

April 11, 1985

SUMMARY OF DISSENTING STATEMENT
OF
FCC COMMISSIONER JAMES H. QUELLO

I am unable to agree with the majority that this change in de facto control of Storer Communications, Inc., is not "substantial." In fact, there is a clear transfer of de facto control from the Storer management group to a hostile group of shareholders, and this is accompanied by the most drastic change in corporate operating policy possible -- the proposed dissolution of the company. Everything in Commission precedent supports the view that the Commission must look beyond stock ownership in order to determine where actual control resides. See, e.g., Stereo Broadcasters, Inc. 55 FCC 2d. 819, 821 (1975); Metromedia, Inc. 55 Radio Reg. 2d (P&F) 1278 (1984). It is obvious that in this case there is a substantial change in de facto control of this corporation.

The majority, in fact, is elevating a policy goal -- remaining neutral in corporate disputes -- to a higher plane than the statutory directions contained in Section 309. This is impermissible. The Communications Act does not express a concern about Commission neutrality in proxy fights or hostile takeovers. It does expressly order the Commission to follow strict procedures -- including providing for a 30-day waiting period and an opportunity for interested persons to file petitions to deny -- when a substantial change in control is proposed.

Here, the Committee for Full Value of Storer Communications proposed a substantial change in de facto control. The statute requires that they make an application on Form 315 and receive Commission approval prior to effectuating that transfer. I dissent from the majority's failure to follow the statutory directive.