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February 19, 1998

Magalie R. Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 10554

Dear Ms. Salas:

Enclosed is a Petition for Rulemaking, requesting the Commission (Mass Media Bureau) to institute a rulemaking to establish a Low Power FM broadcast service nationwide.

An original and thriteen copies of the petition are enclosed herewith. It is our desire that each of the Commissioners, in addition to the normal circulation, receive a copy of this petition. Others to receive a copy are marked below.

Please contact the undersigned should there be any question regarding this matter.

Very truly yours,

TRA COMMUNICATIONS CONSULTANTS, INC.

J. Rodger Skinner, Jr.
President

Enclosures

cc: William E. Kennard, Chairman
Susan Ness, Commissioner
Harold W. Furchtgott-Roth, Commissioner
Michael K. Powell, Commissioner
Gloria Tristani, Commissioner

Roy Stewart, Chief-Mass Media Bureau
Linda Blair, Chief-Audio Services Division
John A. Karousos, Chief-Allocations Branch

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of	)	
	)	
Proposal for Creation of the Low Power FM (LPFM) Broadcast Service	)	
	)	

To: FCC / Mass Media Bureau

PETITION FOR RULEMAKING

Submitted by J. Rodger Skinner, Jr.
TRA Communications Consultants, Inc.

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I. INTRODUCTION

1. The purpose of this petition is to create a new class of broadcast station to be called Low Power FM (LPFM), which will allow, for the first time, people of limited financial means to have a voice in broadcasting in America. It is no secret that the costs involved with obtaining a standard FM radio broadcast license , either through purchase of an existing station or application for a new channel, have priced this venture far beyond the reach of the vast majority of Americans, effectively shutting them out of broadcast station ownership and thus limiting the number of voices. It could be argued that present Commission rules are unconstitutional and effectively squelch First Amendment constitutional rights to speak as relates to broadcasting, since current rules are not promulgated to achieve the least restrictive method of regulation of this matter, as required under the Communications Act of 1934, as amended. Indeed, such arguments have found some support in Federal Court in the much publicised *FCC vs. Dunnifer* case. Although this petitioner does not condone broadcasting without a license (sometimes called pirate radio), it should be noted that there are large numbers of people all across America taking to the airwaves, knowingly risking fines and censure, and even criminal charges. There are many throughout America today willing to risk severe punishment just to be heard. For every person who is willing to take to the air with an unlicensed station, there are many more who wish to have the ability to own a broadcast station but will not break the rules to do it. This fact speaks volumes and clearly demonstrates the demand for this new broadcast service. Indeed, the Commission on its own Internet webpage states that it receives inquiries from over 13,000 individuals and groups each year that desire to start their own low-power radio station. It is hoped that enactment of the ideas put forth in this petition will allow many of these would-be broadcasters and many of the "so called pirates" to become legitimate, licensed broadcasters serving their communities by putting the much needed local element back into broadcasting. The system can work to serve the public interest just by changing some rules, as shown in this petition. As an observer, I fear that to ignore this large number of citizens, minorities and non-minorities alike, and deny them a voice could have severe repercussions in the future. If this sounds like a cry for help...it is!

2. Especially since the passage of the Telecommunications Act of 1996, we are seeing a concentration of media never before witnessed in America. Large companies and public corporations with almost unlimited resources are acquiring vast numbers of stations at an alarming rate, forcing the prices of stations even higher and severely limiting the number of voices. In the past one company could own six, then twelve stations nationwide. Today some companies own hundreds, with no limit imposed! The negative impact of this massive consolidation is being felt even in the smallest markets across the country, resulting in fewer voices/opinions on the airwaves. The long coveted principle of diversity of ownership in media seems to have fallen by the wayside in the rush to deregulate this industry. This need not be the case, as will be shown in this petition.

3. Since the creation of broadcasting in America, the Commission has put a heavy

emphasis on diversity of ownership of radio stations and had strict rules limiting not only how many stations one company could own but also how many of each type in a market. Without reiterating the many cogent reasons for the original creation of ownership limits, suffice it to say that many negative effects are becoming readily apparent due to the loosening of these ownership limits, under the Telecommunications Act of 1996. From one AM and one FM per market with an ownership cap of 6 stations nationwide, this gradually increased to 12 stations nationwide and today we see some corporations owning hundreds of stations nationwide and as many as 8 stations in one market. In many markets where there had been a dozen or more different owners, today, after consolidation, the market may be controlled by as few as three or four owners. The Department of Justice (DOJ) seems to think that anything over 40% ownership in one market constitutes a problem. From 6 to 12 stations nationwide and now hundreds with no FCC limits! What's wrong with this picture? By comments of some Commissioners in recent trade publications, it seems that there might be an interest in reigning in this runaway consolidation. Will the 80% of markets that are already consolidated be broken up? Not likely. Can the Commission do something to put local ownership and local service back into broadcasting? Yes, by instituting the far reaching provisions outlined in this petition. It will take a strong resolve on the part of the Commissioners to buck the National Association of Broadcasters (NAB) and some existing station owners who will desire to preserve the status quo, but I believe this new group of Commissioners led by Chairman Kennard can and will win this one for the little people. Little referring only to limited financial resources but having an abundance of talent, abilities and drive to serve their local communities. In addition to the obvious advantages of having more voices represented, there will be many other benefits derived, such as creation of many jobs nationwide, both at stations and in the manufacturing of equipment and services for the thousands of new LPFM stations that will spring up under this plan.

4. This petition proposes the establishment of a Low Power FM (LPFM) broadcast service similar to the existing Low Power Television (LPTV) service that has served a useful purpose in promoting diversity of ownership in media, a variety of program choices for the public and cost effective outlets for advertising for small business owners. Localism has been the key to success for LPTV by serving small communities or niche segments of audiences within large metropolitan areas that are underserved or unserved by the larger full-service stations that cover several counties. It is this lack of localism in radio, due in large part to changes of Commission rules (deregulation), that has caused a profound and permanent change in the broadcast landscape over the last few years. It is time for the pendulum of change to swing back to the long held principles of *localism* and *diversity of ownership* in broadcasting. In recent years, these well founded principles seem to have vanished along with their *raison d'etre.* Although it is too late to undue the damage done by deregulation, action on this petition could go a long way in restoring power to small business people and the listening public. We will be seeking sufficient power levels (maximum ERP) to cover areas similar to that covered by a LPTV station, approximately fifteen miles maximum for "primary class" stations. Others will be able to operate "special event" stations with as little as one watt and "secondary class" stations with power levels in between those levels. Complete details on power, coverage and interference protection will be described later in this petition.

5. Methods of protecting this new service from being usurped by large corporations will be discussed. Local ownership of these new stations will serve the public interest by involving the ownership in the day to day operations of the station, a condition most likely to result in serving the local community. Strict regulations regarding local ownership and transfers will be needed and one method is discussed which would help to conserve Commission resources. One thing should be clear...this service MUST be for the small business person and not the large corporations. The hardest part may be perfecting regulations that cannot be circumvented by the corporate lawyers.

II. GENERAL BACKGROUND

6. By way of background of this petitioner and the formulation of this plan- like many I developed a love of radio broadcasting early and built a small radio station in my basement at age 16 (in 1960) and by age 18 had landed my first job as an announcer at a commercial radio station. I acquired a FCC First Class Radiotelephone license and went on to work for ten stations across the country in both on air and sales positions, before starting my own business in 1976. I obtained permission from the full Commission and created the world's first commercial "Tunnel Radio" station in Fort Lauderdale, Florida in 1976. I later installed Tunnel Radio stations in Baltimore, Boston and Montreal. I participated in the rulemaking that created the Low Power Television service and in 1980 founded TRA Communications Consultants, preparing LPTV and FM applications for clients nationwide. In 1980 I applied for and in 1988 was awarded a LPTV license and constructed TV-27 Fort Lauderdale, which I still operate today. Since LPTV is a secondary-service, my station, along with hundreds of other "mom and pop" stations will be forced off the air by the rules created by the Commission in the digital television proceeding. It should be noted that in my petition for reconsideration of the digital rules, I suggest awarding a LPFM license to anyone bumped from their LPTV channel as a form of remuneration that would not cost the government anything.

7. In this petition, is a call for creation of both "primary service" and "secondary service" stations as well as "special event" stations in LPFM. Having invested my life savings in my LPTV station, only to see it now threatened with displacement by digital television, like hundreds of other LPTV station owners, it is imperative that a "primary service" class license be created to prevent this from happening in the future to owners who invest their life savings into building a LPFM station. The different classes of LPFM licenses being proposed will be discussed in detail later in this petition. I spoke with some attorneys that specialize in FCC matters, regarding this petition, but it became apparent that there would be a conflict of interest with them since they earn their living from representing full-power stations, many of whom belong to the NAB. Those interests will naturally oppose this petition claiming everything from unfair competition to interfering with plans for in-band-on-channel (IBOC) digital conversion, neither of which is true as shown herein.

III. NEED FOR LPFM SERVICE

A. BACKGROUND

8. If the Commission had rules that made it easy for a person of limited financial means to acquire a broadcast license, there would be no need for this petition. That not being the case, we are attempting to show the Commission and others that rules could easily be put in place to accomplish this goal without using an undue amount of Commission resources. In this petition we will show that this proposal will:

A. Make more efficient use of the FM band without interference.
B. Increase diversity of ownership of stations including "*minority ownership*".
C. Give the listening public more and better listening choices.
D. Provide for affordable radio advertising to small businesses, even in large markets.
E. Create jobs nationwide at new stations, equipment manufacturers and suppliers.

B. GENERAL ISSUES

1. Effects of the Telecommunications Act of 1996

9. Section 257 of the Telecommunications Act of 1996 relating to lowering barriers to entry in broadcasting for small business should provide the ammunition needed to implement the rule changes described in this petition as stated below:

> **"(a)..the Commission shall complete a proceeding for the purpose of identifying and eliminating , by regulations pursuant to its authority under this Act (other than this section), market entry barriers for entrepreneurs and other small businesses in the provision of ownership of telecommunications services..."**
>
> **"(b) NATIONAL POLICY- In carrying out subsection (a), the Commission shall seek to promote the policies and purposes of this Act favoring diversity of media voices (*emphasis added*), vigorous economic competition, technological advancement, and promotion of the public interest, convenience and necessity."**

10. While the Telecommunications Act of 1996 provided the mechanism that allowed the massive consolidation of the radio industry by large corporations, it also provides for the eliminating of barriers to entry into broadcast ownership for individuals and small business as detailed above. It is clear from the wording of the Act that Congress intended to provide for the small businesses as well as something for the large corporations. We must now demand that the FCC act, with the authority granted it under the Act, to eliminate barriers to entry for individuals and small business. Enactment of the provisions of this petition falls squarely in line with this mandate from Congress.

2. Small Business Definition / Need for Reassessment

11. The Commission erred previously when it adopted the Small Business Administrations (SBA) definition of a small business as one having $6 million net worth and less than $2 million in annual profits for each of the two previous years. This is far too high and certainly not my idea of *small business.* The fact that over 93% of all radio stations in the nation qualify as a *small business* under this inflated definition indicates to me that some experienced lobbyists were involved in drafting this definition! Having operated truly small businesses for the past twenty years and coming in contact with many small business owners, I know of none of my small business friends that approach any such limit. Indeed the limit may be exagerrated by over 80%, in my opinion, in order to garner the largest number of large businesses under the small business umbrella. I believe a much more realistic definition of small business would be one with a net worth of under $2 million and annual profits of under $500,000. This still would include the vast number of truly small businesses that are entitled to this classification. The Commission should institute whatever proceedings are necessary to change its definition of *small business* to reflect a more realistic definition.

3. Plan to Increase Minority Ownership of Radio Stations

12. Since the passage of the Telecommunications Act of 1996, the percentage of ownership of media by minorities and women has actually dropped, due in part also to the discontinuance of minority tax certificates. As this Commission struggles with how to improve the minority ownership levels of full-power radio and television stations under the strict limits imposed by the courts, this petition provides a method for significantly increasing minority ownership in a rapid, widespread and meaningful manner. By employing the local ownership restrictions detailed later in this petition, involving a local ownership requirement providing proof of local primary residence within 50 miles of the proposed stations tower site, only local owners will have a chance to apply for these licenses. (See IV-10 Ownership restrictions later in this petition). By offering operation either as a full-time "primary class" or a part-time "secondary class", stations will be able to be constructed for very little investment, perhaps <u>less than the cost of a new car</u>, thus assuring significant minority ownership. Indeed, with this low barrier to entry, minority preferences and their questionable constitutionality, may not be needed .(See IV-2 & 3 later in this petition for details).

4. Barrier to Entry for New Entrants to Radio Station Ownership

13. When one talks of barrier to entry into radio station ownership, the discussion should include not only the very small markets where barrier to entry is lower but also large markets and metropolitan areas <u>where most of the people live</u>. One should not have to move his/her family to Podunk, Idaho, for example, in order to be able to own and operate a radio station. Under the plan put forth herein opportunities will be available in all markets, nationwide, for local owners. The structure of rules currently in place and the effects of consolidation of radio stations nationwide have made it virtually impossible for all but the wealthiest individuals and large corporations to enter into broadcast ownership in the major

metropolitan areas and increasingly even in the smaller markets as well. Indeed, some articles in the trade publications suggest that the large corporations are almost done consolidating the large markets and are now beginning to concentrate on the small and very small markets. This activity further squeezes out the little guy and creates more problems as detailed throughout this petition. The plans outlined herein can help level the playing field for the "mom and pop" owners and put them, and the needed localism they bring, back into the broadcast ownership mix.

14. Given the decision of Congress to use spectrum auctions as a way of awarding new broadcast licenses in the future, there appears to be no hope whatsoever for individual entrepreneurs and small businesses in acquiring full-power radio station licenses. Using auctions becomes like trying to win a game of Monopoly when your opponent owns Boardwalk, Parkplace, and all the Railroads! It will be necessary to secure Congressional approval of lotteries to award LPFM licenses, since auctions, by their nature, would be counterproductive and not at all suited for this purpose. Auctions for the full-power licenses but lotteries for the LPFM licenses make sense. Lotteries have worked well in the LPTV service in the past, speeding service to the public and conserving resources of both the Commission and station owners. The large corporate broadcasters and the NAB would do well to back this proposal rather than trying to defeat it since it will preserve their consolidated positions while allowing those presently shut out of broadcast ownership to have a piece of the pie, albeit a small piece.

5. Pirate Radio Problem

15. Estimates in the trade press of citizens taking to the airwaves illegally have ranged from hundreds to thousands and the truth is nobody really knows for sure. With the equipment being readily available at low cost there is a danger of "pirate radio" really getting out of control all across the country. With each Commission high profile bust of a pirate, more pirates seem to spring up, as in retaliation. Indeed some of the fringe element of this faction seem to relish an all out war with the feds who try to stop them. With limited Commission resources to devote to keeping the lid on this pressure cooker and with the NAB openly declaring war on "pirate radio" in the press, this is not a situation that seems to have a happy ending. What I am proposing in this petition is a win-win situation. Everyone wins. By creating this three tier LPFM service, those serious about getting heard on the airwaves will have an outlet. Corporate broadcasters and the NAB can continue doing their thing and the FCC can take pride in providing a much needed service. Of course you will always have a handful of those that think the FCC doesn't have any jurisdiction over anything other than interstate commerce and that think they don't need to have a drivers license or social security card, etc. The bulk of the "pirate radio" problem will disappear since they will be happily broadcasting (legally) and providing interesting listening alternatives and much needed localism along the way.

6. Diversity of Media / Voices

16. Diversity of ownership in media contributes to the number of voices (viewpoints) on the air. With the concentration of media comes the danger of a much more limited outlook and airing of views and programs. A recent statement by an attorney involved in the *FCC vs. Dunnifer* case stated a good analogy of broadcast ownership as it relates to free speech, the kind guaranteed us under the First Amendment to the US Constitution. By crafting rules so that only the wealthy can afford to speak (own radio stations) it is like saying anyone is free to speak from their soapbox as long as he or she speaks from a soapbox made of gold. During the height of communism in Russia, one could listen to any radio station he chose as long as it was Radio Moscow. By diminishing the diversity of ownership in media throughout America, we are on a slippery slope towards a very unpleasant end. Create a LPFM service that is accessible to those with limited resources instead of shutting more doors in front of them and watch the wonderful things that can happen when you truly let freedom ring all across America!

7. Commissions Responsibilities under Section 307(b) of the Communications Act of 1934, as amended

17. The Commission has a mandate under Section 307(b) of the Communications Act of 1934, as amended to provide a service such as set forth in this petition.

> **"(b) Allocation of facilities -**
> **In considering applications for licenses, and modifications and renewals thereof, when and insofar as there is demand for the same, the Commission shall make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same."**

18. It could be argued that the current Commission rules do not live up to the mandate given under Section 307(b) for the fair, efficient, and equitable distribution of radio service to each State and community, if community is meant to mean people that comprise the community instead of the limited definition of community as merely a geographical reference. Indeed, within 307(b) it refers to applications for licenses. Communities do not apply for licenses but rather people apply for licenses and although the number of stations in each community may stay the same, common ownership severely limits the number of voices. Thus, it could also be argued that the consolidation of radio that has taken place is contrary to the mandate given in Section 307(b) for fair, efficient and equitable distribution of radio service.

IV. DESCRIPTION OF LPFM SERVICE AS PROPOSED

1. Overview

19. After careful study, there appears to be four distinct types of Low Power FM

service needed throughout the country. First is the hobbyist who wishes merely to transmit a signal to another part of his/her house or other needs such as a Real Estate company that wishes to transmit a message about a home for sale to prospective buyers parked directly in front of the home. These type uses are already adequately provided for under current Part-15 rules, which limit radiation to 250 uV/m at 3 meters from the antenna. A range of up to 200 feet generally can be achieved with these Part-15 devices that are readily available today.

20. Secondly, there is a need for "special-event" stations to broadcast information concerning a special event for a limited time period, such as a local boating regatta, automobile races, etc. These stations may only need to broadcast for a weekend or a few days related to the event in question. There should be an easy streamlined system to coordinate these one-time requests, where coverage requirements might typically be one to two miles, around a park, racetrack, etc. These we will refer to as "LPFM-3 Special Event" permits.

21. Thirdly, there is a need for stations to serve very "small communities" or very small areas within larger communities, such as operated today by some so called "pirates" that typically have a range of under five miles for their 60 dBu (1 mV/m) contour. Many in this group prefer to operate with volunteers from the community offering a variety of programs and viewpoints by area residents and offer a loosely structured form of broadcasting, often without set hours of operation, sometimes depending on who shows up to broadcast when scheduled. This type of station, run without employees per se, could be started for very minimal costs and would be classified as what we shall call "LPFM-2" Part-74 Secondary-Service. LPFM-2 stations will have a maximum power limit of 50 watts (ERP), a minimum power limit of 1-watt (ERP) and maximum antenna height of 150 feet HAAT.

22. Finally, there is a need for a more structured type of station, again with local owners, who themselves will invest the time and money needed to create a station that will be responsive to local needs and interests, much the same as used to be required from traditional broadcast stations, before deregulation. This type of station will mirror more closely the typical full-power station, except that it can be expected to be more responsive to local needs and interests since its ownership will live in the market and work at the station. This type of station may consist of a few employees in addition to the owner(s) and have a 24-hour per day continuous broadcast schedule. Stations with five or more employees would be required to submit Equal Employment Opportunity (EEO) reports the same as full-power stations. The main difference between these stations and small full-power stations will be that these stations will be required to have local ownership but will have somewhat smaller coverage areas. By barring ownership by large corporations, this type of station will become available to the "mom and pop" operators and minorities that have been shut out of radio station ownership in the traditional broadcast arena. Most of the Part 73 rules that apply to full-power stations will apply also to these stations. We suggest a minimum power level of 50 watts (ERP) and a maximum power level of up to 3 kilowatts (ERP) which will provide a coverage area of up to approximately fifteen miles, similar to the old Class A FM stations. This should be sufficient to cover most communities, a cluster of small communities or a fair portion of a major metropolitan area. Again, local ownership must be required and sales or

transfers should be allowed only to parties that also meet the local ownership requirements to avoid these facilities being snapped up by the large corporations as part of their consolidation efforts. Ownership restrictions are detailed later in this petition (see IV-10).These stations should be licensed as "LPFM-1" Part 73 Primary-Service stations, with their 1 mV/m (60 dBu) contours protected by all other classes of stations, including full-power stations. It is anticipated that use of only commercial FM channels 221 (92.1 MHz) through 300 (107.9 MHz) should be used for LPFM service, whether a commercial or non-commercial station is being proposed. There should be sufficient channels available under the criteria proposed herein to provide one or more new channels to each market area.

2. Part-73 primary service Stations / LPFM-1 Licenses

23. This will be the highest class LPFM station (LPFM-1), with the largest possible coverage area as well as the most stringent requirements. The vast majority of Part 73 rules that apply to full-power stations should apply to these stations as well, including minimum hours of operation. There shall be a minimum power level of 50 watts (ERP) and a maximum power level of 3 kilowatts (ERP) and a maximum antenna height of 328 feet (100 meters), with corresponding de-rated power if the antenna height exceeds this maximum. Some stations in small communities may chose to operate at lower power levels to cover their area of interest, while being able to keep equipment costs low. LPFM-1 stations will receive protection as primary-service stations, by all other classes of LPFM as well as full-power stations, out to their actual 1 mV/m (60 dBu) contour. Desired to undesired signal ratios, as used in the LPTV service, will be discussed in section IV-5 of this petition below.

24. By requiring owners to live within 50 miles (80 km) of the stations antenna site, the community will benefit by having station owners who have an intimate knowledge of the community's needs and interests. These stations can survive commercially since they will be able to cater to many small businesses whose trading areas closely match their coverage areas. This efficiency will allow many small businesses across the country to advertise on radio (many for the first time) without having to pay the higher rates of full-power stations that cover areas outside of their major trading area (wasted coverage). Lower rates of LPFM stations will also allow small businesses to air more spots and thus increase their effectiveness on radio. This competition will benefit the public not only by increased voices in the community but also may spur on some full-power stations to better serve their communities. This will result in the most efficient utilization of the spectrum in the FM band, filling in the gaps not large enough to accommodate a full-power station. This same principle has been accomplished with great success in the Low Power Television (LPTV) industry and will work for LPFM as well. License terms and renewal expectations should be the same as for full-power FM stations. Application fees and annual regulatory fees for LPFM-1 class stations should be slightly lower than LPTV stations, since it is an audio only service. Applications for class LPFM-1 stations shall include an engineering showing of non-interference on co- channel and first adjacent channels meeting required desired/undesired signal ratios.

3. Part-74 secondary service Stations / LPFM-2 Licenses

25. This class of station (LPFM-2) shall be a "secondary service" and shall be available to those types of broadcasters who do not wish to conform to a more structured and/or regulated form of broadcasting that will be required of LPFM-1 licensees. Although these licensees will not have to adhere to most Part 73 regulations, except for spectral purity and various broadcast taboos, this license will be issued as a "secondary-service", meaning that the licensee must vacate the channel if a full-power station becomes short-spaced (based on desired to undesired signal ratios) due to an antenna site move or power increase, or application by a LPFM-1 primary service station applicant. These stations will be licensed with a minimum power of 1 watt (ERP) and maximum power of 50 watts (ERP) with maximum antenna height of 328 feet (100 meters).

26. A LPFM-2 station would receive contour protection (1 mV/m) only from other LPFM-2 class or LPFM-3 class (special event) stations. It is the general intent of this license to be an interim class in that it may be less costly to start a station as a LPFM-2 and then upgrade to LPFM-1 status at a later time. A LPFM-2 station threatened by displacement by a LPFM-1 class station, should have sixty days in which to apply to upgrade to LPFM-1 class and retain its license; otherwise, it may be displaced by a LPFM-1 class applicant. Applications for class LPFM-2 stations shall include an engineering showing of non-interference on co-channel and first adjacent channels meeting required desired/undesired signal ratios.

4. Special-Event Stations (temporary) / LPFM-3

27. There is a need for LPFM stations to broadcast information about events such as boating regattas, automobile racing events and other events that take place over a period of time not to exceed ten days. These LPFM-3 authorizations would expire after a maximum of ten days and licensing would be required again if the same event is scheduled for the next year. Applicants who held a LPFM-3 authorization previously for the same event at the same geographical location would receive a preference over a new applicant for a LPFM-3 authorization for the same event (time period). These LPFM-3 authorizations should have a maximum power limit of 20 watts (ERP) and a maximum antenna height of 100 feet HAAT (height above average terrain), which should provide a listenable signal of one to two miles or better. A special application form should be available for this class LPFM and should require only a signed certification statement by an engineer stating that co-channel and first-adjacent channels will be protected and the methodology used to reach that conclusion. Such stations must cease broadcasting immediately if notified of interference by the Commission.

5. Technical Considerations / Interference Predictions

28. Protection for co-channel and first adjacent channels (above and below) in this petition matches the existing protection of FM channels under current Commission rules (per Section 73.215), using a desired to undesired signal ratio and calculation of protected (desired) and interfering (undesired) contours based on propagation curves contained in FCC

rules Section 73.333 figure 1 for F(50/50) protected contours and Section 73.333 Figure a for F(50/10) interfering contours. This method of desired to undesired (D/U) signal ratios is used to provide interference protection to full-power FM stations of all classes from full-power short-spaced FM stations and also has been used in the Low Power Television (LPTV) service successfully.

29. Co-channel interference is predicted to exist, for the purpose of this section, at all locations where the undesired (interfering station) F(50,10) field strength exceeds a value 20 DB below the desired service F(50,50) field strength of the station being considered (e.g., where the protected field strength is 60 dBu F(50/50), the interfering field strength must be 40 dBu F(50/10) or more for predicted interference to exist).

30. First-adjacent channel interference is predicted to exist, for the purpose of this section, at all locations where the undesired (interfering station) F(50,10) field strength exceeds a value 6 DB below the desired service F(50,50) field strength of the station being considered (e.g., where the protected field strength is 60 dBu, the interfering field strength must be 54 dBu or more for predicted interference to exist).

31. **Chart of Desired to Undesired Signal Levels for Interference Prediction:**

CO-CHANNEL:

Protected Contour / Desired F(50/50) Field Strength Contour		**Maximum allowable Interfering Contour/ Undesired F(50/10) Field Strength Contour**
All classes (Except B and B1)	60 dBu	40 dBu
Class B1	57 dBu	37 dBu
Class B	54 dBu	34 dBu

FIRST-ADJACENT CHANNELS (above and below):

Protected Contour / Desired F(50/50) Field Strength Contour		**Maximum allowable Interfering Contour/ Undesired F(50/10) Field Strength Contour**
All classes (Except B and B1)	60 dBu	54 dBu
Class B1	57 dBu	51 dBu
Class B	54 dBu	48 dBu

32. The above chart provides the <u>same protection</u> to full-power FM stations as

provided now under current Commission rules for co-channel and first-adjacent channels. Each application for a LPFM license will require an engineering showing that these interference limits are not exceeded to any co-channel or first-adjacent channel station. "All classes" in the above chart includes protection of the class LPFM-1 60 dBu protected contour by full-power FM stations as well as all other LPFM stations. LPFM-2 stations contours (60 dBu) are protected only by another LPFM-2 class station. LPFM stations of all classes (LPFM-1, LPFM-2, LPFM-3) must meet the interference standards (undesired) in the above charts relative to all full-power FM stations and protected LPFM-1 stations (60 dBu protected contour).

33. Computer programs currently used by the Commission to predict interference, under the short-spaced FM station rules, can be used to predict interference in applications for new LPFM stations of all classes. Thus, processing of a LPFM application by the Commission should require a minimum of time and effort and preserve the same high standards against interference as currently exist.

34. Under this plan second-adjacent and third-adjacent, as well as 10.6 MHZ and 10.8 MHZ intermediate frequency (IF) restrictions are eliminated due to vast improvements in receiver technology since these restrictions were created several decades ago. Current FM-translator rules eliminate the IF restrictions for FM translators under 100 watts (Section 74.1204(g) of the rules). Further discussion of the elimination of these restrictions is discussed below in this petition (see IV-6).

35. Applications for all classes of LPFM stations located within 320 km of the Canadian border will not be accepted if they specify more than 50 watts effective radiated power in any direction or have a 34 dBu interference contour, calculated in accordance with § 74.1204 of FCC rules, that exceeds 32 km. LPFM stations located within 320 kilometers of the Mexican border must be separated from Mexican allotments and assignments in accordance with § 73.207(b)(3) of FCC rules and are limited to a transmitter power output of 10 watts or less. The Commission shall seek to lessen these restrictions during future negotiations with the Canadian and Mexican governments to allow higher power for LPFM stations within the above stated distances to the respective borders.

6. Support for Technical Considerations

36. It is proposed in this petition that the second and third adjacent channel spacing restrictions currently embodied in the rules be eliminated as unduly restrictive and unnecessary for the purpose of implementing this new LPFM service. A discussion of past FCC rules follows which shows that second and third adjacent channel restrictions have been ignored in the past without causing significant interference. With receiver improvements in selectivity in the past many years, and the relatively lower power of the proposed LPFM stations, it serves the public interest that second adjacent channel and third adjacent channel restrictions be discarded for implementation of this new service. Any small amount of interference, which might occur around the LPFM antenna site, would be offset by the advantage of new service

as proposed herein. Significant public interest benefits would flow from adoption of this proposal.

37. In 1962, the Commission began a series of rulemaking actions specifying requirements for the FM broadcast service, including station distance separation requirements. First Report and Order in Docket 14185, 33 FCC 309 (1962). A number of existing stations were operating from transmitter sites that did not comply with the distance separation requirements adopted then, and the Commission grandfathered these as permitted short-spaced stations.

38. In its Third Report, Memorandum Opinion and Order in Docket No. 14185, 40 FCC 747 (1963), the Commission adopted a new FM table of allotments and a channel allocation scheme based on fixed mileage separations between stations on the same FM channel and on three adjacent channels on either side of the particular station's channel. This allotment scheme was applicable to new stations, while the policies governing existing grand fathered short-spaced stations were addressed in the Commission's Fourth Report and Order in Docket No. 14185, 40 FCC 868, 3 RR d. 1571 (1964). (hereinafter referred to as the "Fourth Report and Order").

39. In its Fourth Report and Order, the Commission permitted then-existing co-channel and first adjacent channel short-spaced stations to achieve facilities to the maximum for their class provided that certain maximum mileage separations between stations' transmitter sites were met. However, in the Fourth Report and Order, the Commission treated stations on existing short-spaced second adjacent channels and third adjacent channels differently from the way they treated short-spaced co-channel and first adjacent channel stations. Specifically, the Commission determined that it would permit stations to disregard short-spaced stations on second and third adjacent channels (*emphasis added)* in any applications for improvement of technical facilities. Fourth Report and Order, supra, 40 FCC at 879. In adopting this approach for pre-1964 grand fathered second adjacent channel and third adjacent channel short-spaced FM stations, the Commission noted as follows:

> **"With very few exceptions, all the parties recommend that short-spacings on second and third adjacent channels be disregarded in any proposal which is adopted. It was pointed out that this interference is usually very small, occurs around the transmitter site of the station causing the interference, and that in any event the small amounts of interference caused are more than offset usually by the advantages of power increases for all stations..."**
>
> Fourth Report and Order, supra, 40 FCC at 879.

As a result of these policies, in its Fourth Report and Order, the Commission adopted, as part of Section 73.213(a) of its Rules, a new table of routinely permissible power and antenna heights limited that applied only to modifications of technical facilities for grandfathered short-spaced co-channel stations and first adjacent channel stations. No restrictions were placed on technical improvements for grandfathered short-spaced stations on second and third adjacent channel stations.

40. Nearly 20 years later in 1983, the Commission adopted a major revision of its FM channel allotment rules but did not modify the Table in Section 73.213(a), which deals with grandfathered short-spaced stations, to accommodate the new classes of FM stations created under BC Docket No. 80-90, namely classes B1, C2 and C3.

41. In 1987, the Commission revised Section 73.213(a)--including the rule change that required consideration of second and third adjacent channel short-spacings in the context of applications for improvement in the technical facilities of grandfathered short-spaced stations. This 1987 revision to Section 73.213(a) of the Rules was premised solely on the basis of the Commission's undocumented and unsupported speculation *(emphasis added)* that improvement of the technical facilities of grandfathered short-spaced second adjacent channel and third adjacent channel stations might increase the "risk" of interference. Unfortunately, the Commission's foregoing conclusions in 1987 were not predicated on any record evidence that improvement in the facilities of grandfathered short-spaced second adjacent channel stations and third adjacent channel stations would, in fact, pose an increased risk of interference to other grandfathered short-spaced second and third adjacent channel stations. Nowhere in the Commission's Second Report and Order in MM Docket No. 86-144, supra, does the Commission make any finding of fact or point to any record evidence in the proceeding that in any way casts the slightest doubt on the validity of the findings of fact and conclusions that the Commission reached in its Fourth Report and Order in Docket No. 14185, with respect to second and third adjacent channel grandfathered short-spaced stations.

42. In MM Docket No. 96-120 RM-7651, adopted August 4, 1997, the Commission received almost unanimous support in comments from numerous consulting engineering firms and broadcasters for completely disregarding the second adjacent channel and third adjacent channel restrictions for applications from grandfathered short-spaced FM stations seeking to improve their facilities. A sample of the comments and the Commission's conclusion appear below:

General support.
Of the parties providing initial and reply comments on this proposal, most agree that we should completely eliminate second-adjacent and third-adjacent spacing requirements for grandfathered stations. The Joint Petitioners fully support the original Proposal 2, and specifically reject the alternative proposal put forth in Paragraph 26 of the *Notice*. AFCCE supports the original Proposal 2, and states that it is "the most essential part of the simplified procedure." Mullaney supports the original Proposal 2. CTI fully supports Proposal 2, stating that *today's receivers are seldom affected by second-adjacent and third-adjacent channel interference* (emphasis added).

Media-Com, Inc. and Group M Communications, Inc. both support Proposal 2 and state that current second- and third-adjacent channel restrictions have prevented grandfathered stations from improving, or even maintaining existing service areas. Compass Radio of San Diego, Inc. ("Compass") fully supports Proposal 2, stating that adoption would facilitate improvement of station facilities, along with eliminating a significant amount of unnecessary workload on the Commission's staff. *Compass' comments include specific examples of stations that have operated with second-adjacent or third-adjacent overlap, without receiving interference complaints*

(emphasis added).

Conclusion.
As the majority of the commenters in this proceeding agree, we believe that reinstatement of the pre-1987 rules regarding second and third-adjacent channel grand fathered stations would best serve the public interest. We see little advantage to require additional exhibits from grand fathered stations proposing site changes or facility modifications. *The small risk of interference is far outweighed by the improvement in flexibility and improved service* (emphasis added).
Report and Order MM Docket No. 96-120 RM-7651, adopted by the Commission August 4, 1997 and released August 8, 1997.

43. The NAB filed comments in support of disregarding the second and third adjacent channel restrictions in this proceeding but added a comment that they were concerned about "the possibility that this or a future Commission might modify its overall FM allocations criteria, based on the record in the instant proceeding...". Thus the NAB would have us believe that interference will not occur on second and third adjacent channels, but only for a certain class of stations covered in this proceeding, namely grandfathered short-spaced FM stations. They gave no evidence in their comments in the proceeding supporting this view scientifically. Indeed, the laws of physics relating to second and third adjacent channel interference would be the same regardless of the class of FM station considered. Put simply, a receiver doesn't know the "class" of the FM station it is receiving and will not receive interference based on the station's "class", grandfathered or new. I contend that NAB's comments in this regard are anti-competitive in nature and should not be given weight in this matter.

44. For the reasons stated above, it is requested that only co-channel and first adjacent channels be studied in predicting interference for applications for new LPFM stations. As has been pointed out, any very small amount of interference that might occur would be around the immediate vicinity of the LPFM transmitter site and based on the low power being used would be a very small area indeed, probably in the neighborhood of a hundred feet or less, if at all. Clearly the paramount public interest, convenience and necessity is best served by promoting the creation of these LPFM stations, thereby fostering competition and diversification of ownership of mass media. The Supreme Court has long recognized that:

> **"...the Commission has long acted on the theory that diversification of mass media ownership serves the public interest by promoting diversification of program and service viewpoints, as well as by preventing undue concentration of economic power."**

FCC v. National Citizens Committee for Broadcasting, 436 US 775, 780 (1978)

45. It is important, as stated by the Supreme Court above, to prevent an undue concentration of economic power. It has been pointed out in this petition and in numerous trade periodicals that the unprecedented consolidation of ownership that has taken place in the radio industry over the last few years has far reaching negative effects by concentrating this amount of economic power in each market and nationwide. Ad agencies have complained that

when one owner controls a half dozen stations or more in a market, they are forced to buy time on some of his other stations that might not normally be desired in order to get ads on the top one or two stations in the market under common ownership. Many small advertisers have stated that since consolidation the rates have increased tremendously to the point where they can no longer afford to advertise on radio in their market. It is this undue concentration of economic power that the Supreme Court referred to above. Implementation of this proposal could go a long way in making affordable radio advertising available to small advertisers once again and increase the diversity in programs and station ownership nationwide.

46. As of October 1996, according to an estimate included in a NAB filing regarding grandfathered short-spaced FM stations, there were the following number of short-spaced stations and situations grouped as follows:

Short-spaced stations:	Class A	57
	Class B	206
	Class B1	2
	Class C	44
	Class C1	3
	TOTAL	312

Short-spaced situations:	2nd adjacent channel short spacings	322
	3rd adjacent channel short spacings	138
	TOTAL	460

The number of short-spaced-situations exceeds the number of short-spaced stations because a single station can be involved in more than one short-spacing. This illustrates that many full-power stations have operated for years with short spacings on second and third adjacent channels without complaints of interference. To argue that second and third adjacent channels need current restrictions is simply not supported by facts, as demonstrated herein and in the MM Docket No. 96-120 RM-7651 proceeding.

47. The public interest standard of the Communications Act includes examination of competitive issues; indeed, the Commission is empowered "to make findings relating to the pertinent antitrust policies, draw conclusions from the findings and weight these conclusions along with other important public interest considerations." U.S. v. FCC, 652 F.d. 72, 81-82 (D.C. Car 1980) (en banc). Competition is a means to an end of maximizing consumer welfare and efficient allocation of resources.

48. In the event that the Commission decides to keep some restrictions on intermediate frequency (I.F.) spacing, it could reduce the spacing requirements in the current rules due to the lower power of the stations being proposed in this petition. If no I.F. restrictions are imposed it would allow a greater number of LPFM stations be built and this

fact should be weighed versus any potential for minimal interference in a very small area. The ability to ensure diversification in ownership of media should outweigh any minimal amount of interference that might result from discarding of the I.F. spacing requirements or in the alternative the lessening of same for the LPFM service.

7. Allocation Table vs. "Filing Windows"

49. A series of application filing windows, as used successfully in the Low Power Television (LPTV) service, should work well for a new LPFM service. This method allows channels to be applied for on a demand-basis by applicants, in numbers and areas that best suit the applicants needs. The method of opening of a filing window, normally for a one week period, for new and, later, major-change applications could work well for this service. A problem with an allocation table is that it acts like a magnet to draw competing applications by applicants that may not be as enthusiastic, serious or motivated about the channel as the applicant who went to the trouble to find a usable channel and then apply for it, hopefully uncontested. In this manner, the only way an applicant would face competition for his/her channel would be if another applicant coincidentally happened to file for the same FM channel in the same area. This method would contribute greatly to saving scarce Commission processing resources, since many applicants may be the only applicant (singleton) for a channel during a filing window and may get a quick grant, thus also speeding service to the public. When the Commission used to publish cutoff lists for LPTV channels, it drew far more applications from speculator type applicants who may not be the most qualified to receive the channel. Once the Commission eliminated the cutoff list in favor of the one-week "filing windows", it saw far fewer applications by more qualified applicants, many of which received a channel uncontested and proceeded with rapid construction. Therefore, for the new LPFM service, the Commission should abandon its traditional approach of allocating a channel to a community and then publishing its availability.

50. The demand-based system of filing windows described here has a proven record in the LPTV service and should be used for LPFM as well. Once the filing window closes, the Commission then can publish a list of applicants and give the standard 30-day period for petitions to deny. Any mutually exclusive (MX) applicants should then be scheduled for lottery to award the channel. The lottery system has worked extremely well in the LPTV service and speeds service to the public while conserving Commission resources. Due to the limited financial resources of the small businesses and individuals that will apply for LPFM ownership, auctions would not serve a useful purpose, either for the Commission, the applicants or the public. Application fees and annual regulatory fees can be used to pay for the cost of processing the applications and administering the service at the Commission.

8. Application Requirements, Processing and Fees

51. In order to assure no interference to existing facilities, each LPFM application should include an engineering showing of no interference to the co-channel and first adjacent

channels above and below the channel being studied. This showing/report should illustrate the closest existing or pending stations that need to be protected on the co-channel and first adjacent channels.

52. The Commission could use the standard FCC Form 346 application to construct a Low Power Television (LPTV) station with only minor changes needed for LPFM use. A real party in interest certification should be included to protect against sham applications trying to use a local resident as a front for another real party in interest that does need meet the local residence or other requirements for LPFM application. The basic technical questions should include the channel specified, transmitter and rated output, antenna and gain of antenna, transmission line and associated line loss, effective radiated power both horizontal and vertical, site coordinates, antenna site vertical plan sketch showing center of radiation above ground level and above mean sea level and other technical information that may be required. FCC type-accepted equipment must be employed to assure spectral purity.

53. The application form should also include information on any ownership of mass media communications and possibly minority ownership status. Whether a lottery or auction is used to award LPFM licenses, there should be a weighted preference for applicants that own no other form of mass media, with the exclusion of Low Power Television holdings, which should not be counted due to the secondary-service classification of such licenses. An applicant who owns no other media should be given at least a four-to-one choice of selection over an applicant that owns one or more mass media. Again, the procedure that has been used in the LPTV service could be studied and applied with slight modification. Proof of local residence within 50-miles of the proposed antenna site should be submitted for an applicant, if a sole proprietor or for each party to the application if a corporation or other entity. This proof could take the form of a local property tax verification for the street address being specified for the applicant. U.S. citizenship would also be a standard requirement for an applicant along with the standard check list of no felony convictions, no pending court matters that could affect the applicant's qualifications and the other standard certifications required on FCC Form 346. The Commission may want to assign the LPFM application Form 356, for instance with a FCC Form 357 license to cover construction permit for LPFM.

54. Processing of applications received during a filing window would first include a cursory review to make sure each application is essentially complete and a "letter perfect" standard, as used to be used for LPTV applications, could be used to reject applications that are not complete or sufficient enough to allow processing. Defective applications should be dismissed and returned to preserve Commission resources. In this manner, the Commission could be assured of receiving applications that have had the proper engineering study performed as opposed to receiving applications prepared by individuals who are not qualified to do the necessary technical analysis to avoid interference. Since a large number of applications are expected to be filed in each filing window, the Commission is justified in using a "letter perfect" standard to preserve scarce Commission resources. Once an application is found to be acceptable for filing then it can be entered into the Commission's engineering database and checked for non-interference and possible mutual exclusivity (MX) with one or

more other applications. Non-MX applications can be granted quickly and MX applications can be scheduled for lottery, as has been done with LPTV applications for several years. The Commission may need to have the authority for lotteries reinstated by Congress, since auction authority would not serve the public interest in this matter, as has been discussed earlier in this petition.

55. A non-refundable application fee of an amount needed to pay for the processing required by the Commission should be charged and attached to each LPFM application. It is suggested that an amount in the range of that charged to file a LPTV application ($490.00) would be acceptable for a LPFM filing fee. Annual regulatory fees along the lines of those charged LPTV stations ($225.00) could also be considered for LPFM stations. These fees should provide adequate resources to pay for processing of LPFM applications at the Commission, especially in view of the fact that fees filed by non-winning applicants are also non-refundable.

9. Handling of Mutually Exclusive (MX) applications

56. Due to the limited financial means of LPFM applicants, by nature, it is not appropriate to use an auction to decide between mutually exclusive applicants. Therefore, a lottery system, as used very successfully for many years in the LPTV service, should be employed in the LPFM service. The same physical system, ping pong balls, could be used to select a winner in FCC administered lotteries. A block of numbers would be assigned to each applicant in the MX lottery and the size of the block of numbers would be determined by any preferences attached to each applicant. For example, for a lottery between two applicants, one who owns no other media and one who owns other media the four-to-one preference could be given to the first applicant by assigning numbers in the block 000 to 750, while the applicant that owns other media would have the block 751 to 999. It may not be necessary to award preferences to "minority" applicants to achieve a desired level of minority ownership in this LPFM service, due to the very low financial barrier to entry as discussed earlier in this petition. With this low financial barrier to entry it can be expected to see a respectable level of minority participation and ownership of LPFM stations without trying to apply a minority preference that may not hold up in the courts.

10. Ownership Restrictions, Limits and The 50-Mile Rule

57. For the many reasons detailed throughout this petition concerning the problems inherent in concentration of ownership in the radio industry, it is ***imperative*** that the Commission establish strict ownership restrictions on this new service. Without such restrictions in place, one could expect the majority of channels to be grabbed up by the large companies that now dominate the ownership of standard FM stations.

58. One quick and easy method to achieve the desired diversification of ownership of these new stations is to employ what I call the "50-mile rule" with a media ownership restriction. That is, an applicant (if an individual) or all parties to the application, if a

partnership or corporation or other entity would have to prove residence within 50-miles of the proposed station's antenna site as described by its geographic coordinates along with a certification of no ownership of other forms of mass media by the individual or all parties to the application. One would be considered a party to the application regardless of the percentage of ownership and regardless of whether ownership is through voting or non-voting stock. This rule would accomplish two desired principles. First, it would assure that small business and individuals would have a fair chance of acquiring a LPFM license, since most large companies could not prove local residence within 50-miles for all the owners of the company or corporation. The restriction on ownership of other forms of mass media communications would prevent owners of other radio stations, television stations, newspapers and cable companies from gaining an unfair advantage over small business or individuals seeking a LPFM channel. Ownership of a Low Power Television (LPTV) station or stations should not count towards attribution in this case, since LPTV licenses are issued as a *secondary-service* and many of these will be displaced by the digital television roll out taking place.

59. A limit of one LPFM station per market (metropolitan statistical area / MSA) should be imposed during the application stage to allow ownership for the maximum number of applicants. Where it can be shown that an applicant resides (primary residence) within 50-miles of two or more distinct and separate markets, then one should be able to own one LPFM station within each separate MSA with a limit of three LPFM licenses to any one entity. While it might be advantageous in some respects to have a strict limit of one LPFM license per entity, a case can be made that to limit ownership in such a fashion would unduly restrict those seeking to achieve some degree of competition with standard FM station owners who own multiple stations per market. It should be noted that it will be difficult for any LPFM owner to acquire other LPFM stations through application for new licenses since a four-to-one media ownership disadvantage would be in effect, except for those applying for more than one LPFM in the same filing window. In that instance, ownership of stations would not yet have been achieved. Although the principle of common ownership of multiple stations goes against the grain of this petition, it may be found to be a necessary evil in the future, to this limited extent, in order to allow these stations to compete on a level with standard FM station owners who have achieved a degree of scale of operation. A successful LPFM owner might, through acquisition, be able to acquire two more LPFM licenses of less successful LPFM station owners in the same or adjacent MSA's thus strengthening the service overall and weeding out the marginal operations that might otherwise fail. One acquiring such stations must still meet the primary residency requirement of 50-miles to each station. Thus a limit of three LPFM stations per MSA per entity is proposed with a cap of three LPFM stations per owner, regardless of MSA. This still achieves the desired effect of local ownership while promoting a diversity of viewpoints.

11. Type-Accepted Transmitting Equipment

60. While some might argue for use of non-type-accepted transmitting equipment to keep down costs, it is the belief of this petitioner that the advantages of FCC type-accepted

equipment for pure spectral emissions outweighs any disadvantage such as higher cost. This is necessary to maintain accurate frequency deviation since use of second and third adjacent channels is being proposed. It is also imperative to suppress harmonics and other spurious emissions to prevent any interference. It is believed that many manufacturers, once sensing the size of this new market for their transmitters, will step forward and obtain FCC type-acceptance for their equipment thus providing a wide range of choices to the station applicant. With this increased competition, prices can be expected to go lower.

12. Regulations That Should Apply to Each Class of Station

61. As discussed earlier in this petition, there should be minimum regulations for "special event" class LPFM-3 stations. Perhaps type-accepted transmitter being a requirement and, of course, the usual prohibitions against obscene language and advertising gambling, liquor, etc. . Interference predictions in the application should be standard in all LPFM applications, with a LPFM-3 application perhaps containing a certification instead of a detailed interference showing that will be required of the other classes of LPFM applications. The LPFM-3 application should be streamlined as much as possible for ease of use and processing. It is proposed that standard four-letter callsigns not be used for LPFM-3 or LPFM-2 stations but rather a system similar to that used to identify FM translators, e.g., W244ABC, with W stations being east of the Mississippi river and K stations west of the same border and the channel number followed by three letters.

62. Secondary-service LPFM-2 stations should have the above regulations and perhaps some very minimal schedule of minimum hours of operation per week.

63. Class LPFM-1 stations should comply with the vast majority of Part 73 regulations that apply to standard full-power FM stations since these stations will be a "primary-service" with a protected 1 mV/m (60 dBu) contour. Standard four-letter callsigns, such as WTRA, should be available to this class of station. The practice of adding a "LP" suffix to the callsign, as is done in LPTV now, should not be used as this will present problems with radio ratings services such as Arbitron which uses only four-letter callsigns in its computers to generate ratings reports. It shall take further study to determine exactly which Part 73 regulations should apply to LPFM licensees, with the idea of eliminating any which are not totally necessary and may cause an undue financial burden on the LPFM licensee if required.

V. ACTIONS BEING REQUESTED IN THIS PETITION

64. It is the intent of this petition to cause the FCC to issue a Notice of Proposed Rulemaking (NPRM) as soon as possible that will address the issues raised herein. The Commission should take care in crafting such a NPRM so as not to water down significantly the proposals put forth in this petition. Although this petitioner can see room for discussion on many issues raised herein, there are certain fundamental principles such as use of second and

third adjacent channels, desired to undesired signal ratios to predict interference, sufficient power levels to achieve coverage areas needed to assure success in the marketplace, primary service status for class LPFM-1 stations and strict ownership restrictions to assure a fair chance for small business and individuals with limited financial means that should be retained as stated herein. A great deal of study over the last two years has gone into this petition, including gaining an awareness of the wants and needs of the various types of users described herein, as well as study of the technical issues. A thorough knowledge of the creation and evolution of the Low Power Television (LPTV) service has aided greatly in the preparation of this petition for rulemaking to create a LPFM broadcast service.

VI. TIME IS OF THE ESSENCE

65. Since the consolidation of ownership of the smaller markets has already begun by the large companies who have already consolidated the major and medium markets by taking advantage of the Telecommunications Act of 1996, it is imperative that the Commission act quickly to counteract the negative effects of these actions that tend to stifle competition. Perhaps quick positive action by the Commission on this petition can help to slow or modify this consolidation and restore local ownership to small business and individuals with limited financial resources.

66. It is requested that the Commission take whatever actions are necessary to expedite the issuance of a Notice of Proposed Rulemaking and to bring the action to a resolution in the quickest manner possible. This is of paramount importance to serve the public interest, convenience and necessity as described herein.

VII. CONCLUSIONS

67. The proposals contained in this petition will provide the following benefits and advantages:

A. Make more efficient use of the FM band without interference.
B. Increase diversity of ownership of stations including "*minority ownership*".
C. Give the listening public more and better listening choices.
D. Provide for affordable radio advertising to small businesses, even in large markets and increase competition.
E. Create jobs nationwide at new stations, equipment manufacturers and suppliers thus spurring the economies of many areas.
F. Help to level the playing field in the broadcast industry by lowering the barrier to entry for radio station ownership.
G. Create a large number of locally owned radio stations that, on the whole, will be more responsive to the needs and issues of the local communities.

68. The actions requested in this petition can be quickly and easily implemented by