

**CONCURRING STATEMENT
OF
COMMISSIONER JAMES H. QUELLO**

Re: Application for review in the Morganton, North Carolina AM comparative proceeding (MM Docket Nos. 84-1309, 84-1310).

I concur with the Commission's decision granting Beacon Broadcasting a construction permit to establish a new AM broadcast station in Morganton, North Carolina. However, I must disagree with the rationale employed by the majority. I would simply affirm the Review Board's decision. Beacon Broadcasting, 104 F.C.C.2d 811 (1985).

I agree that definable boundaries are not essential to establishing "community" status for a 307(b) preference. See, e.g., Seven Locks Broadcasting Company, 37 F.C.C. 82, 84 (1964), Revision of FM Assignment Policies, 90 F.C.C.2d 88, 107 (1982). It does not appear that the Initial Decision, which was summarily affirmed by the Review Board, placed undue reliance on the issue of precise geographical boundaries. In concluding that Fairforest was not a "community," the Administrative Law Judge focused on elements such as schools, civic organizations, churches, and other indicia of the term "community" consistent with Commission precedent.

Having concluded that Fairforest was a "community," however, the majority still denies New South's application because the population of Morganton, Beacon's proposed community of license, is four and one half times larger than Fairforest. Furthermore, the majority notes Morganton's two radio stations are co-owned thereby constituting only "one" broadcast voice. Thus, a grant to Morganton would provide the first "competitive" service.

Assuming arguendo that Fairforest is a "community," then it should be awarded a dispositive 307(b) preference. The majority relies on Ruarch Associates, 101 F.C.C.2d 1358 (1985). In that case, the town which sought to receive first local service had a population of only 752, too small to take advantage of the 307(b) presumption. Id. at 1360. In the instant case, however Fairforest has a purported population of 2941, a number which warrants consideration under our 307(b) policies. See, e.g., Southern Indiana Broadcasters Inc., 24 F.C.C. 521, 531 (1958), FM Channel Assignments, 51 R.R.2d 29 (1983). Obviously, the Commission must look first to the size of the community in order to determine whether the community is "appreciable enough to take advantage of this [307(b)] presumption." Id. at 1360. While other factors certainly play a role in our 307(b) calculus, the size of the community appears to have been the most significant factor in Ruarch.

I fear the analysis employed by the Commission, broadening the definition of community and extending Ruarch to the facts of this case, further erodes our 307(b) policies. In this regard, we should avoid expanding the definition of community to the point where it becomes meaningless. Furthermore, once we have determined an area to be a community, we should avoid imposing a decisional model which forces us to determine which community is "more important."