

**Separate Statement
of
Commissioner James H. Quello**

**RE: Application of Robert G. Cory for Construction Permit for a
New FM Broadcast Translator Station to Serve Redding and
Anderson, California.**

Based of the facts before me, I support denying the application for review. The Bureau was correct in concluding that Price Broadcasting failed to raise a material and substantial question of fact concerning operating the translator on a nonprofit basis. The allegations standing alone simply do not justify Commission action in this case.

I am concerned, however, because the Commission has not yet attempted to develop criteria or precedent to guide parties in addressing these issues. In its Notice of Inquiry Concerning Rules for FM Translator Stations, 3 FCC Rcd 3664, 3673 (1988), the Commission stated it would hold translator applications in abeyance where a petitioner raised a substantial and material question that the translator was not being operated as a nonprofit entity or that it would result in unequal competition. To my knowledge, no petitioner has successfully met either of these tests. The Commission should work towards establishing criteria upon which these cases can be analyzed. See Astroline Communications Company Limited Partnership v. FCC, 857 F.2d 1556 (D.C. Cir. 1988).

I would have preferred that the Commission shed some light on this subject in the context of this case. Nevertheless, based of the specific facts of this case, I support the Commission's decision.