

November 23, 1999



Magalie Roman Salas
Secretary
Federal Communications Commission
TW-A325
445 Twelfth St., SW
Washington DC 20554

Re: *Ex Parte* presentation in MM Docket 95-31

Dear Ms. Salas:

Today I met individually with Robert Ratcliffe, of the Mass Media Bureau and with Thomas Power, of Chairman Kennard's Office on behalf of the National Federation of Community Broadcasters (NFCB).

I met with Mr. Ratcliffe and Mr. Power to discuss the Commission's proceeding to reevaluate the comparative standards for noncommercial licensees. I provided copies of NFCB's proposed point system, and a summary of the positions taken by NFCB in this proceeding, which are attached. I explained that NFCB's point system allows for gradations of distinction among applicants, and thus would not require the Commission to granting an applicant "all" or "nothing" for a certain criterion. In addition, I emphasized the importance of localism in NFCB's proposals. We also discussed the various proposed definitions of "local" in this proceeding.

I discussed the merits of comparing mutually exclusive commercial and noncommercial applicants using the point system proposed by NFCB. NFCB's point system identifies the applicant that will make the best use of the spectrum. In addition, it is no less fair than the system previously used to compare commercial and noncommercial applicants, which evaluated noncommercial applicants using the commercial criteria.

Pursuant to Section 1.1206(b), 47 C.F.R. §1.1206, an original and one copy of this letter and the attachments are being filed with your office.

Sincerely,

Cheryl A. Leanza
Deputy Director

attachments
ecc: Robert Ratcliffe

Thomas Power
**National Federation of Community Broadcasters (NFCB) Point Allocation Proposal
in the Non-Commercial Comparative Standards Proceeding,
MM Docket 95-31**

Board Composition

- ⊖ more than 50% of the board membership local residents (local residents are defined as those who live within station's market as defined by the Commission's ownership rules) (2 points)

Service to Local Community

- ⊖ points awarded on a sliding scale :
 - ⊖ more than 75% locally-originated programming (5 points)
 - ⊖ more than 50% locally-originated programming (4 points)
 - ⊖ more than 30% locally-originated programming (3 points)
 - ⊖ more than 10% locally-originated programming (2 points)
- ⊖ station provides opportunity for members of the public to obtain air time (1 point)
- ⊖ station receives 50% or more of its funding from local community sources (3 points)
- ⊖ for translator applications, a credit for a fill-in translator (1 point)
- ⊖ provision of new program format not available in community (1 point)

Diversity of Viewpoints

- ⊖ points awarded on a sliding scale:
 - ⊖ applicant does not control any other station (4 points)
 - ⊖ applicant controls one other station that is not in the same market as defined by the Commission's ownership rules (3 points)
 - ⊖ applicant controls between two and five stations, none of which are in the same market (2 points)
 - ⊖ applicant controls a station that is in the same market as the applicant (1 point)
- ⊖ applicant is a member of a state network (1 point)

Fair Distribution of Service

- ⊖ first PTFP-eligible service (3 points)
- ⊖ first full-time NCE service (2 points)
- ⊖ second full-time NCE service (1 point)

**Summary of Positions taken by the National Federation of Community Broadcasters
in the Non-Commercial Comparative Standards Proceeding, MM Docket 95-31**

- X NFCB opposes lotteries, and has submitted a meaningful, detailed point system to select among mutually exclusive noncommercial applicants. The NFCB criteria focus on selecting the applicant that is most local in nature (see separate sheet for summary of point system).
- X NFCB reminds the Commission that for many point system suggestions, its choice is not between all and nothing. Certain suggestions may be worthy of a modest number of points while other suggestions -- those that represent the core policy goals of the Commission -- should receive a larger allocation. Thus the suggestions of various public broadcasters are not mutually exclusive.
- X NFCB supports the Commission's proposal to grant credit to applicants that do not have another service in a proposed station's service area. Although NFCB supports public stations that wish to create a second program format in a community they already serve, second services should not be preferred over an applicant seeking to bring an additional editorial voice to the area.
- X NFCB opposes proposed definitions of "local" that include location in the same state or a border state. These definitions of "local" could grant an equal number of points to an applicant that is located 2 miles from its proposed station and to an applicant located 800 miles away from its proposed station. NFCB's proposal of a 100 mile radius or service contour is superior.
- X In the event of a tie, NFCB agrees with National Public Radio *et al.* that the Commission should favor an applicant who has the least number of applications pending before the Commission.
- X Mandatory sharing in opposition of licensee wishes will doom stations to failure.
- X NFCB favors a holding period the length of the full license term, eight years.
- X The Commission should take steps to detect fraud in those certifications if the Commission increases its reliance on applicant certifications. NFCB supports the proposals submitted by NPR *et al.*, Alaska Public *et al.*, and SRG to verify the accuracy of credits claimed by applicants. The public must have access to documentation submitted. The Commission must act upon allegations of false claims and should undertake random audits of point system criteria.
- X NFCB strongly opposes suggestions to allow a licensee to donate its license to another non-profit. Allowing parties to donate licenses would be an invitation for applicants to engage in gamesmanship and coordinated activity to avoid disclosing the real party in interest.
- X The delay, since 1992, of selections between mutually exclusive non-commercial license applicants is untenable, particularly after the agreement among various public radio broadcasters supporting comparative hearings in 1995. Speedy adoption of an order resolving this issue is critical.