

TRANSCRIPT OF PROCEEDINGS

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

DOCKET FILE COPY ORIGINAL

In the Matter of:

William F. Crowell

WT Docket No. 08-20

DATE OF HEARING: April 2, 2008 VOLUME: 1

PLACE OF HEARING: WASHINGTON, D.C. PAGES: 1-34

NEAL R. GROSS & CO., INC.
1323 RHODE ISLAND AVENUE, NW
WASHINGTON, D.C. 20005
TELEPHONE (202) 234-4433

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

+ + + + +

PRE-HEARING CONFERENCE

IN THE MATTER OF: || WT Docket No. 08-20

WILLIAM F. CROWELL, || FCC File No.
 || 0002928684

Application to Renew
License for Amateur Radio
Service Station W6WBJ

Wednesday,
April 2, 2008

Federal Communications Commission
Room TW A-363
445 12th Street, S.W.
Washington, D.C.

The above-entitled matter came on for
pre-trial conference, pursuant to notice, at
9:30 a.m.

BEFORE:

ARTHUR I. STEINBERG,
Administrative Law Judge

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

APPEARANCES:

On Behalf of the Applicant:

WILLIAM F. CROWELL, ESQ.
Licensee/Applicant, in propria persona
1110 Pleasant Valley Road
Diamond Springs, CA 95619-9221
(530) 295-0350
fax -0352

On Behalf of the Agency:

REBECCA A. HIRSELJ, ESQ.
Assistant Chief
Investigations & Hearings Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W.
Room 4A-236
Washington, D.C. 20554
(202) 418-7603
rebecca.hirselj@fcc.gov

1 remain a Commission licensee and whether the
2 application for renewal of his license should
3 be granted.

4 By order FCC 08M-08, released
5 February 15, 2008, this case was assigned to
6 me and an initial pre-hearing conference was
7 scheduled for this morning.

8 Let me first take the appearances
9 for the parties. On behalf of William F.
10 Crowell?

11 MR. CROWELL: It is I, Your Honor,
12 William F. Crowell, in the flesh.

13 JUDGE STEINBERG: Crowell. I'm
14 sorry, I've been mispronouncing.

15 MR. CROWELL: That's all right.

16 JUDGE STEINBERG: Okay, and you're
17 participating in this conference by
18 speakerphone, is that correct?

19 MR. CROWELL: Yes, Your Honor.

20 JUDGE STEINBERG: Okay, and on
21 behalf of the Chief, Enforcement Bureau?

22 MS. HIRSELJ: Rebecca Hirselj.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 JUDGE STEINBERG: Let me first
2 address the pleadings that are currently
3 pending before me and -- essentially on March
4 24th, 2008, Mr. Crowell filed a Motion to
5 Compel the Enforcement Bureau to answer his
6 first set of interrogatories. Probably about
7 ten minutes ago, my legal technician came in
8 with a pleading entitled Enforcement Bureau's
9 Opposition to William F. Crowell's Motion to
10 Compel Answers to his First Set of
11 Interrogatories, which was filed March 28,
12 2008. Now, I didn't see this until about ten
13 minutes ago.

14 Is everybody prepared to talk
15 about this?

16 MS. HIRSELJ: Yes, Your Honor.

17 MR. CROWELL: Yes, Your Honor.

18 JUDGE STEINBERG: Okay, why don't
19 you start, Mr. Crowell?

20 MR. CROWELL: Okay, Your Honor, I
21 think that we can avoid confronting this issue
22 of whether you received the Bureau's response

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 in a timely fashion because, just
2 coincidentally, the Bureau said they were
3 going to respond to my discovery today, the
4 time limit ran out today, so they're going to
5 respond today, and I haven't seen what they've
6 got yet, but may I suggest that maybe a better
7 way to handle it would be if I see what
8 they're going to give me and if I still have
9 problems, I could make a further motion? We
10 haven't had any discovery yet, but they say
11 they're going to give me some today.

12 JUDGE STEINBERG: Ms. Hirselj?

13 MS. HIRSELJ: We are certainly
14 endeavoring to finalize our responses today,
15 but one of the items that we were hoping to
16 address with Your Honor was the -- what we
17 consider to be excessive, unnecessary,
18 burdensome scope of the interrogatories, many
19 of which we think are irrelevant to the items
20 that you previously put on the record as the
21 issue you stated in the hearing designation
22 order.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 We are endeavoring to respond to
2 the discovery, but to the extent we can limit
3 the discovery in any fashion to cover just
4 those items that are relevant to the
5 designated issues would certainly help us in
6 our efforts. To the extent we may not be able
7 to respond to all 300 plus interrogatories by
8 the close of business today, if we could have
9 until the end of the week, we could certainly
10 try to do that to the extent that Your Honor
11 is not amenable to cutting back the volume of
12 the interrogatories as served.

13 JUDGE STEINBERG: Okay, I'm
14 prepared to rule on this.

15 Mr. Crowell is entitled to ask
16 whatever he wants to ask, and the rules of the
17 Commission, unfortunately, unlike the Federal
18 Rules, don't set any kind of limit as to the
19 number of interrogatories that he can ask,
20 whether they be interrogatories or subparts or
21 this, that and the other thing. So I'm going
22 to rule that the Bureau must respond to each

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 of the interrogatories by either answering
2 them or objecting to them.

3 I'm certainly not going to go
4 through a 25-page pleading or however long it
5 is, and read every interrogatory and make a
6 determination as to whether it should be
7 answered or not. That should be up to the
8 Bureau to decide whether to answer it or
9 object to it. And then if Mr. Crowell gets
10 the answers and objections and he wishes to
11 file another Motion to Compel or an additional
12 Motion to Compel, then he may do so.

13 Just to be on the sort of liberal
14 side, do you think you can answer and object
15 in a week, by a week from today?

16 MS. HIRSELJ: Yes, Your Honor.

17 JUDGE STEINBERG: Okay, do you
18 have any objection to that Mr. Crowell?

19 MR. CROWELL: No, that's fine with
20 me, Your Honor.

21 JUDGE STEINBERG: Okay, so the
22 Bureau will answer or object to the

1 interrogatories, your interrogatories by
2 whatever a week from today is. I guess it's
3 the 9th. And if the Bureau could -- you've
4 been mailing your stuff to Mr. Crowell, can
5 you email them too?

6 MS. HIRSELJ: Yes, Mr. Crowell and
7 I spoke with Mr. Schonman last week, perhaps
8 two weeks ago, and we agreed that all
9 pleadings would be served by mail and email.

10 JUDGE STEINBERG: Okay. And it
11 goes both ways, please.

12 MR. CROWELL: Oh, yes.

13 JUDGE STEINBERG: And also the
14 Bureau is right in the building here with me,
15 so they've been hand-carrying and leaving with
16 my legal technician or someone else in the
17 office, copies of what they've been
18 submitting, but Mr. Crowell, if you could
19 either fax whatever you file or whatever you
20 serve on the Bureau to me, either fax it to me
21 or email to me as you've done with some of the
22 other pleadings, I'd appreciate it. And

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 unless that's done, I really can have no
2 confidence -- unless I personally get it from
3 either the Bureau or from you by email or by
4 fax, there really -- I really have no
5 confidence that I will have everything that
6 I'm supposed to have because the mail system
7 here has been screwed up for eight years and
8 we can't do anything to unscrew it.

9 MR. CROWELL: Yes, Your Honor.

10 JUDGE STEINBERG: So for instance,
11 I first got the Bureau's opposition this
12 morning.

13 Okay, so that takes care of the
14 motion to compel.

15 MS. HIRSELJ: Your Honor, if I
16 could clarify our answer to you on the 9th,
17 not up to the 9th so that we have until the
18 close of business?

19 JUDGE STEINBERG: Yes, you have
20 until close of business on the 9th.

21 MS. HIRSELJ: Thank you, Your
22 Honor.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 JUDGE STEINBERG: The next thing
2 is Mr. Crowell filed on March 24th a request
3 for judicial notice, and by my calculations a
4 response is due today if anything is going to
5 be filed.

6 MS. HIRSELJ: I calculated our
7 deadline as tomorrow.

8 JUDGE STEINBERG: Well, four plus
9 three, did I miss a holiday?

10 MS. HIRSELJ: I think I did ten
11 plus three as the --

12 JUDGE STEINBERG: There's no ten.

13 MS. HIRSELJ: Okay.

14 JUDGE STEINBERG: You've been
15 using 1.294?

16 MS. HIRSELJ: I can't remember the
17 rule number. But I assumed it was ten as
18 opposed to an interrogatory. That could have
19 been my mistake.

20 JUDGE STEINBERG: No, we never --
21 okay, for hearing proceedings we use 1.294.
22 There's another rule in there concerning

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 responses to pleadings. I think it's 1.45.

2 MS. HIRSELJ: I think that's what
3 I referred to.

4 JUDGE STEINBERG: We never use
5 1.45, ever, ever.

6 MS. HIRSELJ: My mistake, Your
7 Honor. Thank you.

8 JUDGE STEINBERG: That's okay.
9 It's 1.294. Because basically everything we
10 do in a hearing is interlocutory, and unless
11 there's a rule in the part of the rules that
12 concerns hearing proceedings, let me start
13 that again.

14 Let me find the index. Okay,
15 there's subpart B which runs from Section
16 1.201 forward and unless there's a rule in
17 subpart B which gives you a longer or shorter
18 period of time than 1.294, then we use 1.294.
19 Okay, and that should put everybody on the
20 same page.

21 MR. CROWELL: All right.

22 JUDGE STEINBERG: Okay, do you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 want a little additional time to respond to
2 that if you're going to do it?

3 MR. CROWELL: Are you asking me,
4 Your Honor?

5 JUDGE STEINBERG: No, the Bureau.

6 MS. HIRSELJ: I anticipate we can
7 probably get something on file by the end of
8 the day or tomorrow at the latest.

9 JUDGE STEINBERG: Okay. Let me
10 tell you, generally, something like a request
11 for official notice, when we set up a hearing
12 schedule, one of the dates will be for an
13 exhibit exchange, and usually I say well, I
14 always say if there's something you want me to
15 take official notice of you make it an exhibit
16 and request official notice at the time of the
17 hearing. So it might be a little premature
18 for me to be taking official notice of stuff
19 now.

20 MR. CROWELL: Yes, Your Honor.

21 JUDGE STEINBERG: So I just want
22 to generally say that about that.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 MR. CROWELL: All I was really
2 asking was that maybe you could read MN&O, if
3 you don't mind, and I think it's quite
4 analogous to this case, really.

5 JUDGE STEINBERG: Well, you can
6 argue that at the appropriate time, which
7 might be in findings and conclusions after the
8 hearing.

9 MR. CROWELL: Yes, Your Honor.

10 JUDGE STEINBERG: I did notice,
11 what was it, a letter -- no, I'm not going to
12 say anything more.

13 Okay, now let's turn to discovery.
14 Does the Bureau anticipate any discovery?

15 MS. HIRSELJ: Yes, Your Honor.

16 JUDGE STEINBERG: And what do you
17 anticipate doing?

18 MS. HIRSELJ: I anticipate we'll
19 serve written interrogatories, request for
20 production, request for documents upon Mr.
21 Crowell and once we receive responses and
22 response information, I anticipate depositions

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 will be necessary.

2 JUDGE STEINBERG: Okay, and Mr.
3 Crowell, you've got the interrogatories, and
4 I dealt with the request for production of
5 documents.

6 MR. CROWELL: Yes, I may need to
7 propound another set of interrogatories,
8 depending on the Bureau's responses to my
9 first set.

10 JUDGE STEINBERG: Sure.

11 MR. CROWELL: And I also
12 anticipate propounding a request for -- I'm
13 sorry, a request for admissions, basically,
14 request for admit genuineness -- I'm sorry.
15 Request for admissions.

16 JUDGE STEINBERG: Okay, I think
17 the time for that has long gone.

18 MR. CROWELL: Oh.

19 JUDGE STEINBERG: That's 1.245, I
20 think. I think you got -- maybe it's not.
21 1.246. Within 20 days after the time for
22 filing Notice of Appearances expired --

1 MR. CROWELL: I see. Okay, then I
2 would say probably, possibly another set of
3 interrogatories or follow-up interrogatories.
4 That's about it.

5 JUDGE STEINBERG: Okay, you know
6 you can calculate the 20 days and when were
7 the notices of appearances due? Well, it
8 doesn't matter. You can all calculate that
9 and if it's too late, it's too late.

10 MR. CROWELL: Okay.

11 JUDGE STEINBERG: Let me tell you
12 on discovery, forgetting about the first of
13 interrogatories, which we've already
14 discussed, but if you have disagreements and
15 difficulties, I would expect you to call each
16 other up and try to work them out and resolve
17 it to the best of your ability, and I expect
18 the effort to be genuine and not just for the
19 sake of showing that you made a phone call.

20 Only if you absolutely can't agree
21 to something or you can't compromise on
22 something, only in that circumstance do I want

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 you to come to me for a ruling. Now I already
2 anticipate there's going to be another Motion
3 to Compel, so we won't worry about that. But
4 for anything after the first set of
5 interrogatories, is that understood?

6 MR. CROWELL: Yes, Your Honor.

7 MS. HIRSELJ: Yes, Your Honor.

8 JUDGE STEINBERG: And let me also
9 turn to some -- next turn to some other
10 matters. I've covered the courtesy copy bit.

11 Now, I noticed that on Mr.
12 Crowell's pleadings in the caption you've got
13 FCC 08M-08 at the top of everything.

14 MR. CROWELL: Yes.

15 JUDGE STEINBERG: That shouldn't
16 be there.

17 MR. CROWELL: Okay.

18 JUDGE STEINBERG: That's just a
19 reference number to the Chief Judge's February
20 25th order. It doesn't belong in the caption.
21 So just delete all that. Just delete that
22 number.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Now secondly, when you mail --
2 you're either going to mail or FedEx stuff or
3 overnight it to the FCC, is that correct?

4 MR. CROWELL: Yes.

5 JUDGE STEINBERG: Don't put my
6 name on the outside envelope at all. That
7 only messes things up.

8 MR. CROWELL: Okay.

9 JUDGE STEINBERG: The only name,
10 if there's a name that -- is the name of the
11 Commission's Secretary, and her name is
12 Marlene H. Dortch, D-O-R-T-C-H. So
13 essentially, anything that you mail to the
14 Commission or overnight should have her name
15 on it and if you -- you have access, websites,
16 right?

17 MR. CROWELL: Yes, yes.

18 JUDGE STEINBERG: Go to the FCC's
19 website and click on -- there's something for
20 the Office of the Secretary and there's a
21 little chart someplace in there on how to file
22 -- on where to file stuff. Because if you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 hand deliver it, it goes to one place. If you
2 mail it, it goes to another place. And if you
3 FedEx it, it might go to a third place, I
4 don't know. But I hesitate to tell you where
5 to send it because I can't figure it out
6 myself half the time. But whatever it is, it
7 doesn't have my name on the envelope.

8 MR. CROWELL: All right.

9 JUDGE STEINBERG: On the outside
10 envelope or you put your stuff on an envelope
11 within an envelope, even on the inner
12 envelope.

13 Now where my name goes, and I know
14 I said this in one of my orders, and I
15 unfortunately was told that that screws things
16 up too. In between the little thing in
17 between the caption and the title of the
18 pleading, you put "to Marlene H. Dortch,
19 Secretary, Federal" -- I'll put this in a --
20 I'm going to write an order briefly
21 summarizing what went on today, and if you
22 like, I'll just put this in the order like I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 did the last one.

2 MR. CROWELL: That would be
3 helpful.

4 JUDGE STEINBERG: It's basically
5 to Marlene H. Dortch, Secretary, Federal
6 Communications Commission, attention, Arthur
7 I. Steinberg, and that goes in between the --
8 after the end of the caption and before the
9 title, because if my name is on the envelope,
10 I'm still getting all original and six copies
11 and nothing is being distributed to anybody
12 else.

13 And I know I told you to do it the
14 way I told you to do it, but they told me that
15 I was doing it wrong too. And even doing it
16 this way won't guarantee that it gets done the
17 right way, so it's been going on for at least
18 eight years. So I don't think I'm going to
19 fix it today, but we're going to make an
20 effort to try to do something about it.

21 MR. CROWELL: Very well, Your
22 Honor.

1 JUDGE STEINBERG: Okay, now the
2 next thing I want to talk about is the dates
3 and I've got a tentative schedule, which I
4 don't think is realistic given the discovery
5 requests that I've heard, and if we did away
6 with depositions, it was doable, but I don't
7 think -- so let me redo it in my head with my
8 calendar. So if you would bear with me a
9 minute.

10 (Pause.)

11 Okay, I've redone it. These here
12 are the dates I would suggest. Okay. We'll
13 set a date for completion of all discovery,
14 July 3rd, 2008. That gives you three months.

15 MS. HIRSELJ: I think that might
16 be a little optimistic.

17 JUDGE STEINBERG: Really? Okay.

18 MS. HIRSELJ: Perhaps six months.
19 Mr. Crowell, do you have any thoughts?

20 JUDGE STEINBERG: Six months?

21 MS. HIRSELJ: To complete written
22 discovery and --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 JUDGE STEINBERG: People can
2 almost have babies in six months.

3 (Laughter.)

4 MR. CROWELL: No, I wouldn't have
5 any objection to that procedure, Your Honor.

6 JUDGE STEINBERG: Six months?
7 That means I'm going to be ruling on discovery
8 motions for six months?

9 MS. HIRSELJ: I hope not.

10 MR. CROWELL: No, I think it means
11 that instead, Your Honor, we'd be able to have
12 plenty of time to resolve the case. I think
13 that if Ms. Hirselj and I start talking about
14 the case, maybe we can resolve it some time.

15 JUDGE STEINBERG: Oh, I don't
16 anticipate that. Usually, I'm pretty
17 optimistic about that, but I don't think this
18 is going to be possible. Okay, let me go --
19 so this is April, four and six is ten. That's
20 October. I might be retired by then, which in
21 this case it won't be my problem. Okay, let's
22 look at October.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 MS. HIRSELJ: Maybe we could split
2 the baby, Your Honor. Four and a half months
3 instead of -- and maybe try to shoot for the
4 hearing at the beginning of October, close of
5 discovery would then be maybe late August?

6 JUDGE STEINBERG: What about Labor
7 Day?

8 MS. HIRSELJ: Early September.

9 JUDGE STEINBERG: When is Labor
10 Day?

11 MS. HIRSELJ: That would give us a
12 month for any motion -- I'm just concerned
13 that we won't be able to get the written
14 discovery and depositions because I believe
15 most of the witnesses are on the West Coast.

16 JUDGE STEINBERG: Maybe I'll go
17 over and resign.

18 (Laughter.)

19 How does that sound to you, Mr.
20 Crowell?

21 MR. CROWELL: Fine.

22 JUDGE STEINBERG: August 29th?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 MR. CROWELL: Okay.

2 JUDGE STEINBERG: And that's the
3 Labor Day is early. It is September 1st.
4 Okay.

5 MS. HIRSELJ: Go and enjoy your
6 holiday.

7 JUDGE STEINBERG: Oh, I won't
8 enjoy my holiday.

9 (Laughter.)

10 JUDGE STEINBERG: I'll define what
11 completion of discovery means in a few
12 moments. Let's go to -- how about September
13 15th for exhibit exchange?

14 MR. CROWELL: Okay.

15 JUDGE STEINBERG: That would be
16 give everybody a little, about three weeks to
17 prepare exhibits? I'll make it a Monday so
18 that you can all work the weekend if you have
19 to, rather than on a Friday. I mean, you
20 might as well screw up your weekend. Would
21 you rather make it Friday the 12th and have a
22 free weekend?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701