination, Ringer conceded that some of his activities occurred outside his proposed 1 mV/m contour, that he "can't remember where all of those activities took place," and that "[i]f these things were done within [his] home, then they would have been within the one millivolt [contour]." Finding ¶ 6. It also was conceded during the hearing that even his home during the period those activities were conducted was outside his station's proposed 1 mV/m contour. Finding ¶ 6. Thus, it now is not at all clear whether any of his activities occurred within the 1 mV/m contour of his proposed station.

55. As the Review Board has stated:

each applicant has the burden of proof under the standard comparative issue, and must convincingly support each component thereof.

Anchor Broadcasting, 5 FCC Rcd 2432, 2435 (Rev. Bd. 1990), modified on other

¹ Credit, albeit of a lesser weight, is awarded for activities occurring within the service area of a proposed station but outside the community of license. The Baltimore Radio Show, 4 FCC Rcd 6437, 6440 ¶ 18 (Rev. Bd. 1989), rev. denied, 5 FCC Rcd 3712 (1990).

grounds and remanded, 8 FCC Rcd 4520 (1993). Ringer has failed to convincingly establish that he has participated in civic activities within the 1 mV/m contour of his proposed station. He therefore is not entitled to credit for past civic participation. In sum, Ringer receives no enhancement credit under the area residency/civic activity component of the standard comparative issue.

56. Even if it is concluded that Ringer has met his burden of establishing that his activities occurred within his station's proposed 1 mV/m contour, no local residency/civic activity credit is warranted for Ringer. Where, as here, an applicant's residency was outside the station's proposed 1 mV/m contour and its civic activities were minimal in nature, no enhancement credit is warranted. Santee Cooper Broadcasting Co. of Hilton Head, Inc., 99 F.C.C.2d 781, 799 ¶ 22 (Rev. Bd. 1984), recon. denied, 100 F.C.C.2d 469 (1985), modified on review, 59 R.R.2d 730 (1986). Ringer's activities consisted predominantly of fundraising activities, and were transient in nature, and thus, at best, are deserving of minimal credit. Rebecca Boedker, 6 FCC Rcd 2557, 2558 ¶ 12 (1991).

b) Future Residency

57. Ringer began living in the service area after the B cut-off date in this proceeding, and has proposed to relocate to Westerville in the event his application is granted. Finding ¶ 7. Ringer is entitled to a slight enhancement for that pledge. Newton Television, Ltd., 3 FCC Rcd 553, 555 (Rev. Bd. 1988), rev. granted in part, 4 FCC Rcd 2561 (1989), recon. denied, 5 FCC Rcd 2755 (1990); Policy Statement, 1 F.C.C.2d at 396.

c) Minority Participation

58. Ringer has not claimed credit for minority participation. Finding ¶ 8. Ringer is entitled to no enhancement credit under this factor.

d) Past Broadcast Experience

59. Ringer has past broadcast experience. Finding ¶ 9. The Commission attaches only minor significance to this factor, however, since lack of experience is remediable. Policy Statement, 1 F.C.C.2d at 396 n.8. Accordingly, Ringer is entitled only to a slight enhancement under this factor. Northern Sun Corp., 100 F.C.C.2d 889, 892 (Rev. Bd. 1985), rev. denied, FCC 86-135 (March 23, 1986).

c. Auxiliary Power

60. Ringer has pledged to install auxiliary power units capable of maintaining the station's operational power in the event of a commercial power failure. Finding ¶ 10. Ringer ordinarily would be entitled to the award of a slight preference under this factor. Tuscon Community Broadcasting, Inc., 2 FCC Rcd 568, 569 (Rev. Bd. 1987), recon. denied, 2 FCC Rcd 2860 (Rev. Bd. 1987). However, he did not include auxiliary power generating equipment in his budget prior to the time this proceeding was designated for hearing. Finding ¶ 10. As the Review Board recently noted in Linda U. Kulinsky, 8 FCC Rcd 6235 (Rev. Bd. 1993), Commission precedent dictates that no credit for auxiliary power is warranted where auxiliary power generating equipment is not budgeted prior to designation of an application for hearing. Id. at 6238 n.1, citing, Athens Broadcasting Co., 17 F.C.C.2d 452, 461-62 (Rev. Bd. 1969). Therefore, Ringer is entitled to no credit for his auxiliary power proposal.

2. ASF BROADCASTING CORPORATION

a. Diversification

61. Neither ASF nor its voting stockholder have any connection with any medium of mass communications. Finding ¶ 11. ASF therefore does not receive a diversification demerit.

b. Integration

1) QUANTITATIVE

62. ASF's principal, Ardeth Frizzell, has proposed to work full-time, at least 40 hours per week, in a management position, as General Manager of ASF's proposed facility and to discontinue any conflicting employment. Finding ¶ 13. The Commission has stated that it will give "particular weight" to staff positions held by owners in this position. Policy Statement, 1 F.C.C.2d at 395. Therefore, ASF receives 100% full-time quantitative integration credit and receives a score of 10,000 under the Hirschman-Herfindahl Index. Omaha TV 15, Inc., 4 FCC Rcd 730, 734 (1988).

2) QUALITATIVE

a) Past Area Residency/Civic Activities

63. Throughout her entire life, Ms. Frizzell has lived outside of the 1 mV/m contour of ASF's proposed station. Finding ¶ 14. Therefore, pursuant to Armando Garcia, 3 FCC Rcd 1065 (Rev. Bd. 1988), ASF is entitled to no enhancement credit for its principal's past residency just outside its proposed station's 1 mV/m contour. Id. at 1068 ¶ 17.

64. While employed at Station WBBY(FM), which was located within the 1

mV/m contour of her proposed station, ASF's principal, Ardeth 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. Finding ¶ 15. 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 talk] to the public service director and see what she needed to do to finish implementing [the promotion]....That's all [she] did." Finding ¶ 15. With respect to the station's fundraising efforts for Children's Hospital, she did "the same thing." Finding ¶ 15. At the hearing, she stated that she was "stressed out" out 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. Finding ¶ 15.

65. Consequently, ASF also is not entitled to enhancement credit for its principal's alleged participation in civic activities. Credit for civic activities is not awarded to reward "good deeds," but is considered a "barometer" of an integrated principal's knowledge of the needs and interests of the proposed service area. Newton Television, Ltd., 3 FCC Rcd 553, 555 (Rev. Bd. 1988). As the Review Board has stated:

each applicant has the burden of proof under the standard comparative issue, and must convincingly support each component thereof.

Anchor Broadcasting, 5 FCC Rcd 2432, 2435 (Rev. Bd. 1990), modified on other grounds and remanded, 8 FCC Rcd 4520 (1993). Moreover, an applicant is required

to meet the burden of persuasion to provide detailed information concerning civic activities. Beach Broadcasting Limited Partnership, 6 FCC Rcd 885, 886 ¶ 8 (Rev. Bd. 1991), rev. denied, modified in part, 6 FCC Rcd 4485 (1991). Absent detailed information, an applicant is entitled to little or no credit. Swan Broadcasting Ltd., 6 FCC Rcd 17, 21 (Rev. Bd. 1991).

66. Here, no detailed information has been provided. All that the Commission has been told is that she "participated" in drives to collect shoes and "helped" to raise funds for two charitable causes. No information concerning the nature of that "participation" or "help" has been provided, the number of hours that were spent on the activity, or whether the "help" and "participation" was to assist organizations that were even within the 1 mV/m contour of the proposed station. Finding ¶ 15. Therefore, ASF has not submitted evidence concerning the extent to which the "activities" exposed or expanded its principal's knowledge of the needs and interests of Westerville (or even the station's proposed service area). See generally, ASF Exhibit 3 at 2. Where, as here, an applicant's principal's residency was outside the station's proposed 1 mV/m contour and its principal's civic activities were minimal in nature, no enhancement credit is warranted. Santee Cooper Broadcasting Co. of Hilton Head, Inc., 99 F.C.C.2d 781, 799 ¶ 22 (Rev. Bd. 1984). Ms. Frizzell's activities consisted exclusively of fundraising activities which were transient in nature, and thus, at best, are deserving of minimal credit. Rebecca Boedker, 6 FCC Rcd 2557, 2558 (1991). ASF therefore should not receive credit for its principal's alleged "civic activities." Beach Broadcasting Limited Partnership Ltd., supra. Thus, in sum, ASF receives no enhancement credit under the

area residency/civic activity component of the standard comparative issue.

b) Future Residency

67. ASF's principal has not promised to move to Westerville or the proposed station's service area in the future. Finding ¶ 16. Therefore, ASF is not entitled to receive credit for proposed future residency.

c) Minority Participation

68. ASF has not claimed credit for minority participation. Finding ¶ 17. ASF is entitled to no enhancement credit under this factor.

d) Past Broadcast Experience

69. ASF's voting principal, Ardeth Frizzell, has past broadcast experience. Finding ¶¶ 18-20. The Commission attaches only minor significance to this factor, however, since lack of experience is remediable. Policy Statement, 1 F.C.C.2d at 396 n.8. Accordingly, ASF is entitled only to a slight enhancement under this factor. Northern Sun Corp., 100 F.C.C.2d 889, 892 (Rev. Bd. 1985), rev. denied, FCC 86-135 (March 23, 1986).

c. Auxiliary Power

70. ASF has pledged to install auxiliary power units capable of maintaining the station's operational power in the event of a commercial power failure. Finding ¶ 21. ASF ordinarily would be entitled to the award of a slight preference under this factor. Tuscon Community Broadcasting, Inc., 2 FCC Rcd 568, 569 (Rev. Bd. 1987), recon. denied, 2 FCC Rcd 2860 (Rev. Bd. 1987). It did not, however, include auxiliary power generating equipment in its budget prior to the time this proceeding was designated for

hearing. Finding ¶ 20. As the Review Board recently noted in Linda U. Kulinsky, 8 FCC Rcd 6235 (Rev. Bd. 1993), Commission precedent dictates that no credit for auxiliary power is warranted where auxiliary power generating equipment is not budgeted prior to designation of an application for hearing. Id. at 6238 n.1, citing, Athens Broadcasting Co., 17 F.C.C.2d 452, 461-62 (Rev. Bd. 1969).

71. Therefore, ASF is entitled to no credit for its auxiliary power proposal.

3. WILBURN INDUSTRIES, INC.

a. Diversification

72. Neither WII nor its voting stockholder have any connection with any medium of mass communications. Finding ¶ 22. WII therefore does not receive a diversification demerit.

b. Integration

1) QUANTITATIVE

73. WII's principal, Charles Wilburn, has proposed to work full-time, at least 40 hours per week, in a management position, as General Manager of WII's proposed facility, and will terminate his present practice of law in order to effectuate that commitment. Finding ¶ 24. The Commission has stated that it will give "particular weight" to staff positions held by owners in this position. Policy Statement, 1 F.C.C.2d at 395. Therefore, WII receives 100% full-time quantitative integration credit and receives a score of 10,000 under the Hirschman-Herfindahl Index. Omaha TV 15, Inc., 4 FCC Rcd 730, 734 (1988).

2) QUALITATIVE

a) Past Area Residency/Civic Activities

74. WII has not claimed credit for past local residency or past civic activities.

Finding ¶ 25. WII is entitled to no credit under that factor.

b) Future Residency

75. If WII's application is granted, its voting principal, Charles Wilburn, will move to Westerville, Ohio. Finding ¶ 26. As the Commission recently stated:

little or no credit beyond basic "quantitative" credit for proposing full-time integration of a principal is to be awarded merely on the strength of representations that he intends to commence local residence in the event his application is granted.

Gloria Bell Byrd, FCC 93-460 ¶ 22 (Oct. 1, 1993). Therefore, WII is entitled to a "little or no credit" for his pledge.

b) Minority Participation

76. WII has not claimed entitlement to any enhancement credit for minority involvement. Finding ¶ 27. It therefore is entitled to no enhancement credit under that factor.

d) Past Broadcast Experience

77. WII has not claimed entitlement to any enhancement credit for past broadcast experience. Finding ¶ 28. It therefore is entitled to no credit under that factor.

c. Auxiliary Power

78. WII has not claimed any entitlement to a preference for auxiliary power. Finding ¶ 29. It therefore is entitled to no credit under that factor.

4. SHELLEE F. DAVIS

a. Diversification

79. Davis neither owns nor controls any medium of mass communications. Finding ¶ 30. She therefore does not receive a diversification demerit.

b. Integration

1) QUANTITATIVE

80. Davis has proposed to work full-time, at least 40 hours per week, in a management position, as General Manager of her proposed facility and has pledged to terminate all other paid employment and to sell her existing business in order in order to effectuate that pledge. Finding ¶ 31. The Commission has stated that it will give "particular weight" to staff positions held by owners in this position. Policy Statement, 1 F.C.C.2d at 395. Therefore, Davis receives 100% full-time quantitative integration credit and receives a score of 10,000 under the Hirschman-Herfindahl Index. Omaha TV 15, Inc., 4 FCC Rcd 730, 734 (1988).

2) QUALITATIVE

a) Past Local Residency/Civic Activities

81. Davis lived in the service area of her proposed station for nearly the last ten years, and in or adjacent to Westerville since 1986. It is well established that local residency is a factor of fundamental consideration in the licensing scheme. Radio Jonesboro, Inc., 100 F.C.C.2d 941, 944 (1985). Residency in the community to be served is of "primary importance." Policy Statement, 1 F.C.C.2d at 396. Moreover, residency in the area adjacent to the community of license is equal in importance to

residence within the proposed community of license. Ronald Sorenson, 6 FCC Rcd 1952, 1954 n.2 (1991), recon. dismissed, 6 FCC Rcd 6901 (1991). Thus, Davis is entitled to "local" credit for her residency in or adjacent to Westerville for the last eight years, since 1986. Additionally, Davis resided within simply the service area of the proposed station for an additional two year period (from 1984-85). Finding ¶ 34. The credit due for service area residency "closely follows" the credit due for local residency. Policy Statement, 1 F.C.C.2d at 396. Thus, in all, Davis is entitled to substantial credit for her total nine year local and service area residencies.

82. Additionally, Davis has engaged in a wide, diverse, ongoing series of local and local-area civic activities (Finding ¶ 35) for which credit is warranted. The activities have involved fundraising activities for charitable organizations,² and participation in organizations that provide assistance to young adults,³ other minority

² Ms. Davis was a Red Cross Neighborhood Volunteer in 1990. Finding ¶ 35.

³ She has belonged to a national women's civic organization called The Columbus Chapter of Links, Inc. for the past four years. Finding ¶ 35. 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.

Additionally, from 1990 through 1992 she was involved in mentoring with two established programs. She also was assigned to two young women for one hour or more per month through the Columbus Minority Business Center. Finding ¶ 35. 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. Finding ¶ 35.

Ms. Davis also has been involved in two efforts to provide young adults with business experience. 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, which continued through 1992. Finding ¶ 35. 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. Finding ¶ 35.

group members,⁴ the elderly,⁵ the speech and hearing impaired,⁶ and women.⁷ She

Finally, in 1991 Ms. Davis was a Linden-McKinley High School Presenter, where she was a speaker to high school students about careers in future technologies. Finding ¶ 35.

⁴ 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. Finding ¶ 35. She continued her involvement with the program by serving on the Advisory Committee to plan future Project Diversity programs. Finding ¶ 35.

Ms. Davis participated in fundraising efforts for the King Center Annual Campaign Chair for Black Owned Businesses in 1991-92. Finding ¶ 35. 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 Member of the United Way Business Development Committee in 1991, in which capacity she solicited donations from other minority businesses. Finding ¶ 35.

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. Finding ¶ 35.

⁵ Ms. Davis has been a member of the New Salem Baptist Church Business Development Board from 1991 to 1993. Finding ¶ 35. 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.*

⁶ Ms. Davis has been a member of the Columbus Speech and Hearing Board from 1991 to the present. Finding ¶ 35. 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 helps implement marketing actions to promote the activities of the Speech and Hearing Center to members of the overall public. *Id.*

⁷ 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. Finding ¶ 35.

has been in leadership positions in a number of those activities.⁸ Finally her involvement in civic activities in the area has been ongoing, since 1988, long before her application in this proceeding was filed.

83. Consequently, Davis is entitled to a substantial enhancement under this factor. Rebecca L. Boedker, 6 FCC Rcd 2557, 2559 ¶ 14 (1991) (applicant whose record of civic activities is "manifestly . . . extensive" is entitled to substantial enhancement credit); Ronald Sorenson, 6 FCC Rcd 1952, 1953 ¶¶ 7, 11 (1991) (where applicant has a continuing and extensive record of civic activities, many of which are in leadership positions, applicant is entitled to a "significant enhancement credit").

b) Future Residency

84. Davis has pledged to continue to reside in or adjacent to Westerville in the event her application is granted. Finding ¶ 36. Davis is entitled to an additional slight preference under this factor. Newton Television, Ltd., 3 FCC Rcd 553, 555, ¶ 8 (Rev. Bd. 1988) (applicant whose integrated principals have resided in the area in the past and who unequivocally state that they will establish their residencies in the city of license in the future is entitled to credit for past residency and "the minor additional enhancement of the basic 'integration' credit that attends such a future commitment"), rev. granted in part, 4 FCC Rcd 2561 (1989), recon. denied, 5 FCC Rcd 2755 (1990).

⁸ In the Columbus Chapter of Links, Inc. she has been a chairperson of the organization's vocational education and career options module. Finding ¶ 35. She is on the Advisory Committee of the United Way program called Project Diversity. Finding ¶ 35. She has been on the Board of Directors of the Columbus Speech and Center Board. Finding ¶ 35. She has been a member of the New Salem Baptist Church Business Development Board.

c) Minority Enhancement

85. Davis is of African-American descent. Finding ¶ 37. As the Commission has stated:

minority ownership is entitled to substantial credit in enhancing an applicant's integration proposal. As the Commission, the courts, and the Commission have recognized, there is a critical underrepresentation of minorities in broadcast ownership, and full minority participation in the ownership and management of broadcast facilities is essential to realize the fundamental goals of programming diversity and diversification of ownership, which are at the heart of the Communications Act and the First Amendment...We assign "high importance" to fostering the participation of heavily underrepresented minorities in the ownership and operation of broadcast stations," and we have consistently granted substantial credit for integration of minority ownership in comparative proceedings.

Waters Broadcasting Corp., 91 F.C.C.2d 1260, 1264 (1982), aff'd, sub nom., West Virginia Broadcasting Co. v. FCC, 735 F.2d 601, 608 (D.C. Cir. 1984), cert. denied, 105 S. Ct. 1392 (1985) (footnotes omitted) (emphasis added). Davis therefore is entitled to a substantial enhancement under this factor.

d) Past Broadcasting Experience

86. Davis has claimed no credit under this enhancement factor. Finding ¶ 38. Davis therefore receives no credit under this factor.

c. Auxiliary Power

87. Davis has pledged to install auxiliary power units capable of maintaining the station's operational power in the event of a commercial power failure. Finding ¶ 39. Davis is therefore entitled to the award of a slight preference under this factor. Tuscon Community Broadcasting, Inc., 2 FCC Rcd 568, 569 (Rev. Rd. 1987), recon. denied,

5. OHIO RADIO ASSOCIATES

a. Diversification

88. Neither ORA nor its stockholders control, own, or have any cognizable interest in any medium of mass communications other than minor stock interests of five percent or less. Finding ¶ 40. ORA therefore does not receive a diversification demerit

b. Integration

1) QUANTITATIVE

89. ORA does not propose to integrate its owners into the management of its proposed station and has not claimed credit for integration. Finding ¶ 42. ORA does not receive credit under this factor. Therefore, ORA receives 0.000% full-time quantitative integration credit and receives a score of zero under the Hirschman-Herfindahl Index. Omaha TV 15, Inc., 4 FCC Rcd 730, 734 (1988).

2) QUALITATIVE

a) Past Area Residency/Civic Activities

90. ORA has not claimed credit for past local residency or past civic activities. Finding ¶ 43. ORA is entitled to no credit under that factor.

b) Future Residency

91. ORA has not claimed credit for future residency. Finding ¶ 44. ORA is entitled to no credit under this factor.

b) Minority Participation

92. ORA has not claimed entitlement to any enhancement credit for minority

involvement. Finding ¶ 45. ORA therefore is entitled to no enhancement credit under that factor.

d) Past Broadcast Experience

93. ORA has not claimed entitlement to any enhancement credit for past broadcast experience. Finding ¶ 46. ORA therefore is entitled to no credit under that factor.

c. Auxiliary Power

94. ORA has pledged to install auxiliary power units capable of maintaining the station's operational power in the event of a commercial power failure. Finding ¶ 47. ORA is therefore entitled to the award of a slight preference under this factor. Tuscon Community Broadcasting, Inc., 2 FCC Rcd 568, 569 (Rev. Bd. 1987), recon. denied, 2 FCC Rcd 2860 (Rev. Bd. 1987).

6. COMPARATIVE COVERAGE

95. In Beach Broadcasting Limited Partnership, 6 FCC Rcd 4485 (1991), the Commission affirmed its policy that preferences are warranted for service even to well-served areas where the coverage proposals of applicants differ by at least 7.5%. See Cotton Broadcasting Co., 104 F.C.C.2d 785, 790-91 (Rev. Bd. 1986), modified, 4 FCC Rcd 1781 (1989) (7.5% differential), cited with approval in, Beach Broadcasting Limited Partnership, 6 FCC Rcd at 4485 ¶ 4. In contrast, the Commission held that differentials of 2% and 5% are not of decisional significance. Beach Broadcasting, 6 FCC Rcd at 4485 ¶ 4; see also, Metro Broadcasting, Inc., 99 F.C.C.2d 688, 699 (Rev. Bd. 1984), and Barnes Enterprises, Inc., 69 F.C.C.2d 1957, 1962-63 (Rev. Bd. 1978), rev. den.

FCC 79-451 (July 15, 1979).

96. Davis's proposal will serve 25,270 more persons (4.18%) than Ringer; 22,054 more persons (3.63%) than ASF; 225,229 more persons (55.67%) than WII; and 32,220 more persons (5.39%) than ORA. Finding ¶ 48. Therefore, Davis is entitled to a slight preference over WII under this factor. ASF will serve 3216 more persons (0.53%) than Ringer; 203,175 more persons (50.22%) than WII; and 10,166 more persons (1.7%) than ORA. Finding ¶ 48. Therefore, ASF is entitled to a slight preference over WII under this factor. Ringer will serve 199,959 more persons (49.42%) than WII; and 6950 more persons (1.16%) than ORA. Finding ¶ 48. Therefore, Ringer also is entitled to a slight preference over WII under this factor. Finally, ORA will serve 193,009 more persons (47.70%) than WII. Thus, ORA also is entitled to a slight preference over WII under this factor.

97. ORA will provide a new fourth nighttime aural service to 183 persons, and a new fifth nighttime service to 2,251 persons. Finding ¶ 49. This only is 0.03% and 0.37% ORA's total population, respectively. At best, when a decisionally significant number of persons will receive new fourth or fifth aural service, a very slight preference is awarded. WFSP, Inc., 56 R.R.2d 1449, 1450 (Rev. Bd. 1984) (very slight preference given for new 4th service to 576 people and new 5th service to 1,683 people); Houston Family TV, Ltd., 101 F.C.C.2d 676, 705 ¶ 107 (ALJ 1984) (very slight preference to new 4th and 5th service to 8,256 persons), aff'd, 101 F.C.C.2d 661, 674 ¶ 23 (Rev. Bd. 1985); Moore Broadcast Industries, Inc., 2 FCC Rcd 2754, 2767 ¶ 151 (ALJ Frysiak 1987) (new fifth service to 12,845 persons entitles applicant to very slight preference).

However, when new service is provided to an insubstantial population, not even a slight preference is warranted.

98. Here, ORA's proposed new fourth and fifth nighttime service, which is limited to new nighttime service to only 2434 persons (Finding ¶ 49), which based upon precedent, is de minimis, and entitles applicants to no additional comparative preference. Mark L. Wodlinger, 58 R.R.2d 1006, 1013-14 (Rev. Bd. 1985) (no preference given for provision of new fifth nighttime service to 1285 persons (out of total population of 72,313)); Pleasant Hope Broadcasting, Inc., 6 FCC Rcd 1785, 1792 (ALJ Luton 1991) (difference in nighttime service to underserved areas and populations of only 9727 persons deemed de minimis); Eugene Walton, 6 FCC Rcd 1288, 1303 ¶ 142 (ALJ Gonzalez) (new fifth nighttime service to 2010 more persons deemed too insignificant to merit awarding a comparative preference); Rayne Broadcasting Co., 4 FCC Rcd 6552, 6559 ¶ 57 (ALJ Sippel 1989) (new fifth service to 511 more persons is de minimis); JAM Communications, Inc., 3 FCC Rcd 6285, 6291 (ALJ Stirmer 1988) (new fifth service to 1803 more persons is considered de minimis); Doylan Forney, 2 FCC Rcd 6935, 6947 (ALJ Luton 1987) (new full-time fifth service to 1832 more persons is de minimis and deserves no preference).

99. Therefore, ORA's new fourth service to 183 persons and new fifth service to 2251 persons, at best, even if it had been full-time service and was substantial in nature, would entitle it to a "very slight" preference under WFSP, Inc., 56 R.R.2d 1449, 1450 (Rev. Bd. 1984) (very slight preference given for new 4th service to 576 people and new 5th service to 1,683 people); Houston Family TV, Ltd., 101 F.C.C.2d 676, 705

¶ 107 (ALJ 1984) (very slight preference to new 4th and 5th service to 8,256 persons), aff'd, 101 F.C.C.2d 661, 674 ¶ 23 (Rev. Bd. 1985). In light of the fact that ORA's proposed service will constitute only new nighttime service, ORA is entitled to no preference under this factor. Accord, Barry Skidelsky, 7 FCC Rcd 1, 11 n.15 (Rev. Bd. 1991) (new third nighttime service to 912 persons decisionally insignificant), rev. denied, 7 FCC Rcd 5577 (1992).

D. ULTIMATE CONCLUSIONS

100. First, under the diversification criteria, no applicant will be assessed a diversification demerit. Conclusion ¶¶ 51, 61, 72, 79, and 88. Thus, all applicants are equal under this factor.

101. Under the factor of auxiliary power, Davis and ORA receive a slight preference over all other applicants. Although all applicants except for WII have proposed to install auxiliary power (Conclusion ¶¶ 60, 69, 78, 87, and 94), only ORA and Davis have sustained their burden under Commission precedent to be entitled to an award of a preference under this factor. See Conclusion ¶¶ 60 and 70. Thus, Davis and ORA are entitled to a "slight" preference over ASF, Ringer, and WII under this factor.

102. As to quantitative integration credit, Davis, ASF, Ringer, and WII receive a score of 10,000 under the Hirschman-Herfindahl Index, while ORA receives a score only of zero. Conclusion ¶¶ 52, 62, 73, 80, and 89. Thus, Davis, ASF, Ringer, and WII receive a decisive preference over ORA. Miracle Strip Communications, Inc., 4 FCC Rcd 5064, 5066, ¶ 18 (1989) (difference of 1250 is a clear qualitative difference), recon. den., 5 FCC Rcd 581 (1990). In the case of Ringer, ASF, and WII, this

preference over ORA totally offsets and outweighs the slight auxiliary due to ORA for its auxiliary power proposal. In the case of Davis, it results in a decisive victory over ORA. James Thomas Lamprecht, 99 F.C.C.2d 1219, 1223 ¶ 7 (Rev. Bd. 1984) (even 24% quantitative integration advantage is decisive), aff'd, 3 FCC Rcd 2527 (1988); Marlin Broadcasting of Central Florida, Inc., 4 FCC Rcd 7945, 7955 ¶ 45 (Rev. Bd. 1989) (applicants receiving 100% quantitative integration credit entitled to substantial preference over applicants to receive no quantitative integration credit), recon. denied, 5 FCC Rcd 322 (Rev. Bd. 1990), aff'd as modified, 5 FCC Rcd 5751 (1990), recon. denied as moot, 5 FCC Rcd 7446 (1990). Since ORA is entitled to no other preferences or enhancements (Conclusion ¶¶ 90-93), ORA's lack of integration credit removes ORA from serious comparative consideration in this proceeding.

103. As to the remaining applicants, Davis' proposal is superior or equal to those of the other applicants under nearly every one of the Commission's criteria under the standard comparative issue.

104. As between Davis, Ringer, ASF, and WII, the applicants who have proposed quantitative integration in this proceeding, Davis currently resides adjacent to Westerville, has lived in or adjacent to Westerville for the past eight years, and has lived in the service area of the proposed station for nearly the last ten years. Conclusion ¶ 81. Those other three applicants have never lived in the service area of the proposed station prior to the cut-off date in this proceeding. Conclusion ¶¶ 53, 63, and 74. As noted previously, local residency is a factor of "fundamental consideration" in the licensing scheme (Radio Jonesboro, Inc., 100 F.C.C.2d 941, 944 (1985)), residence in the service

area is not as important a factor as residence in the city of license (McClenahan Broadcasting, Inc., 5 FCC Rcd 7269, 7273, ¶ 18 (Rev. Bd. 1990)), but residency in the area adjacent to the community of license is equal in importance to residence within the proposed community of license. Ronald Sorenson, 6 FCC Rcd 1952, 1954 n.2 (1991). Thus, Davis' continuing local residency (in or adjacent to Westerville) (1986 to present) is totally unmatched by any other applicant in this proceeding. The Commission is interested in residence of "several years' duration" (Policy Statement, 1 FCC Rcd at 396), a policy which will be furthered upon grant of Davis' application. Conclusion ¶ 81. "[I]t has been long-standing practice to award greater enhancement to applicants who have the longer residences in the community of license." Ronald Sorenson, 5 FCC Rcd 3144, 3145 ¶ 8 (Rev. Bd. 1990), aff'd as modified, 6 FCC Rcd 1952 (1991). No other applicant brings any measure of past residency to this proceeding for consideration. Conclusion ¶ 53, 63 and 74. Even perhaps most importantly, Davis' civic experience and exposure to the needs and interests of the community vastly exceeds that of Ringer or ASF's or WII's principals in terms of number of activities,⁹ term,¹⁰

⁹ Davis have been actively and extensively involved in over fifteen activities in recent years. Conclusion ¶ 82. ASF and Ringer each have been involved only in only three activities. Finding ¶¶ 6, 15. WII's principal has not been involved in any civic activities. Finding ¶ 25.

¹⁰ Davis has been involved in creditable civic activities since 1988. Conclusion ¶ 82. ASF's principals were involved in activities only in 1990-91 (Conclusion ¶ 64). While Ringer has been involved in activities on an intermittent basis since 1986, those activities occurred outside the 1 mV/m contour of his proposed station. Conclusion ¶ 54. WII's principal has been involved in no local area civic activities at any time. Conclusion ¶ 74.