1 conference you had indicated that the order of trial of the
2 issues would be the Trinity issues first, then the Glendale
3 issue and then the comparative issues.
4 JUDGE CHACHKIN: All right. Well, if that's the
5 case then fine, then we'll proceed in that fashion. So, the
6 witness will be here at the -- I'm, I'm withholding the ruling
7 on this material and the witness will be here after we've
8 finished with the -- as the order -- counsel has indicated.
9 MR. EMMONS: And, Your Honor, we will as, as
10 discussed yesterday get the testimony in written form first
11 and --
12 JUDGE CHACHKIN: All right.
13 MR. EMMONS: -- distribute it to all the parties.
14 JUDGE CHACHKIN: All right. So, where, where do we,
15 where do we stand as far as your objections? I've indicated
16 I'm going to withhold the ruling on any testimony, any
17 evidence relating to the composite week.
18 MR. SCHAUBLE: Your Honor, just -- can we have a, a
19 date by which that written testimony will be provided so we
20 can have some -- so I can have some time to review the
21 testimony and prepare examination of this witness?
22 MR. EMMONS: Well, Your Honor, I'll undertake to try
23 and get it in hands of all the parties by the end of this
24 week. We'll do our best.
25 JUDGE CHACHKIN: All right. I think that will be

1 sufficient time considering it's going to be a while till we
2 get to this area. All right. Now, we're back with any
3 objections to the testimony of Michael S. Everett and I've
4 indicated I'm going to withhold any ruling with respect to the
5 composite week. Now, what, what, what is the material with
6 respect to the composite week that you object to appear?
7 MR. SCHAUBLE: Okay. Your Honor, the, the first one
8 was the last sentence on paragraph 9 on page 5.
9 JUDGE CHACHKIN: Paragraph 5 --
10 MR. EMMONS: Your Honor, while we're on that
11 sentence, and I'll forget it if I don't mention it now,
12 there's a factual error in, in that I'd like to correct for
13 the record.
14 JUDGE CHACHKIN: Where is this now?
15 MR. EMMONS: The -- on page 5 of --
16 JUDGE CHACHKIN: Page 5.
17 MR. EMMONS: -- Exhibit 32, the last sentence of
18 paragraph 9. Has a date of August 8, 1991. That is
19 incorrect. That should be August 23, 1991. And the spot in
20 question was not as indicated in the second-to-the-last line
21 -- "During the live local `Miami Praise the Lord Program'," so
22 that those words starting with "during" and ending with
23 "Program" should be deleted.
24 JUDGE CHACHKIN: So, so what should -- how should
25 the sentence read?

1 MR. EMMONS: So the, so the sentence should now
2 read, "An example of such a spot would be that, would be that
3 noted in the data for the station's composite week as defined
4 below at Tab H, page 63."
5 JUDGE CHACHKIN: Page 63?
6 MR. EMMONS: "Where a spot for `His Hand Extended'
7 was run on Friday, August 23, 1991." And I apologize for that
8 error.
9 JUDGE CHACHKIN: Would you correct -- undertake to
10 correct the reporter's copies?
11 MR. EMMONS: Yes, sir.
12 JUDGE CHACHKIN: So, your objection is now -- would
13 you state that the pages -- with composite week?
14 MR. SCHAUBLE: Sure. It's -- the first was that
15 sentence just referred to, and then there's paragraphs -- on
16 pages 14 and 15 --
17 JUDGE CHACHKIN: Fourteen and fifteen.
18 MR. SCHAUBLE: -- paragraphs 22, 23 and 24.
19 JUDGE CHACHKIN: Is that it?
20 MR. SCHAUBLE: And then -- well, my objection will
21 also go to Tab C which is the public notice concerning the
22 composite week, and Tabs D through H, which are the program
23 logs.
24 JUDGE CHACHKIN: F, C and Tabs D?
25 MR. SCHAUBLE: D through, D through H, Your Honor.

1 JUDGE CHACHKIN: All right. I'll withhold the
2 ruling on the admission of that material until the, the person
3 who sponsers this exhibit testifies.
4 MR. SCHAUBLE: And, Your Honor, I think this would
5 also relate to Exhibit 35, testimony of Christopher Holt,
6 which is the compilations based on program logs.
7 JUDGE CHACHKIN: All right. I'll withhold the
8 ruling on that too. All right. Any other objections?
9 MR. SCHAUBLE: Yes, Your Honor. On page 7 of the
10 exhibit --
11 JUDGE CHACHKIN: Page 7. Yes?
12 MR. SCHAUBLE: -- the, the first line, I object to
13 the sentence, "I am proud of the record to which these reports
14 attached" on the grounds of the relevance. This adds nothing
15 to the record.
16 JUDGE CHACHKIN: Overruled. I agree that it adds
17 nothing to the record, but it's a meaningless -- it's not
18 worth objecting to. The record will be the basis for any
19 findings.
20 MR. SCHAUBLE: Okay. Your Honor, next, on page --
21 starting on page 7, I object to the entirety of paragraph 12,
22 13, 14.
23 JUDGE CHACHKIN: This deals with the outreach --
24 MR. SCHAUBLE: This deals with the --
25 JUDGE CHACHKIN: All right. I'm going to overrule

1 the objection.

2 MR. SCHAUBLE: And just to, just to make the record

3 clear, I, I object on the basis of relevance that no authority

4 has been shown that outreach credit can be given through this

5 sort of directly religious activity. Next, Your Honor, I

6 object to paragraphs 16, 17, 18 and 19 and Tab B which are a,

7 a sample of letters from viewers on, on several bases. First,

8 on the basis of relevance. Insofar as I've reviewed this

9 letter -- these letters, they seem to be nothing more than

10 general letters of praise, there seems to be no tie into any

11 of the station's issue-responsive programming or treatment of

12 community issues. And to give you an example, you know, if a,

13 if a licensee received a letter saying -- from a viewer saying

14 that they really liked a particular entertainment or sports

15 program, I believe such a letter would have no relevance

16 whatsoever. And here where there are general -- you know,

17 these sorts of general letters which have no tie into renewal

18 expectancy, I would submit, Your Honor, have no relevance. On

19 the flip side, if these letters are relevant, I, I think one

20 could argue that, you know, if somebody wrote a letter saying

21 for example that they thought Paul Crouch was a boring host of

22 a program, or a letter from somebody complaining that their

23 favorite group was not -- why wasn't their favorite group

24 contained on a music video program could be offered in

25 evidence and I think we'd be getting far afield here from the,

1 from the basis on which a renewal expectancy is granted.
2 Another problem I have with this portion of the exhibit is it
3 seems to be being offered for a very subjective purpose, i.e.,
4 that Channel -- that the Channel 45 viewers are considered
5 part of the TBN family. And even if Your Honor was to make --
6 even if Your Honor could competently make such a finding, I
7 don't think that would have anything to do with, with the
8 renewal expectancy. I think that's, that's far too subjective
9 and nebulous a finding to make based upon -- especially based
10 upon the evidence we have here. Another point, Your Honor, is
11 that Trinity has already had a full opportunity to make its
12 showing concerning reputation, I mean, in its public witness
13 testimony in its 30 exhibits. And I think these -- I think it
14 hasn't shown cause to supplement the showing with these sorts
15 of letters. Another relevance problem we have here, Your
16 Honor, is that these, these opinions of the -- from members of
17 the general public have no relevance particularly where
18 there's -- especially as I'd mentioned previously where
19 there's no tie into the station's issue-responsive or --
20 issue-responsive programming. And finally, Your Honor, I
21 object on the basis that these are, these are unsworn letters
22 and apparently being offered for a hearsay purpose.
23 JUDGE CHACHKIN: Anyone else have any objections to
24 this material? Bureau have any problems with this material?
25 MR. HONIG: I have the same objections, Your Honor.

1 JUDGE CHACHKIN: What's the Bureau's position?

2 MR. SHOOK: Basically, Your Honor, our, our concern

3 is that of giving weight to these materials. It may well be

4 that in the final analysis there isn't much weight to be given

5 them, but as far as a blanket exclusion at this point, we

6 don't see that that's necessary.

7 JUDGE CHACHKIN: You know a single case where the

8 Commission has ever allowed in letters of this nature?

9 MR. SHOOK: No, Your Honor, I can't tell you that I

10 have.

11 JUDGE CHACHKIN: I don't think there is a single

12 case where the Commission has allowed in letters from viewers

13 in a renewal case. In all the, in all the cases that I've

14 read I've never seen an instance where an attempt was made to

15 put in letters from viewers. Well, an attempt might have been

16 made but it never was accepted.

17 MR. EMMONS: Well, Your Honor, in the, in the

18 Metroplex renewal case --

19 JUDGE CHACHKIN: What was happening in the

20 Metroplex? Letters from viewers who praised the station were

21 allowed in?

22 MR. EMMONS: Oh, yes, indeed.

23 JUDGE CHACHKIN: Well, you'll have to show me that

24 where, where they allowed letters in from viewers who praised

25 the station.

1 MR. SHOOK: Your Honor, it may well be that these
2 letters are in some way connected with the station's
3 reputation, but I cannot go into any more detail than that
4 because to be frank, Your Honor, we have not been able to
5 study these.
6 JUDGE CHACHKIN: Well, according to my reading of
7 Cole's reputation means -- is -- reputation does not mean
8 evidence -- what it means in the court is the reputation of an
9 individual for truth or veracity. When the Commission talks
10 about reputation, it's not as Trinity is trying to do it by
11 having an individual say that they're aware of the reputation
12 of the community. Reputation as the Commission uses it in
13 Cole's means that the individual is a community leader based
14 on testimony from community leaders who say that they're
15 favorably disposed to the station because of the good works
16 the station has done for their organization and based on the
17 absence of complaints from viewers or listeners. The
18 Commission on the basis of that says that's what the
19 Commission means by reputation. Evidence, not by putting in
20 affidavits or declarations from individuals saying that the
21 station has a reputation for, for serving the public and the
22 community. In other words, it's a conclusion reached on the
23 basis of evidence put in, not the, not to the conclusions of,
24 of the, of the, of the declarants. It's a conclusion reached
25 by the triers of the fact on the basis of factual evidence put

1 in the record. That's what Cole's says -- the Commission
2 means by reputation evidence.
3 MR. SHOOK: Your Honor, you had, you had mentioned
4 in your discussion of Cole's, I believe I heard you say
5 something about it could be statements of discontent or
6 something from individuals that could affect the perception of
7 the community leaders which in turn would affect the
8 Commission's assessment of reputation? Is that --
9 JUDGE CHACHKIN: I, I said by reputation evidence is
10 the opinion of community leaders based on their knowledge of
11 what the station has done for the community. And also the
12 absence of complaints from viewers or listeners. That's what
13 the Commission means by reputation evidence.
14 MR. SHOOK: And that's, that's why, and that's why
15 --
16 JUDGE CHACHKIN: I said the absence of complaints
17 --
18 MR. SHOOK: I understand.
19 JUDGE CHACHKIN: -- not the fact that there are
20 people who are favorably disposed to the station. That's
21 immaterial. It's not responsive to community needs -- the
22 fact that they liked entertainment programming or what-have-
23 you is not a factor the Commission considers.
24 MR. SCHAUBLE: Your Honor, if I could -- I have had
25 a chance to go through some of these letters just randomly

1 sifting through here. Page 4 we have a letter from 12 -- from
2 somebody who is 12 years old and in the sixth grade, Jan Crab
3 (Phonetic) saying "I watch your show every day. I think
4 you're just the cutest little thing. I like your laugh," and
5 she goes on to talk some of the other thing she likes. Page
6 23, "How are you? I am fine. I really like your show. I
7 watch your show Wednesday, Thursday. My name is Maria. I am
8 11 years old."
9 JUDGE CHACHKIN: That's going to advance the record
10 much.
11 MR. EMMONS: Well, Your Honor, you invited me to
12 address Metroplex and I, and I will do that.
13 JUDGE CHACHKIN: Yes.
14 MR. EMMONS: In the, in the initial decision,
15 paragraph 117 of Metroplex under the heading "Letters of
16 Appreciation," there are two sentences. The first talks about
17 letters received -- these are unsolicited letters received by
18 the station from charitable, educational, government,
19 religious organizations and so forth. The second sentence
20 says, "In addition, WHYI received numerous favorable letters
21 from individuals responding to the station's service to the
22 public." So, letters from individuals have been accepted and
23 relied upon in --
24 JUDGE CHACHKIN: But these are not individuals
25 responding to service to the public. These are letters from

1 listeners giving their general view saying they -- I just
2 heard a sample of the letters.
3 MR. EMMONS: Well --
4 JUDGE CHACHKIN: There may be others. But that's
5 not what -- the, the type of letters that appears to me they
6 were talking about in Metroplex.
7 MR. EMMONS: Well, in one -- I remember one from
8 Metroplex. It was a letter from either a child or a parent of
9 a child who were facing a destitute Christmas and the station
10 had organized some program -- Toys for Children or something
11 and, and they received a toy and they were thrilled and that
12 was --
13 JUDGE CHACHKIN: All right. That's where they
14 performed a service to the public. But the letters that --
15 are you telling me the letters that you have there are of a
16 similar tenor --
17 MR. EMMONS: Well --
18 JUDGE CHACHKIN: -- or are they just general letters
19 of praise for the station?
20 MR. EMMONS: Well, I wouldn't want to throw them all
21 out without, without looking at each one of them then Your
22 Honor --
23 JUDGE CHACHKIN: Well, I --
24 MR. EMMONS: -- if we're going to make that
25 distinction.

1 JUDGE CHACHKIN: Well, you pointed out Metroplex.
2 You, you said Metroplex supported your position and you could
3 throw -- put in the record all the letters that the station
4 has received for -- during the license period. Now, Metroplex
5 doesn't stand for that proposition and I don't know of any
6 other case that stands for that proposition. Now, you pointed
7 out the two types of letters that was allowed in in Metroplex.
8 Now, they don't fit the letters that you want to put in. Now,
9 there may be certain letters in, in there where they -- which
10 may fit it, I don't know, but certainly all the letters don't
11 fit it and I don't know of any case where the Commission has
12 ever considered letters generally from the public favorably
13 disposed toward the station. Unless you could show me such
14 precedent, I'm not going to receive it.
15 MR. EMMONS: Well, can we -- I don't want to take
16 the time to go through each letter, Your Honor, but I think --
17 JUDGE CHACHKIN: Unless you can show me you have
18 letters which the Commission has considered and allows in the
19 record I'm not going to grant it, I'm not going to allow it
20 in. This is your exhibit.
21 MR. EMMONS: Well, Your Honor, again, I don't want
22 to take the time as we sit here. Perhaps after lunch break
23 I --
24 JUDGE CHACHKIN: All right. Well, we'll just
25 reserve ruling on that too I guess until -- where are we now,

1 what stage? Where, where is the -- you're objecting to the
2 letters. Have they been identified yet?
3 MR. SCHAUBLE: Yes, Your Honor. They're at Tab B to
4 Exhibit 32.
5 JUDGE CHACHKIN: Tab B?
6 MR. SCHAUBLE: Yes.
7 JUDGE CHACHKIN: Well, let me indicate -- just to
8 save time I'm going to reject all of these letters. If you
9 want me to reconsider specific letters which you claim meet
10 the standards of Metroplex you can do so, but I'm not going to
11 -- that's your responsibility. You introduced these letters,
12 you say you have precedent. The precedent that you mentioned
13 doesn't seem to support your position that every letter that
14 someone wrote to the station is, is admissible. So, I'm going
15 to reject -- is it Tab B?
16 MR. SCHAUBLE: Tab B, and my objection is also
17 paragraphs 16 through 19 of the testimony which discusses
18 these letters.
19 JUDGE CHACHKIN: All right. I'm rejecting
20 paragraphs 16 through 19 and Tab B.
21 (Whereupon, paragraphs 16 through 19
22 and Tab B of TBF Exhibit 32 is hereby
23 rejected.)
24 JUDGE CHACHKIN: Any other objections?
25 MR. SCHAUBLE: Your Honor, just -- in paragraph

1 there is references to "we work hard but we also work very
2 hard." As I understand Your Honor, Your Honor -- that there's
3 no -- that Your Honor is not going to accept those
4 characterizations just, just because they're in there but will
5 make, but will make the conclusions based upon the other
6 evidence.
7 JUDGE CHACHKIN: You're correct. The -- my, my
8 conclusion will be based on the, on the facts established and
9 not by statements of praise -- self-praise made by the station
10 and it's employees and principals.
11 MR. SCHAUBLE: And on, on that basis -- not bother
12 to go through and object to each and every characterization.
13 JUDGE CHACHKIN: All right.
14 MR. SCHAUBLE: Page 13, paragraph 21, I object to
15 the first two sentences on the basis that these, these are
16 conclusions here, these are not -- this is not -- the first
17 two sentences are not factual. Almost reads like a statement
18 of the law here.
19 MR. EMMONS: I think they're relevant --
20 JUDGE CHACHKIN: Background of broadcast service?
21 Is that what --
22 MR. SCHAUBLE: Yes, the first two, the first two
23 sentences.
24 MR. EMMONS: Your Honor, this is I think relevant
25 to, to show what the efforts of the station were in -- they,

1 they simply describe the station's belief about the process
2 and what it should accomplish.
3 MR. SCHAUBLE: Your Honor, I have no objection to
4 the remainder of the paragraph where they talk about -- where
5 he talks about what those efforts were. My objection goes to
6 the conclusions expressed in the first two sentences.
7 JUDGE CHACHKIN: I'll overrule the objection.
8 Again, I'm only going to concern myself with the actual
9 efforts, not the general conclusions or the self-praise of the
10 station. Any other objections?
11 MR. SCHAUBLE: Just note, Your Honor, next -- pages
12 14 and 15 or paragraphs 20 through 24 on the --
13 JUDGE CHACHKIN: I've already rejected that
14 material. Well, no, I haven't rejected it, I've reserved
15 ruling on that material.
16 MR. SCHAUBLE: Next, Your Honor, on the paragraph
17 26, I object to the last sentence which, which refers to the
18 children's, children's programming.
19 JUDGE CHACHKIN: Yes.
20 MR. SCHAUBLE: I, I think to, to reserve on -- to
21 rule on this particular objection -- I have objections to each
22 of these programs and I think maybe the way to --
23 JUDGE CHACHKIN: What's your objection?
24 MR. SCHAUBLE: Okay. My objection, Your Honor, on
25 each of these is that no adequate showing has been made that

1 any of these program -- any of these children's programs are
2 the type of programs that are considered -- that the
3 Commission considers under renewal expectancy. The
4 Commission's focus as stated in the Fox case is, and in other
5 cases, that the Commission is looking at programming that is
6 responsive to community issues are ascertained by the station.
7 I'm not saying that children's programming can never fall
8 within that category, but I think -- I don't think Trinity has
9 made such a showing with respect to any of the programs listed
10 in this exhibit.
11 JUDGE CHACHKIN: Well, let -- just to make clear,
12 I'm not going to reject this exhibit. This is the station
13 showing -- you can in cross-examination if you wanted to point
14 out the deficiencies of this programming, whether it's local
15 or nonlocal, whether it's entertaining or nonentertainment,
16 but nevertheless this is their programming they're putting
17 their showing. Now, it's up to you or other parties to
18 demonstrate the deficiencies in considering or determining
19 whether entitled to renewal expectancy. But I'm not going to
20 reject their attempt to put in -- to show what the station
21 did. That's what you're asking me. This is their
22 programming. If you have any problems with it, point it out.
23 MR. SCHAUBLE: Your Honor, it's our position with
24 respect to this programming, just to be clear, that I think
25 that their showing is deficient on its face and that, that for

1 instance, paragraph 27, "Kids Praise the Lord," which
2 discusses a -- you know, a kids' variety program and that in
3 and of itself has no bearing on, on renewal expectancy.
4 JUDGE CHACHKIN: Why? Is it nonentertainment?
5 MR. SCHAUBLE: Your Honor, it's, it's logged as --
6 according to the program logs, none of this programming with
7 one exception is logged as instructional, instructional or
8 educational programming, most all of it is logged as religious
9 programming.
10 JUDGE CHACHKIN: Well, religious program is
11 nonentertainment, is it not?
12 MR. SCHAUBLE: Your Honor, I think the Commission's
13 focus is on, is on, is on issue-responsive programming.
14 JUDGE CHACHKIN: Well, you, you -- where, where has
15 the Commission ever said that? Well, that's another question.
16 I mean, whether this programming is -- meets the needs -- we
17 haven't gotten to ascertainment. You could show that this
18 program doesn't meet the needs, interests reflected in the
19 ascertainment -- I don't know.
20 MR. SCHAUBLE: Your Honor --
21 JUDGE CHACHKIN: But the, the program is still --
22 appears to me -- religion is -- religious programming is
23 nonentertainment, and religious programming which deals with
24 issues in the community are material the Commission looks at.
25 Now, this obviously are not straight sermons strictly on

1 religion.

2 MR. SCHAUBLE: Your Honor, I don't, I don't think

3 there's any showing here that this, this sort of programming

4 does relate to issues in the community -- that's the heart of

5 my --

6 JUDGE CHACHKIN: Well, then -- well, you'll have to

7 -- you can demonstrate that. They have their ascertainment

8 efforts and you could show that there is no connection between

9 the two and this doesn't constitute nonentertainment

10 programming. You, you could point that out but that doesn't

11 preclude them from making their showing.

12 MR. SCHAUBLE: I would put that on the -- for most

13 of the license term on the issues, on the issues problems list

14 which is much of their showing, none of these programs are

15 mentioned at all and, and I believe in none of the issues

16 programs list is there any specific mention of any of these

17 specific programs with respect to the station's issue-

18 responsive programming.

19 JUDGE CHACHKIN: What does that mean? They're not

20 required to put down every programming that they had. Aren't

21 they supposed to put down 10 or whatever the number is which

22 -- of, of their programming -- of their -- in their issue-

23 responsive list? I, I don't understand what your, what your

24 point is. If you wanted to bring out all of these things then

25 why didn't you ask to cross-examine the man -- Mr. Everett who

1 put in this exhibit? Unless it's on its face if -- these
2 deficiencies are apparent on their face by reading the
3 description of the programming and by looking at their
4 ascertainment efforts then you could argue that in your
5 findings.
6 MR. SCHAUBLE: Your Honor, that is, that is what --
7 JUDGE CHACHKIN: Well, then you could argue that in
8 your findings. But as far -- if it's not apparent on its face
9 and you didn't ask to cross-examine the witness, then I'll
10 have to treat it as, as it appears on, on the material that's
11 submitted. So, if you have any objection to any of the
12 specific programmings on the grounds that somehow it's not
13 issue-responsive, I'm, I'm going to overrule your objection.
14 This is their showing. If you could demonstrate it -- if you
15 feel that somehow there's deficiencies in this --
16 MR. SCHAUBLE: Your Honor, just, just so the record
17 is clear, my general objection, and I have a few specific
18 objections over and above this which I'll go into in a moment,
19 my objection would go from the last sentence on paragraph 26
20 on page 16 through the listings of each program in paragraphs
21 27 through 40 on page 22.
22 JUDGE CHACHKIN: And what grounds are you objecting,
23 briefly?
24 MR. SCHAUBLE: My objection is on the basis of
25 relevance that with respect to each of these programs --

1 JUDGE CHACHKIN: And why isn't it relevant? Because it's not
2 on the issue-responsive list?
3 MR. SCHAUBLE: That no showing has been made that,
4 that these programs are responsive to community issues.
5 JUDGE CHACHKIN: And by showing you mean what? The
6 issue-responsive list?
7 MR. SCHAUBLE: The issue, the issue-responsive list,
8 the ascertainment --
9 JUDGE CHACHKIN: Is there a requirement that you
10 list all your programs you carried at -- on the station
11 through the license term on the issue-responsive list?
12 MR. SCHAUBLE: Your Honor, there is no requirement,
13 but I think the, the record will show that it was Trinity's
14 normal practice to have at least types of -- each type of
15 program, you know, to -- that Trinity's list of issue-
16 responsive programming was, was quite comprehensive. All
17 these programs were network programs and the record will
18 reflect that the way the issues-programs lists were, were
19 prepared that for the, for the network programming the local
20 public affairs director would receive from the network lists
21 of all the programs that were responsive to the top community
22 issues.
23 JUDGE CHACHKIN: Well, these -- all these programs
24 here are network programs?
25 MR. EMMONS: The children's programs, I believe,

1 Your Honor, yes. But I don't think that is --
2 JUDGE CHACHKIN: Does it say that on the -- on your
3 exhibit, the source?
4 MR. SCHAUBLE: Yes, Your Honor. The second sentence
5 on paragraph 26.
6 JUDGE CHACHKIN: Certainly can argue that if they're
7 not local programs therefore they're not entitled to as much
8 credit as local programming would be. But as long as the
9 facts are reflected here I don't know what your problem is --
10 you could argue the deficiencies, but if your objection is to
11 their listing of the programs that they carried in which
12 they're proffering to show that they met the community needs,
13 your objection is overruled.
14 MR. SCHAUBLE: Very well, may I go on to the few
15 specific objections I have?
16 JUDGE CHACHKIN: Go ahead.
17 MR. SCHAUBLE: On page 17, paragraph 28, concerning
18 "Joy Junction." I object to -- from, from about halfway down
19 the paragraph, "The sheriff had a theme or moral lesson that
20 ran through each program usually based on a Scripture verse."
21 I object to that and the following sentence on the basis that
22 the, the morals that are taught in the particular program are
23 no basis for forming -- for awarding renewal expectancy credit
24 and the Commission should not get involved in the business of
25 whether programming is "moral" or not.

1 JUDGE CHACHKIN: But that's, that's something to
2 argue in your finding. They provide a description of the
3 program. You can contend in your findings that there
4 shouldn't be any credit given to this programming but that's
5 not a basis for, for rejecting the exhibit.
6 MR. SCHAUBLE: Okay. Next, Your Honor, paragraph
7 29, "Toddler's Friends" here. I object to this program on the
8 basis that there is no description given. Mr. Everett can't
9 even remember -- if it was a children's program that was
10 broadcast and -- but there's -- apparently can't remember
11 anything else other than that.
12 JUDGE CHACHKIN: That you could certainly point out
13 in your findings that no credit can be given since there's no
14 description of the program and therefore you don't know what
15 the nature of the program is. But that again is it's --
16 they're doing the best to show you what they carry. You could
17 argue all the deficiencies you want in your findings.
18 MR. SCHAUBLE: Your Honor, that concludes my --
19 JUDGE CHACHKIN: All right.
20 MR. SCHAUBLE: -- on that, on that section of the
21 exhibit.
22 JUDGE CHACHKIN: What is the remainder -- objections
23 on this exhibit?
24 MR. SCHAUBLE: My next exhibit, Your Honor, is on
25 page 29, paragraph 52.

1 JUDGE CHACHKIN: 29, paragraph 52.

2 MR. SCHAUBLE: I object to this entire paragraph,
3 Your Honor, on the basis that none of -- that certainly at
4 least much of this programming in here has no relevance
5 renewal expectancy. For example, in the second and third
6 paragraph there is reference to a -- to "The Hawaiians" and
7 "New Directions" which are music programs and I'm not aware of
8 any authority for giving credit for, for music programs either
9 under programming or under "self-expression."

10 JUDGE CHACHKIN: You're, you're right that the
11 Commission concerns itself with nonentertainment programming
12 and if this is strictly entertainment then -- any credit in
13 terms of renewal expectancy, and if the description shown here
14 is just a music program then that will be the case.

15 MR. SCHAUBLE: Going on, Your Honor, the remainder
16 of the paragraph deals with various types of religious --
17 appears to be various types of religious programs and I object
18 on the basis of the mere fact that a program is characterized
19 as a religious program as I believe Your Honor said yesterday
20 does not make it relevant to a renewal expectancy showing.

21 JUDGE CHACHKIN: That's not what I said. I said it
22 doesn't mean that -- it's not a public affairs program.
23 Unless -- but I'm saying the fact that it was a religious
24 program doesn't preclude it from being public affairs
25 programming.

1 MR. SCHAUBLE: And here Your -- I don't -- there
2 isn't --
3 JUDGE CHACHKIN: The Commission has specifically
4 said that religious programs are nonentertainment.
5 MR. SCHAUBLE: Finally, Your Honor, on pages -- at
6 the bottom of page 30 going onto page 31, I object to the
7 final paragraph. This is a -- apparently an attempt by the
8 witness to summarize or -- summarize and characterize the
9 proceeding 53 paragraphs. One, I don't believe it's proper,
10 and two, I don't believe that is adds anything to the record.
11 This appears to be conclusions which Trinity wants Your Honor
12 to draw.
13 JUDGE CHACHKIN: I'll, I'll reject paragraph 54.
14 MR. SCHAUBLE: Your Honor, that, that concludes my
15 objections to Exhibit 32.
16 JUDGE CHACHKIN: Anyone else have any objections?
17 MR. HONIG: I do, Your Honor.
18 JUDGE CHACHKIN: Go ahead, Mr. Honig.
19 MR. HONIG: Also for much the same reasons as just
20 stated with respect to paragraph 54, I object to paragraphs 47
21 through 52. These are in the nature of objective findings
22 based on other evidence which isn't referred to in these
23 paragraphs. At best, it's, it's self-praise, it's entirely
24 subjective, and, and it's the station's opinion of its own
25 service which is not in a form in which any findings -- useful

1 findings could be developed.

2 MR. EMMONS: Your Honor, let me respond to that if I

3 may. These paragraphs in question I think state the

4 licensee's view of its purpose of its, of it's programming

5 public service. The licensee makes the distinction here that

6 its -- the focus and its intended focus of its public service

7 work is to provide practical help to persons who need help of

8 some kind or another, whether it be counseling or drug abuse

9 or anything of that nature. And, and what the licensee is

10 saying here, that it has determined that other stations in the

11 community tend to have discussion-oriented programs whereas

12 this licensee's focus is to providing practical help. And it

13 seems to me that that's quite relevant and admissible for the

14 purpose of establishing the licensee's statement of what it is

15 trying to do.

16 JUDGE CHACHKIN: Where is the factual basis for --

17 programming on other stations?

18 MR. EMMONS: Well, in --

19 JUDGE CHACHKIN: I don't see anything in here. I

20 mean, the contention here that when the -- other stations

21 cover a subject they always do it in the framework of

22 differing viewpoints. I don't think that's, that's ridiculous

23 on its face to say when they're talking about a specific

24 problem like alcohol that they have always a discussion

25 between parties about whether it's good to be alcoholic or