

Statement Re: Section 307(b)

The pending application of Southwest FM Broadcasting, Co., Inc. (“Southwest FM”) for a minor change in the facilities of Station KAHM(FM), Prescott, Arizona, includes a proposal to change the station’s community of license to Spring Valley, Arizona.¹ This Amendment is submitted in response to three developments which have taken place subsequent to the initial filing of the application which relate to the Section 307(b) implications of the proposal. These developments are as follows: (i) the publication of 2010 US Census data, including updated population information for Spring Valley and the areas that will receive service from Southwest FM’s proposed facility; (ii) the issuance by the Commission of Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures, 26 FCC Rcd 2556 (2011), petitions for reconsideration pending (“Rural Radio”), which includes new standards and requirements for applications in which licensees of FM stations propose a change in the station’s community of license; and (iii) the understanding of Southwest FM’s consulting engineer (Donald Lynch) that, for purposes of assessing gains/losses under Priority 4 of Revision of FM Assignment Policies and Procedures, 90 F.C.C 2d 88 (1982) (“Revision”), and Rural Radio, the methodology which has traditionally been used by the staff for making such determinations is being reconsidered. *See* Supplement to Engineering Statement: Section 307(b) prepared by

¹ In the application, Southwest FM asked the Commission to issue orders to show cause to Kemp Communications, Inc. (“Kemp”), licensee (petition for reconsideration of grant of license pending) of Station KVGG, Salome, Arizona (FCC ID No.165984) why its licensee should not be changed from Channel 270A to Channel 231A, and to Martin Vosper (“Vosper”), licensee of Station KBUX, Quartzsite, Arizona (FCC ID No. 7694), why his license should not be changed from Channel 232A to Channel 243A. On March 21, 2012, the Commission issued orders to show cause to Kemp and Vosper as requested by Southwest FM.

Donald Lynch (hereafter “Supplement to Engineering Statement”), included in Section III-B of this Amendment.

The instant Statement provides Southwest FM’s response to the foregoing developments and demonstrates that its proposal is not only fully consistent with the two standards set forth by the Commission in Rural Radio standards for the evaluation of applications requesting changes in an FM station’s community of license under Section 307(b), but also, and most importantly, a reasoned evaluation of the entire proposal shows that grant of the application would serve the public interest.

I. Spring Valley Is a “Community” for Commission Licensing Purposes.

Southwest FM contended in its initial application that Spring Valley, which was recognized by the 2000 US Census as a Census Designated Place (“CDP”), qualified as a “community” for Commission licensing purposes, and supplied information regarding the attributes of Spring Valley in support of this position. The Commission has made it clear that recognition of an area by the US Census as a CDP creates the presumption that the area is deserving of recognition as a “community” for Commission licensing purposes.² Southwest FM believes that the information which it supplied in the application, supplemented by the additional information included in the 2012 Engineering Statement, fully justifies the presumption in this case.

Southwest FM now brings to the Commission’s attention the fact that, as evidenced by figures from the 2010 US Census (which were not available at the time the application was filed), Spring Valley is a growing community. Specifically, according to the 2010 US Census,

² See, Revision, Greenwood, South Carolina, et al., 2 FCC Rcd 3583 (1987), and Essex, New York, 4 FCC Rcd 5774 (1989).

the population of the Spring Valley CDP has reached 1,148, which represents an increase of 12.6% over its population of 1,019 as reported in the 2000 US Census.

II. Southwest No Longer Claims Priority 3 Credit under Section 307(b).

In its application, Southwest FM claimed Priority 3 Section 307(b) credit for bringing a first service to the community of Spring Valley, Arizona.³ However, under Rural Radio, if an FM minor change application includes a proposal to change the station's community of license and would result in the station covering 50% or more of a recognized urbanized area, it is presumed that the proposed facility would realistically serve the entire urbanized area and that, absent a special showing by the applicant which rebuts the presumption, the Commission will no longer grant such applications Priority 3 credit. Rural Radio, at Paragraph 38. As Southwest FM's proposal would result in KAHM completely encompassing (as it currently does) the entire Prescott Valley-Prescott, Arizona Urbanized Area (2012 Engineering Statement, Exhibit C), and because of the Commission's decision in Rural Radio, Southwest FM no longer claims Priority 3 credit under Section 307(b) of the Communications Act.⁴

III. Southwest FM Is Entitled to Dispositive Priority 4 Credit under Section 307(b).

In its application, Southwest FM also claimed Priority 4 credit ("other public interest matters") under Section 307(b) because, as it demonstrated, the small service losses its proposal would create were far outweighed by the very large service gains the proposal would provide. Although in Rural Radio the Commission announced its decision to reduce the weight which is

³ See Revision.

⁴ However, in the event the Commission's new presumption under Rural Radio as regards the award of Priority 3 credit is ultimately modified or overturned in the course of the current review proceedings, Southwest FM reserves the right to renew its claim to Priority 3 credit for proposing to bring a first local service to Spring Valley.

given to proposals which increase service to already well-served populations, Southwest FM believes that a detailed analysis of the anticipated service gains from its proposal far outweighs the anticipated service losses. As no other considerations are relevant under Priority 4 analysis (as refined in Rural Radio), it follows that Southwest FM's proposal constitutes a "preferable arrangement" under Section 307(b) Priority 4 analysis.

A. Alternative Methodology for Measurement of Anticipated Gains/Losses

In reply to the "Comments and Informal Objection" filed by Kemp in this proceeding, Southwest FM filed a Response (February 25, 2011) which noted that Commission has, in determining gains/losses for a proposal to change an FM station's community of license, traditionally compared coverage from the licensed site using hypothetical contours with the proposed coverage at the allotment site using hypothetical contours. Using this methodology, Southwest FM's consulting engineer (Lynch) determined that there would be no increase in either white/gray area or other "underserved" areas (and, therefore, no gain/loss analysis was included in the initial application). Nevertheless, Lynch also supplied an analysis based on a comparison of the KAHM current facility at the licensed site using hypothetical contours and the KAHM proposed facility at the application site using uniform terrain and maximum facilities. Based on this methodology, Lynch concluded as follows: (i) no white or gray area would be created; (ii) the number of people who would receive fewer than five (5) services from the proposal would increase by a net of 2,395; and (iii) the total number of people who would receive additional service from the proposal would increase by a net of 1,346,175 (*i.e.*, gain of 1,613,733/loss of 267,558).⁵

⁵ These figures were based on the 2000 US Census.

In the period subsequent to the filing of the Response, Lynch has been led to believe that the Commission is considering using a new methodology in making such gains/loss assessments. In particular, he understands that the staff may be considering making such gain/loss analyses based on a comparison of the actual FCC F(50, 50) 60 dBu contours of the facility at the licensed site and the proposed coverage from the application site. See Supplement to Engineering Statement, page 2. The Supplement to Engineering Statement provides population gain/loss analysis based on this alternative approach.⁶

B. Priority 4 Analysis Using the Alternative Methodology

Under the alternative approach described above (and using currently existing aural facilities and authorized facilities), Lynch has determined that the Southwest FM proposal will result in an increase in the total net population served of 1,330,753 (*i.e.*, gain of 1,449,088/loss of 118,335). He further confirms that (as he had concluded in his prior Engineering Statement based on the traditional methodology) no white or gray area will be created, and that any increase in “underserved” areas contain only a relatively few people. Specifically, he now concludes that Southwest FM’s proposal will result in an increase of 277 people who will receive only three (3) services, and 805 people who will receive only four (4) services, a total of 1,082 persons who will become (or will become increasingly) “underserved.” *See* Table 1 of Supplement to Engineering Statement (“Granular Analysis of Population and Number of Services in Gain/Loss Areas” hereafter referred to as “Table 1”). For ease of reference, a copy of Table 1 immediately follows this Statement.

⁶ These figures are based on the 2010 US Census.

1. Analysis of Service Gains and Losses to “Underserved” Areas under Standards Set Forth in Rural Radio

The Commission’s decision in Rural Radio identifies two metrics which will be used to assess population gains and losses under Priority 4 in applications (such as the instant one) that propose a change in an FM station’s community of license. Both focus solely on the extent of the population in “underserved” areas (defined as areas which receive fewer than five (5) aural services). The first metric is that the Commission will not grant Priority 4 credit to any application which will produce either a “white” or “gray” area. *See* Rural Radio, Paragraph 39 (hereafter referred to as “Paragraph 39”). As stated previously, Southwest FM’s application will not create any white or gray area. The second metric mentioned in Rural Radio is that the Commission will “strongly disfavor” affording Priority 4 credit to any proposal in which the population in the net “underserved” areas would constitute as much as 15% of the population in the station’s current protected contour. *Id.* As stated previously, Southwest FM’s proposal would increase the underserved population by only 1,082 people, which represents only 0.33% of the 326,122 people within KAHM’s currently protected contour. *See* Supplement to Engineering Statement, page 3. This figure is approximately 1/45th as large as the 15% limiting standard set forth in Rural Radio and is therefore inconsequential.⁷ In other words, Southwest FM’s proposal is fully consistent with the two metrics articulated in Rural Radio for the evaluation of service losses under Priority 4.⁸

⁷ *E.g.*, see *Letter to David D. Oxenford, Esq., counsel to Bryan Broadcasting Corporation* (KWBC(FM), Navasota, Texas), Reference 1800BC-AJR (Audio Division, Media Bureau, July 17, 2012), File No. BP-20100712ABU (hereafter, “Bryan Broadcasting Corporation”).

⁸ Although not mentioned in Rural Radio, it is pertinent to note that the number of people who would become “underserved” as the result of Southwest FM’s proposal (1,082) is miniscule (less than 0.1) in comparison with the more than 1.3 million people (net) who would gain service from the proposal.

2. Southwest FM's Proposal to Change KAHM's Community of License to Spring Valley Will Not Change the Number of Transmission Services in the Prescott-Prescott Valley Urbanized Area and Will Not Increase the Number of Urbanized Areas which the Station Covers.

Station KAHM is licensed to Prescott, Arizona, which is in the Prescott-Prescott Valley Urbanized Area. As the proposed community of license (Spring Valley) is also in the Prescott-Prescott Valley Urbanized, the proposed change in community of license to Spring Valley will not change the number of transmission services in the Urbanized Area.² Also, Station KAHM covers, and will continue to cover, 100% of this urbanized area.¹⁰ See Supplement to Engineering Statement, pages 2-3.

As explained in the Supplement to Engineering Statement (page 4), upon completion of the modification, Station KAHM will not provide principal signal coverage over any new urbanized area. The only other urbanized area to which the Station will provide even partial coverage is the Phoenix-Mesa Urbanized Area. The Station will provide coverage to only 3.4% of this urbanized area, and no further minor modification of its facilities would allow it to provide coverage to as much as 50% of this urbanized area. *Id.*

As Southwest FM's proposal is neither a "move-out" nor a "move-in" situation, it is entirely different from the one recently rejected by the Media Bureau in Bryan Broadcasting Corporation

² As Prescott and Spring Valley are in the same urbanized area, a comparison of the attributes of the two communities, or the number of local transmission services in each community would not seem to be relevant for these purposes. It is, however, noted that the population of Prescott increased by 17.4% (from 33,938 to 39,843) between the 2000 and 2010 US Census, while the population of Spring Valley CDP increased in a similar manner during the same period, *i.e.*, by 12.7% (from 1,019 to 1,148). As regards local transmission services, the deletion of KAHM from Prescott would reduce the number of its local services from seven (7) to six (6), while the addition of KAHM to Spring Valley would be its first local transmission service. See Supplement to Engineering Statement.

¹⁰ Station KAHM currently provides service to more than 50% of the Flagstaff, Arizona Urbanized Area but will not provide service to this urbanized area after the proposed modification. See Supplement to Engineering Statement. However, as Flagstaff (located approximately 65 miles from Prescott) is not the station's community of license, the station's current service to Flagstaff is not germane to the issue of loss of transmission service under Priority 4.

(supra). In that case, the Bureau based its Priority 4 decision of the applicant’s move-in proposal on an evaluation of transmission service losses, and rejected the applicant’s claims based on an analysis of population gains and losses. As the issue of transmission services has no bearing on this application, the ultimate decision rests on an evaluation of anticipated gains and losses.

3. Analysis of Overall Service Gains and Losses

In Rural Radio, the Commission announced that it will henceforth accord only “limited” Priority 4 credit to proposals based on increases in service to already well-served populations. The Commission has directed the staff to “accord greater weight to service to underserved populations than to the differences in raw population totals.” Rural Radio, Paragraph 35. Further, applicants are now required “not only to set forth the size of the populations gaining and losing service under the proposal, but also the numbers of services those populations will receive if the application is granted, and an explanation as to how the proposal advances the revised Section 307(b) priorities” (footnote omitted) Paragraph 39. Accordingly, Southwest FM does not rest its case that the grant of its application would serve the public interest on a comparison of figures for population gains and losses (for example, the fact that Southwest FM’s proposal would provide a net gain in service to approximately 1.3 million people, or that this net increase is more than 1,000 times as great as the number of people in “underserved” areas who will lose service, or that the overwhelming portion of the total loss areas will continue to be well served – *e.g.*, of the population who will lose service, 86.7% will receive ten (10) or more services,¹¹ and 75.3% will receive 14 or more services.¹² Rather, Southwest FM bases its contention that the

¹¹ See Table 1.

¹² See Table 1.

anticipated population gains outweigh the population losses on a detailed and analytical evaluation of the population and current service levels in all sectors of the gain and loss areas.

Although the Commission gave notice in Rural Radio that applicants for a change in an FM station's community of license are required to provide an "explanation" to demonstrate that their proposals would constitute a preferential allotment under Section 307(b), neither Rural Radio nor the cases decided subsequent thereto provide any specific guidance as to how anticipated population gains and losses in areas currently receiving different levels of aural service are to be analyzed and weighed. Under these circumstances, Southwest FM proposes an algorithm which allows a comparison of the projected gains and losses for proposals of this kind, which fairly takes into account both (i) the number of persons gaining and losing service from the proposal and (ii) the number of aural services currently received in all segments of the gain and loss areas.

- a. An Objective Assessment of Anticipated Population Gains and Losses Demonstrates that Southwest FM's Proposal Would Serve the Public Interest.

The Supplemental Engineering Statement contains a "granular accounting" of each distinct population pocket in the proposed contour. It analyzes the 83 distinct sectors which would lose service as the result of Southwest FM's proposal (*see* Table 2), and the 219 distinct sectors which would gain service as the result of Southwest FM's proposal (*see* Table 3). Table 1 summarizes the information in Tables 2 and 3. It shows (in the "Gain Area" column) the number of people who would, upon implementation of the modification of Station KAHM, gain service, broken down according to the total number of services these people would then receive (0 to 41 services); similarly, it shows (in the "Loss Area" column) the number of people who would lose service, broken down according to the total number of services these people would then receive (0 to 20 services).

The algorithm suggested by Southwest FM is based on the premise that the “significance” of the gain or loss of an aural service (here, the signal of KAHM) to a single individual can be quantified as the reciprocal of the number of services currently received. Thus, for example, the “significance” of the gain of one aural service to an individual who currently receives 10 aural services (and who would receive 11 aural services after the gain of a service) can be fairly represented by the fraction 1/10, or 10% (as such an individual would have gained 10% of his/her total aural services). By multiplying this fraction times the total number of people who would benefit from this same gain in service (i.e., all persons currently receiving 10 services but who would, after the modification, receive 11 services), the total “service” gain for all such individuals can be quantified. The same computation can be made for the population in all the service levels in the gain area, with the significance of a gain diminishing (by an increasingly smaller amount) as the number of current services increases.¹³

This, it will be noted, is in essence the same analysis which the Commission approved In the Matter of Amendment of Section 73.202(b), Table of Allotments (Greenup, Kentucky and Athens, Ohio), 6 FCC Rcd 1493 at 1495 (1991), in the context of weighing the relative merits of the gains proposed by two mutually-exclusive upgrade proposals.¹⁴ Here, however, rather than using the procedure to compare the gains from two different proposals, the procedure is used, not only with regard to the gain areas from Southwest FM’s proposal, but with regard to the anticipated loss areas. This process (referred to herein as the “basic algorithm”) for all levels of

¹³ For example, the gain of a fourth service represents a 25% gain, the gain of a fifth service represents a 20% gain, the gain of a twenty-fifth service represents a 4.0% gain, the gain of a twenty-sixth service represents a 3.85% gain, etc.

¹⁴ Southwest FM’s approach is essentially the same as the Commission’s approach in Greenup to “ ‘discount’ the raw population total within a pocket as the number of services received increases.” *Id.*

existing service, permits a computation of total service gains and total service losses and a quantitative comparison of service gains and service losses.

For example, Table 1 shows that the sectors where the addition of KAHM would increase the number of aural services from five (5) to six (6) contain 819 people. For these people, the reception of KAHM would represent a service gain of $1/5$ or 20%. By multiplying 819 times 20%, the service gain to these individuals can be quantified as 163.80 units of service gain. Similarly, there are 1,308 people in the gain sectors with six (6) current services, and for these people, the gain of one service is represented by $1/6$ (or 16.7%). The product of these figures is 218.00. If this process is continued for the remaining sectors in the gain area, the result is that Southwest FM's proposal would produce 43,596.11 total units of service gain. See Table 1A¹⁵ (which follows this Statement).

The same procedure (approved by the Commission in Greenup in the context of comparing service gains) can also be applied to areas of service losses. Table 1 shows that there are 277 people in sectors for whom KAHM is currently a fourth aural service and who, with the loss of this service, would receive only three (3) services. These individuals will, therefore, experience a service loss of $1/4$ or 25%. By multiplying 277 times 25%, this service loss can be quantified as 69.25 units of service loss. Similarly, the 805 people in sectors currently receiving five (5) aural services, and who would with the loss of service from KAHM receive only four (4) services, would experience a service loss of $1/5$ or 20%. By multiplying 805 times 20%, this service loss can be quantified as 161.00 units of service loss. If this process is continued for all levels of

¹⁵ Table 1A has been prepared by Southwest FM's legal counsel, based on the information supplied in Table 1 (prepared by Southwest FM's consulting engineer).

service loss, and the number of service loss units for each group is added, the result is that Southwest FM's proposal would produce 8,629.52 total units of service loss. See Table 1A.

It is now possible to compare the anticipated population gains and losses from Southwest FM's proposal based on the basic algorithm set forth above, which takes into account both the number of people who would gain service and lose service from the proposal and the number of rural services currently received in all segments in the gain and loss areas. Specifically, Southwest FM's proposal would produce 43,596.11 units of service gain and only 8,629.52 units of service loss. This 5.05 to 1 gain/loss ratio demonstrates that the proposal would serve the public interest.¹⁶

¹⁶ Although neither Rural Radio nor its progeny suggest any methodology which will henceforth be used by the Commission in comparing population gains and losses, it is noted that in Footnote 104 to Paragraph 39, the Commission directed applicants to state "what service the modified facility would represent to the majority of the population gaining new service...and the corresponding service that the majority of the population losing service would lose..." The Commission did not, however, explain how the information required by Footnote 104 might be used, and Southwest FM is unaware of any instance subsequent to Rural Radio in which the Commission has referred to, much less utilized, this information in comparing the gains and losses from a proposal.

However, the information requested by Commission in Footnote 104 can be used to make a reasonable and fair comparison of anticipated population gains and losses in a manner which is similar to (although with considerably less sophistication) the basic algorithm set forth by Southwest FM, and which is not dependent on the availability of a granular analysis of the gain and loss areas (which the Commission expressly did not require applicants to provide). In essence, the Commission has directed applicants to specify the current service level of the individual (in the gain and loss areas, respectively) who is most "representative" of the entire population in the gain and loss areas (respectively) in the sense that, to the maximum extent possible, the same number of people in the gain and loss areas (respectively) will, upon completion of the modification, receive a larger and a smaller number of services.

In the instant case, the Supplement to Engineering Statement (page 3) states that the majority of the population gaining new service would receive a 36th (or greater number) of services and the majority of the population losing service would lose a 17th (or lesser number) of services. Hence, an individual in the gain area who currently receives 35 services is the most "representative" of the individuals in the gain area (in the sense explained previously). The gain of one service to such an individual would represent a 2.86% (*i.e.*, 1 of 35 = 2.86%) increase in service. The product of this figure times the total number of people in the entire gain area (*i.e.*, 1,449,088) quantifies the total gain from Southwest FM's proposal as 41,443.92 units of service gains.

The same procedure can also be applied to individuals in the KAHM loss area. An individual in the loss areas who currently receives 17 services is most nearly "representative" of all persons in the loss area. The loss of KAHM service to this individual will represent a loss of 5.88% (*i.e.*, 1 of 17= 5.88%). The product of this

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b. Other (Weighted) Assessments of Anticipated Gains and Losses Further Demonstrates that Southwest FM's Proposal Would Serve the Public Interest.

As explained above, the basic algorithm presented above is objective in the sense that it weighs the gains and losses of service in all gain/loss segments in strict accordance with the percentage of service gain or loss represented by the gain or loss of a single service (in this case, KAHM). However, in further recognition of the Commission's decision to "accord greater weight to service to underserved populations than to the differences in raw population totals" (Rural Radio, Paragraph 38), Southwest FM has prepared an analysis of the anticipated service gains and losses that gives additional weight, by a factor of 20, to the population in the loss areas which are (or will be) "underserved" (as traditionally defined by the Commission – *i.e.*, 0 to 4 services).¹⁷ The results are set forth in Table 1B¹⁸ (following this Statement). Based on this modified version of the basic algorithm – which weights by a factor of 20 the population in "underserved" areas – Southwest FM's proposal would produce 43,596.11 total units of service gain and 13,004.27 total units of service loss. This 3.35 to 1 gain/loss ratio further demonstrates that the proposal would serve the public interest.

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figure times the total number of individuals in the loss area (*i.e.*, 118,335) quantifies the total loss as 6,960.09 units of service loss.

The total service gains and losses can now be compared. Using the methodology suggested by the information requested by the Commission in Footnote 104, the total units of service gain from Southwest FM's proposal (41,443.92) would exceed the total units of service loss (6,958.09) by a ratio of 5.96 to 1. This figure is comparable to the 5.05 to 1 ratio of gains to losses which is produced by the "basic algorithm" suggested by Southwest FM (using a detailed granular analysis of the gain and loss areas). Under both approaches, the result is the same – *i.e.*, the anticipated service gains from Southwest FM's proposal far outweigh the anticipated service losses.

¹⁷ Southwest FM's proposal would not provide service to any "underserved" areas (as traditionally defined).

¹⁸ Table 1B has been prepared by legal counsel for Southwest FM based on the information in Table 1.

Rural Radio suggests that in weighing anticipated population gains and losses for purposes of Priority 4 analysis, greater consideration will be given to all areas which currently receive only modest levels of aural service, even if the area is not considered “underserved” under current standards (*i.e.*, 0 to 4 services). In recognition of this concern, Southwest FM has made a further analysis of the anticipated gains and losses which not only increases by a factor of 20 the weight accorded to losses and gains to populations in “underserved” areas, but also increases by a factor of 10 the weight accorded to service gains and losses in areas which receive only modest levels of aural service – *i.e.*, between five (5) and nine (9) services. *See* Table 1C (following this Statement), which shows that using this further modified version of the basic algorithm, Southwest FM’s proposal would produce 48,360.48 total units of service gain and 31,294.79 total units of service loss (a ratio of 1.55 to 1), and that even using this demanding standard, the anticipated gains from the proposal substantially outweigh the anticipated losses.¹⁹

IV. Summary and Conclusion

The foregoing demonstrates that Southwest FM’s proposal should be granted under Priority 4. The proposal complies fully with the two metrics set forth in Rural Radio in terms of measuring service losses – *i.e.*, (i) no white or gray area created and (ii) only 0.33% as many people in the underserved areas as in the station’s total protected contour. The issue of transmission services is not germane as Station KAHM is now within the Prescott-Prescott Valley Urbanized Area and will remain within this urbanized area upon the modification of its community of license to Spring Valley; furthermore, the modified KAHM will not provide (and will not be able with a minor modification to provide) coverage to any additional urbanized area.

¹⁹ Table 1C has been prepared by Southwest FM’s legal counsel, based on the information supplied in Table 1.

In Paragraph 39, the Commission stated that henceforth it would “limit the presumption that raw net population gains, in and of themselves, represent a preferential arrangement of allotments or assignments under Section 307(b)”, and would deemphasize the relative weight to be accorded to Priority 4 claims based on coverage to well-served populations. The key word is “limit.” Additional service to large numbers of people is indisputably in the public interest, and nothing in Rural Radio remotely suggests that the Commission intended to eliminate giving some Priority 4 credit to proposals which would result in bringing additional coverage to large numbers of people. It follows, as a matter of logic, that in appropriate cases such credit may be of decisional significance.

The issue, of course, is the proper weighing of service gains to a very large number of relatively well-served persons versus service losses to a far smaller number of somewhat lesser served people, only a very few of whom will be “underserved.” In the absence of any specific guidance from the Commission either in Rural Radio or thereafter as to the manner in which countervailing gains and losses are to be analyzed,²⁰ Southwest FM has presented a basic algorithm which adheres to the guiding principles articulated in Rural Radio.

The application of this methodology to the anticipated gains and losses from Southwest FM’s proposal shows that the anticipated gains outweigh the losses by a factor of 5.05 to 1 (*see* Table 1A). When the basic algorithm is modified by giving additional weight (*i.e.*, a factor of 20) to “underserved” areas (as traditionally defined) the result is that the anticipated service gains outweigh the losses by a ratio of 3.35 to 1 (*see* Table 1B), and when it is further modified by also

²⁰ The Commission’s failure to provide the public with any specific guidance whatever regarding the standards which will be used in weighing Priority 4 gains and losses to populations outside “underserved” areas (as currently defined) leaves it open to the charge that its procedures and decisions with regard to these matters are made on an ad hoc basis, without any guiding methodology, and are therefore “arbitrary and capricious” and in violation of the Administrative Procedure Act, 5 U.S.C. 706(2)(A)).

giving additional weight by a factor of 10 to areas which receive only modest levels of service (*i.e.*, 4 to 9 services), the anticipated gains outweigh the losses by a ratio of 1.55 to 1 (*see* Table 1C).

In sum, Southwest FM has advanced several reasonable methods for weighing the public interest implications of the anticipated service gains and losses from Southwest FM's proposal, all of which pay full respect to the basic principle articulated in Rural Radio that the "significance," from a public interest perspective, of population gains and losses resulting from a station move, is not to be judged on the basis of raw population figures, but must take into full account the level of service available in the respective areas of gain and loss. These analyses lead to the same conclusion; namely, that the public interest benefits from the service gains from Southwest FM's proposal clearly outweigh the service losses.

As no other Priority 4 considerations are germane to Southwest FM's application under the new standards announced in Rural Radio, and as a weighing of the anticipated service gains and losses is the sole relevant factor, for the reasons set forth above, Southwest FM believes that it is entitled to decisive credit under Priority 4, that its proposal would be a "preferable arrangement" under Section 307(b) of the Communications Act, that it would serve the public interest, and that its application should therefore be granted.