

October 23, 1986

STATEMENT
OF
COMMISSIONER JAMES H. QUELLO

Re: Regarding Commission Decision to Seek Remand of Winter Park Communications, Inc. v. FCC, Nos. 85-1755, 85-1756.

Because I was advised by my attorneys at the agency that the Commission's minority and female comparative licensing preference scheme, based on recent Supreme Court case law, was constitutionally suspect, I joined with my colleagues on September 15, 1986, in instructing our General Counsel to request that the United States Court of Appeals remand the Steele case. Since that time, I have made clear that I remain, to the extent the law permits, committed to continuing the Commission's long-standing policy of encouraging and assisting minority and female entry into broadcasting.

I am again compelled to join my colleagues in directing that our General Counsel ask the Court of Appeals to remand the Winter Park appeal. I want to make crystal clear, however, that I am not, at this time, questioning the wisdom of continuing our minority policies. I must, of course, study the law to be sure that the Commission's policies are constitutional. However, as I have said before, I place the burden of proof on those that would challenge the constitutionality of our long-standing minority policies. And I have reached no conclusion as to what justification is necessary under recent Supreme Court case law to support such policies. This is a matter to which I will give great care when the Commission undertakes a proceeding to study the issue.

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