

1 the preliminary work in these areas have been  
2 accomplished. A preliminary meeting has been held  
3 with the four largest operators." Now, are those the  
4 meetings you were referring to a minute ago in your  
5 testimony?

6 A May I ask you a question? This is a draft  
7 document. Does the original document have precisely  
8 the same comments?

9 Q Well, the only text that we have seen --  
10 MR. COHEN: Off the record. Maybe I can  
11 be helpful.

12 (Whereupon, at 1:55 p.m., off the record  
13 until 1:57 p.m.)

14 BY MR. EMMONS:

15 Q Mr. Etsell, my question refers to the  
16 sentence in the second paragraph on page 2 of the "Low  
17 Power TV Business Plan." The sentence that reads "a  
18 preliminary meeting has been held with the four  
19 largest operators."

20 A Excuse me. I'm sorry. I'm on the wrong  
21 document.

22 Q Oh, I'm sorry. That was my problem.

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1           A     No, I think you were on the right  
2 document.

3           MR. SCHONMAN: 75144.

4           THE WITNESS: You're there, all right.

5           BY MR. EMMONS:

6           Q     All right. I'm on the sentence that reads  
7 "a preliminary meeting has been held with the four  
8 largest operators."

9                     My question to you is if what you are  
10 referring to in that sentence are the meetings that  
11 you have described a few minutes ago in your testimony  
12 with ATC, and Lenfest group and Susquehana, and Cable  
13 Adnet?

14           A     Those meetings that I -- I just discussed  
15 were actually the secondary meetings. The first  
16 meeting was at a Cable Adnet board meeting. Not all  
17 the members of the board were present. Not all the  
18 principles of the board were present. There were  
19 representatives of the companies there. The four  
20 people that I mentioned earlier were not all in  
21 attendance at that meeting and I do not recall which  
22 ones were and which ones weren't, frankly. I just

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1 remember that -- I believe Jim Munchel, for instance,  
2 was not there, and I think there was someone else who  
3 was represented by another person.

4 I did make a presentation to that board of  
5 the concept, and then later, continued discussions --

6 Q All right.

7 A -- with the four individuals I mentioned  
8 previously.

9 Q Okay. So, the preliminary meeting  
10 referred to in this sentence is a meeting that you had  
11 attended. Was that at Cable Adnet's offices?

12 A At Cable Adnet's offices in Hershey,  
13 Pennsylvania.

14 Q Okay. And that, obviously, was sometime  
15 prior to February 12, 1991, since you're referring to  
16 it in this memorandum. And it was a single meeting  
17 with some number of people who were members of the  
18 Cable Adnet board, correct?

19 A That was my first preliminary contact with  
20 the cable operators.

21 Q Okay.

22 A I had had discussions with Mr. Keppler, as

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1 I mentioned earlier, prior to that meeting.

2 Q Okay. Mr. Keppler was with Cable Adnet?

3 A Correct.

4 Q At the presentation that you made, do you  
5 remember when that was in relation to this memorandum?

6 This memorandum was dated February 12, 1991.

7 A I do not remember.

8 Q Do you remember if it was before Christmas  
9 or after Christmas?

10 A I remember -- no, I don't, frankly.

11 Q And you say in the memorandum, "their  
12 response was very positive." What can you tell us  
13 about their response? I take it you mean the response  
14 that was given at the meeting, during the course of  
15 that discussion?

16 A Their response was that they felt that the  
17 concept had merit and that they were willing to  
18 continue discussions on the subject. Those people who  
19 -- who were at that meeting could make that statement.  
20 Those people who were not senior members of their  
21 companies took that information back, and I had later  
22 conversations with the senior members of the company.

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1 Q Okay. Now, still focusing on that meeting  
2 at Cable Adnet, were you the only person there  
3 representing Raystay?

4 A Yes.

5 Q Did you take any notes during the course  
6 of that meeting?

7 A I remember taking the charts. The ones  
8 you referred to that --

9 Q Right.

10 A -- that was made by the Agency. And I  
11 believe that I took a list of the locations of the  
12 stations.

13 Q Okay. Do you remember making any notes  
14 yourself during the course of the meeting?

15 A No, I did not.

16 Q You didn't. Did you write any follow-up  
17 memorandum or correspondence about the meeting, apart  
18 from this document we're looking at?

19 A Not that I recall.

20 Q Did you report about that meeting to Mr.  
21 George Gardner?

22 A I'm sure I had discussions with Mr.

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1 Gardner and also with -- with George Gardner and David  
2 Gardner.

3 Q Did you discuss this meeting with Lee  
4 Sandifer?

5 A I do not recall specifically, but it would  
6 be normal course for that to occur.

7 Q Now, in the next sentence in that same  
8 paragraph, you say "additional meetings are planned  
9 for February and March."

10 Did such additional meetings take place?

11 A I'm sorry, where are we? We're in the  
12 next sentence?

13 Q Yes, in that same paragraph.

14 A I did follow up that meeting with  
15 additional discussions on cable operators. And I can  
16 not specifically remember that they occurred in  
17 February and March, but I did have subsequent  
18 meetings.

19 Q Who did you meet with?

20 A The four individuals that I had mentioned  
21 previously. But if you would like me to restate them,  
22 I will.

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1 Q Let me first ask you, did you meet with  
2 them separately or did you meet with them  
3 collectively?

4 A I -- I never met with them collectively  
5 except at the board meeting where I believe there were  
6 two of them in attendance.

7 Q Okay. Yes, if you don't mind, give me the  
8 names again of what I'll call the follow-up meetings  
9 that you had.

10 A John Scott --

11 Q And he was with?

12 A ATC.

13 Q Okay.

14 A I had a subsequent meeting with Harry  
15 Brooks.

16 Q And he was with?

17 A Lenfest Communications, otherwise known as  
18 Suburban Cable.

19 Q All right. Anyone else?

20 A Jim Munchel of Susquehana Broadcasting who  
21 operated in York, Pennsylvania.

22 Q Can you spell his last name?

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1 A No.

2 Q Okay. And was there another one?

3 A Yes, there was another one. I -- I did  
4 have some conversation with Hank Lockheart of Sammons.

5 Q Okay.

6 A Sammons Communications, to be precise.

7 Q I guess we ought to take these meetings  
8 one at a time so we can avoid confusion. Let's start  
9 with John Scott with ATC. When did you have a follow-  
10 up meeting with him, or meetings?

11 A I -- I do not recall.

12 Q Did you meet with him personally, or was  
13 it a telephone conversation?

14 A I met with him personally, but I don't  
15 recall the location. It was not in his office. And  
16 I believe I also followed up with at least one  
17 telephone call if not more.

18 Q And what about Harry Brooks? Did you meet  
19 with him personally?

20 A I met with Harry Brooks personally in his  
21 corporate office in Glassglow.

22 Q Do you know when that was?

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1 A Again, I don't recall.

2 Q Did you have more than one meeting with  
3 Mr. Brooks?

4 A Mr. Brooks referred me to George Strimmel,  
5 an employee of their company. And I can spell  
6 Strimmel, that's S-T-R-I-M-M-E-L. He was -- he had  
7 experience in television -- in purchasing television  
8 broadcast programming, particularly packaging movies.  
9 And he and I had met on at least two occasions and I  
10 believe three, further developing a movie package  
11 concept.

12 Q You and Mr. Strimmel met two or three  
13 times after Mr. Brooks referred you to Mr. Strimmel?

14 A I -- most likely the first time was when  
15 I met with Mr. Brooks, and I believe there was two  
16 more times thereafter.

17 Q And so, you had two in-person meetings  
18 with Mr. Strimmel?

19 A Actually, I had three. The first one was  
20 a meeting as well.

21 Q All right. Just to close the -- on Mr.  
22 Brooks. You met with Mr. Brooks in his office, and he

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1 referred you to Mr. Strimmel. Did you have any  
2 subsequent meetings with Mr. Brooks?

3 A Mr. Brooks and I have -- at that time, Mr.  
4 Brooks was on the Pennsylvania Cable Television Board  
5 of Directors as I was and he and I, I believe, did  
6 discuss it from time-to-time when we met through our  
7 other association with the cable association.

8 Q Do you have specific recollection of any  
9 such discussions with Mr. Brooks?

10 A I can't be specific.

11 Q Now, the first meeting you had with Mr.  
12 Brooks when he referred you to Mr. Strimmel, can you  
13 say when that meeting occurred?

14 A No, I do not recall.

15 Q Can you say when your meetings with Mr.  
16 Strimmel occurred?

17 A Early in 1991, to the best of my memory.

18 Q Is it your recollection, going back to  
19 John Scott, that your meeting with him was also around  
20 early 1991?

21 A The meetings occurred in, to the best of  
22 my memory, in the latter part of 1990 and the early

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1 part of 1991. I would say the last quarter of '90 and  
2 the first quarter of 1991, but specifically when, I do  
3 not remember.

4 Q And Jim Munchel of Susquehana, you said  
5 that you had a follow-up meeting with him. And by  
6 follow-up, I mean after the meeting you had at the  
7 Cable Adnet offices. Did you meet personally with Jim  
8 Munchel?

9 A I met him personally, but again, at some  
10 other activity. I do not recall precisely what  
11 activity, but it was not in his office. And I did  
12 have a telephone conversation with him. I don't know  
13 which occurred first.

14 Q So, you met him once and you had a  
15 telephone conversation?

16 A At least one telephone conversation, yes.

17 Q Okay. And generally, when did the meeting  
18 occur with Mr. Munchel?

19 A Again, all these meetings occurred in that  
20 time frame of the last quarter of '90 and the first  
21 quarter of 1991.

22 Q All right. And then the last person whose

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1 name you mentioned was Hank Lockheart of Sammons. Do  
2 you remember, did you meet with him in person?

3 A Again, I know I talked to him on the  
4 telephone, and I believe I also met with him at  
5 Pennsylvania Cable Television Association activities.

6 Q And in the same general time period as the  
7 others?

8 A Yes.

9 Q Now, did you make any notes of any of your  
10 meetings or telephone conversations with any of these  
11 people, Mr. Scott, Mr. Brooks, Mr. Munchel, or Mr.  
12 Lockheart, or Mr. Strimmel?

13 A I may have made some notes. Any notes  
14 that I may have made are -- have been destroyed some  
15 time ago, if I made notes. I frankly don't remember.  
16 It would be typical for me to make some notes.

17 Q What is your practice about retaining  
18 notes in your file, if you made notes? And you say it  
19 was typical that you made notes. Under what  
20 circumstances would they be destroyed?

21 A Probably when I used up a tablet. I kept  
22 them on a tablet and when I -- I took a look to see if

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1 I thought anything there was pertinent. If I did not  
2 feel it was pertinent for a long-term record -- which  
3 largely I commit to memorandums of the nature we have  
4 before us -- I would have destroyed them.

5 Q Did you write any memorandum about your  
6 follow-up discussions with any of these people?

7 A No. My communications were verbal.

8 Q And with whom did you have communications  
9 about your discussions with these people?

10 A I stated earlier that I kept George  
11 Gardner and David Gardner informed of my activities.

12 (Whereupon, off the record briefly at 2:12  
13 p.m.)

14 BY MR. EMMONS:

15 Q Do you maintain a desk calendar or a day  
16 planner of any kind to reflect your schedule?

17 A Yes.

18 Q Would you still have in your possession,  
19 such a calendar or date planner for the period of the  
20 latter part of 1990 and the early part of 1991?

21 A No.

22 Q How far back from today would your day

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1 planner go that you still have?

2 A I may have 1992. I would have to check.

3 Q But you're certain you don't have 1991?

4 A No.

5 Q You mean, you're certain that you do not,  
6 is that correct?

7 A That's my statement, yes.

8 Q Okay. I didn't want it to sound as though  
9 you were not certain. Sometimes the written record  
10 looks different from what we think we're saying at the  
11 time and that's usually because of the imprecision of  
12 the lawyers who are asking the questions. At least in  
13 my case. I won't speak for Mr. Schonman, Mr. Holt, or  
14 Mr. Cohen.

15 MR. COHEN: Never has happened to me.

16 BY MR. EMMONS:

17 Q Back to the memorandum of February 12, the  
18 "Low Power TV Business Plan." Again, on the second  
19 page in the next sentence after the one we were just  
20 talking about, you say "contact has been made with  
21 Cable Adnet to sell the concepts to their board."  
22 Does that refer to your discussions with --

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1 MR. COHEN: I don't think you read that  
2 correctly. "To sell the advertising, and they are  
3 very interested" --

4 MR. EMMONS: Oh.

5 MR. COHEN: -- "and have presented the  
6 concept to their board."

7 BY MR. EMMONS:

8 Q I'm sorry. Let me read that sentence over  
9 so the record is not muddled.

10 "Contact has been made with Cable Adnet to  
11 sell the advertising and they are very interested, and  
12 have presented the concept to their board."

13 Does that refer to the discussions that  
14 you've testified about that you've had with Doug, is  
15 it Keppler?

16 A Keppler. Yes, I had discussions with him  
17 first. Then I had the meeting with their board. He  
18 was very interested in pursuing a relationship with us  
19 to sell advertising because he saw that as added  
20 revenue for his company.

21 Q Okay. And the next sentence says "the  
22 program package has been discussed with persons

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1 knowledgeable in the field of purchasing and packaging  
2 programming for television stations."

3 My question is, what person or persons  
4 were you referring to there?

5 A Principally, George Strimmel who had a  
6 background in the television industry.

7 Q Okay.

8 A I have some background in purchasing  
9 movies myself.

10 Q And you said principally with George  
11 Strimmel. Were there any other persons with whom you  
12 had such discussions?

13 A No.

14 Q And in the next sentence you say, "I have  
15 proposed a joint venture company which would purchase  
16 and package the programming and develop a marketing  
17 package for possible syndication of the entire concept  
18 to other low power television station operators."

19 My question is, a joint venture with whom?

20 A I had some discussions with George  
21 Strimmel. I do not recall if -- I think that -- I  
22 think that they did, in fact, extend to Harry Brooks

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1 as well, about their interest in forming a company to  
2 joint venture such a product to low power television  
3 stations since there was a need for that type of  
4 programming throughout the country, in our opinion.

5 Q All right. At the time you wrote this, it  
6 was February 1991. Did you have any further  
7 discussions thereafter about a joint venture company?

8 A I believe I also contacted Joe Gans and  
9 his son, Joe Gans, who operated low power television  
10 stations and reviewed the concept with them, and asked  
11 them if they would be interested in participating in--  
12 in that type of programming package. There was some  
13 interest, but that was not pursued at that point in  
14 time.

15 Q When did you contact Joe Gans about that?

16 A Again, this all happened in the time  
17 period I previously stated, the latter part of 1990  
18 and the early part of 1991.

19 Q Now, continuing down on the same page, you  
20 have a statement "our timetable for development is as  
21 follows: February through May, contact cable  
22 operators and attain their commitment to carry the

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1 stations when they are active."

2 Did you contact cable operators during the  
3 period February through May 1991?

4 A The discussions that I had with the cable  
5 operators I previously mentioned were subject to  
6 first, did they find the concept valuable and of  
7 interest to them? And would they consider carrying us  
8 if, in fact, such a program existed?

9 Q Well, my question is, during the period of  
10 February through May of 1991, did you have discussions  
11 with cable operators concerning any commitment to  
12 carry the low power stations?

13 A Other than that which I've already  
14 mentioned, I did not personally have any conversations  
15 as my involvement with this project ended somewhere  
16 around the end of the first quarter of 1991.

17 Q And the next sentence then reads "contact  
18 interested parties to create a joint venture in the  
19 program development and distribution company."

20 Am I correct from your testimony then that  
21 -- well, let me ask you. Did you have any such  
22 contacts about creating a joint venture company during

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1 the period February through May of 1991? In other  
2 words, after this memorandum was written.

3 A The Lenfest -- after that time?

4 Q Well, yes. This was written February 12,  
5 1991. That's the date, so anytime after that.

6 A I do not recall if they occurred before or  
7 after that memorandum was written.

8 Q Would it be accurate to say that they  
9 occurred -- whenever it was and whatever particular  
10 date it was, it would have been no later than the  
11 first quarter of 1991?

12 A To the best of my knowledge, my  
13 relationship with this project ended about that time.

14 Q Okay. Do you know whether anybody else on  
15 behalf of Raystay contacted cable operators about  
16 carrying the low power stations after your involvement  
17 ended?

18 A I don't recall.

19 Q To your knowledge, was anyone else  
20 assigned to pick up where you left off on this project  
21 after your involvement in it ended?

22 A I forwarded the charts and -- to Lee

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1 Sandifer. It was my understanding that he would  
2 pursue this project.

3 Q For the chart -- those were the coverage  
4 area charts?

5 A Yes.

6 Q Did you forward him any other materials?

7 A I believe accompanying the charts was the  
8 -- the capital -- information on the cost of capital  
9 to purchase the equipment. Nothing else that I  
10 recall.

11 Q All right. Why did your involvement with  
12 this end around the first quarter of 1991?

13 A The GH Cable Properties needed for  
14 attention and I devoted virtually all my time  
15 thereafter, for the balance of that year -- largely  
16 the balance of that year, to GH Cable Properties.

17 Q Was that done with the knowledge and  
18 agreement of George Gardner?

19 A At the direction of George Gardner.

20 Q At the direction of George Gardner.

21 Did George Gardner direct you to  
22 discontinue working on the low power project?

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1           A        To transfer any materials I had over to  
2       Lee Sandifer.

3           Q        I see. So, was it your understanding then  
4       that at the time of that transition, that George  
5       Gardner was not thereafter looking to you to be  
6       developing the low power project? Is that correct?

7           A        That's correct.

8           Q        Did you come back at any time thereafter  
9       to the low power project?

10          A        No.

11          Q        So, is it accurate to say then that  
12       insofar as your personal involvement is concerned, it  
13       ended for good around the end of the first quarter of  
14       1991?

15          A        Any direct involvement, that's correct,  
16       yes.

17          Q        All right. Now, did you have anything  
18       that you regarded as indirect involvement?

19          A        Only being -- only hearing through  
20       management discussions from time-to-time, information  
21       that related to TV 40 and/or the low power stations.

22          Q        But on those occasions, you were just

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1 hearing what was going on. You were not participating  
2 actively yourself.

3 A That's correct.

4 Q Did you have discussions with George  
5 Gardner when he directed you to shift your attention  
6 to the GH Cable operation at the end of the first  
7 quarter 1991? Did you have discussions with him as to  
8 why he wanted you to do that? Did he explain why he  
9 was making this change?

10 A GH Cable Properties were in financial  
11 trouble, and we needed to pay a lot of attention to  
12 improve their performance to the best of our ability.  
13 And it was logical for him to choose me to do that  
14 since I was the chief operating officer of GH Cable.  
15 He wanted me to focus my full attention on that  
16 particular area of business.

17 Q Did he say anything to you on that  
18 occasion that lead you to conclude that he was no  
19 longer interested in developing the low power project?

20 A No.

21 Q Did he say anything to you that lead you  
22 to conclude that he wanted to continue to develop the

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1 low power project?

2 A He asked me to transfer the information to  
3 Lee Sandifer --

4 Q Apart from that, did --

5 A -- was a suggestion to me that he wanted  
6 to continue the project.

7 Q But apart from that, did he say anything  
8 that would have lead you to think he was still  
9 interested in developing the project?

10 A I had a very -- I was completely involved  
11 in virtually all aspects of the Waymaker/Raystay/GH  
12 Cable operations at that time, and I had a vast array  
13 of responsibilities which were then being transferred  
14 to other individuals so I could focus on GH Cable. We  
15 did not specifically discuss each and every project  
16 that I was involved with in that respect.

17 Q Now, so far as you know, was David Gardner  
18 aware of the shift in the focus of your  
19 responsibilities that occurred about the end of the  
20 first quarter of 1991?

21 A Yes.

22 Q So, he was aware that after that time, you

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1 were no longer active in developing the low power  
2 project?

3 A Yes.

4 Q Did you have discussions with David  
5 Gardner about the low power project after the point  
6 when you shifted your focus to GH Cable?

7 A I don't recall any specific conversations  
8 on that subject.

9 (Whereupon, off the record at 2:28 p.m.,  
10 until 2:31 p.m.)

11 BY MR. EMMONS:

12 Q Again, I'm on the same document and I'm on  
13 the same timetable, the February through May period  
14 there. In the next to last line of that paragraph is  
15 the following sentence: "develop budgets and identify  
16 funding sources."

17 Mr. Etsell, did you ever develop a budget  
18 of any kind that related to construction of the low  
19 power stations?

20 A Other than the capital budget, I don't  
21 recall developing a budget, per se.

22 Q Now, when you say "the capital budget,"

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1 what are you referring --

2 MR. COHEN: That's -- I want to make sure  
3 we're talking about -- answer the question.

4 BY MR. EMMONS:

5 Q You referred a moment ago to a "capital  
6 budget." What are you referring to?

7 A Well, okay, the -- the -- there was a list  
8 of equipment and the cost of capital, which would be  
9 the budget for constructing the various sites.

10 Q I see. And did you develop that budget  
11 yourself?

12 A I did. I developed that budget in --  
13 through discussions with George Gardner who had the  
14 knowledge and expertise to give me the costs --

15 Q Okay.

16 A -- on the equipment.

17 Q Let me ask you to turn several pages ahead  
18 to page 75601 and 75602. These numbers aren't going  
19 to help you at the bottom, I'm afraid, because they're  
20 not necessarily sequential. So, I'll help you.

21 75601 and 602 are what appear to be a two  
22 page document entitled "Low Power TV Construction

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