

Concurring Statement of
Commissioner James H. Quello

Re: Petition to Deny the 1974 License
Renewal Application of Miami Valley Broadcasting
Corporation Licensee to TV Station KTVU-TV
Oakland, California

I agree with the finding of the majority that the licensee of KTVH, Oakland, California, should be renewed and reluctantly concur with conditioning renewal pending employment complaints against the licensee.

I believe this item serves as a classic example of the Commission's overbroad interpretation of an appeals court mandate regarding "standing." The fact that there is precedent for an indiscriminate granting of standing need not be controlling. Neither should the fact that the court has accepted the Commission's attitude in the past of following the path of least resistance. I believe it is time to probe the court's criteria and to encourage the establishment of demonstrable standards to be met before standing is granted.

The Commission has given an overbroad interpretation to the appeals court mandate, in the United Church of Christ case^{1/} back in 1966, to encourage public participation in the renewal process. Chief Justice Burger, then writing for the majority, stated:

"The Commission should be accorded broad discretion in establishing and applying rules for such public participation, including rules for determining which community representatives are to be allowed to participate and how many are reasonably required to give the Commission the assistance it needs in vindicating the public interest."

Unfortunately, the Commission has chosen to ignore that portion of the mandate and, instead, has accorded standing in renewal matters to virtually anyone who asked for it. There is no real test as to the representativeness of such parties nor of the expectation of benefit to the Commission's processes. It has simply been easier to grant participation than to deny it. The Commission has taken the path of least resistance. As a result, the backlogs continue to grow and justice is delayed and, hence, denied.

^{1/} Office of Communication of the United Church of Christ et al v. Federal Communications Commission, 359 F. 2d 994

In my opinion, Miami Valley Broadcasting Corporation is challenging standing on logical grounds. The MO&O merely brushes aside the challenge and cites precedent for granting standing. It may be that Community Coalition for Media Change is a representative group entitled to standing. However, for this Commission to continue to make decisions in this critical area absent valid, established criteria constitutes an abuse of its own processes.

Also the allegations, including the one about employment discrimination, are not supported by the facts.

In my opinion, this petition constitutes an abuse of the license challenge process. It has required substantial expenditure of time and effort which might well have been expended in a more productive area.