

Statement of
Commissioners James H. Quello and Joseph R. Fogarty

In Re: Request of KTDS(TV), Brownsville, Texas,
A Waiver of Interim Policy and Grant under
"one-to-a-market" rule.

In Docket 79-233, Commission noted: "While we recognize that this policy may have an adverse impact on applicants, we intend to minimize it by concluding the proceeding as quickly as possible after a comment period of sixty days and a reply comment period of twenty days. We believe that the adverse impact of a short delay on applicants would be outweighed by the cost to the public interest and difficulties of administration of any different approach." (Emphasis added.) 1/ That statement was adopted by the Commission on September 13, 1979. As is so often the case, the short delay has turned out to be a considerable period of time with no assurance that the Commission will finally decide this docket in the near future. Thus, since an acknowledged "adverse impact" was to have been mitigated by a short delay, the validity of the "interim policy" must be called into question.

The legal record in this case may leave unanswered the question of whether or not the participation of Mr. Edward L. Gomez is absolutely essential to the future success of Channel 23 in Brownsville. It is clear, however, that his expertise in the field of broadcasting can be expected to provide a significant benefit toward the success of a station facing considerable competition from the outset. The fact that a number of UHF allocations in the market have remained unused for a period of years appears to attest to the difficulty which the permittee faces as it attempts to bring a viable new service to this community. The fact that Mr. Gomez, who is also an Hispanic-American, brings this expertise to a new venture serving a community that is 80% Hispanic is doubly significant. Our action today also fosters the Commission's on-going encouragement of minority participation in broadcasting.

Consistent both with the concurring statement of Commissioner Quello and the separate statement of Commissioner Fogarty in the Notice of Proposed Rule Making in this docket 2/, the Commission must retain the flexibility to deal with cases such as this on an ad hoc basis to insure that our overall policies are well served. In addition to our policy favoring minority ownership the Commission also favors local participation, promotion of UHF television service and diversification of voices in broadcasting industry. We believe that the grant of a waiver of our "interim policy" in this instance, furthers all of those goals.

1/ FCC 79-537, 44 FR 55603

2/ Supra

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