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

In the Matter of	)
	) RM-9242
Proposal for Creation of the Low Power FM	)
(LPFM) Broadcast Service	)

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The following comments filed regarding RM-9242 by

William J. Spry
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To: FCC / Mass Media Bureau

I support the ideas of Rodger Skinner's petition (RM-9242). However I would like to add my comments to the following paragraphs.

Section II; Paragraph 6, Skinner states "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". I would like to further propose that the Commission give preference in granting a LPFM license to anyone who applies (and qualifies) for one that participated in the LPFM rulemaking process in cases where there are competing applications involved.

Section B; Paragraph 14, I disagree with the lottery system. The only fair way to award a license is on first come first served basis. This is how most all businesses are run. First come first served is the best method to award licenses.

Paragraph 25, Because of the investment in equipment, time put in to the station to provide local origination this should be a Primary status station, not Secondary as

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proposed by Skinner. Furthermore, the maximum power should be increased to 100 watts for rural areas.

Paragraph 59, The ownership limits should be limited to (1) LPFM license period. This will keep big industry out of the game and keep a LPFM service a local one.

Further comments:

1. Rodger Skinner proposes a 3kw limitation on the LPFM-1 service. That wattage level is too high. Instead I purpose a 1kw maximum ERP at 328 feet. This would allow more LPFM stations to operate. Should the FCC not accept the 1kw maximum I would suggest the absolute lowest power maximum be 250 watts at 328 feet proposed in the Community Radio Coalition (CRC) petition for rulemaking (submitted to the FCC March 4, 1998). It is very important to realize that in order to serve a community well the FM signal needs to be easily picked up both in the home and car. It would therefore be in the best interest to provide a LPFM service that has at least the same power limits as a translator station. The FCC must also realize that if it does not approve sufficient power levels the pirate problem will not be resolved. In fact, it will become worse. Why would anyone want to go to the trouble to become licensed to provide programming with a very low wattage service? Furthermore, it may be a disservice to the very community in which the station is trying to serve due to the fact that no one will hear it. You must also remember that many of these stations will exist in rural areas. In order to reach listeners the higher wattage levels need to be made available (up to 250 watts).

2. Most radio receivers made today have the ability to receive frequencies located outside of the FM band. These frequencies include 87.5 MHz, 87.7 MHz and 87.9 MHz. In markets or areas where the nearest channel 6 television station is 100 miles or more away, all three of these channels should be assignable for a LPFM service. This would further allow many communities a voice that might otherwise not have one. These frequencies are currently being wasted where there is no channel 6 available.

3. Because of different terrain across the country the station owner should be allowed to determine which type of antenna system can give best coverage. This can be achieved by allowing all vertical, all horizontal or a mixture of horizontal and vertical antenna polarization.

4. The CRC petition proposes dropping the 2nd and 3rd channel restrictions on new LPFM stations where the power output would be from 1-50 watts. I would like to propose instead that these restrictions be dropped for stations with a power output from all the way up to 250 watts. The Commission is certainly aware that there is in existence translator stations where the 2nd and 3rd adjacent requirements have been waived with little to no interference experienced. An example is in Irving, TX. There is a translator station on 90.5. There is 2 full class C stations in Dallas operating on 90.5's second adjacent of 90.1 and 90.9. If it can work there it can work anywhere.

5. To keep LPFM a local originating service I would like to propose the prohibition of LMA's.

Conclusion:

Finally, I would like to submit the Community Radio Coalition petition as modified by my comments herein. I feel it represents a superior starting point for FCC consideration of a LPFM service. Therefore I propose that it be substituted in full for Rodger Skinner's petition (RM-9242). I have attached a copy of the CRC petition for reference.

Respectfully submitted to the FCC on this 22nd day of April, 1998 by

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

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In the Matter of	)
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Amendment of Section 73, Subpart B,	)
FM Broadcast Stations,	)
To authorize a Low Power FM Broadcast Service	)

To: The Commission

PETITION FOR RULE MAKING

The Community Radio Coalition ("the petitioner") hereby respectfully requests that the rules for FM Broadcast Stations, Section 73, Subpart B, be amended to authorize a Low Power FM ("LPFM") Service on both the commercial and noncommercial portions of the FM broadcast spectrum. We feel that the LPFM service that we are proposing herein is a distinct and separate service from the microradio service proposed in RM-9208.

I. Background

1. As a result of the Telecommunications Reform Act of 1996, ownership of existing classes of AM and FM broadcast stations has been increasingly concentrated in a limited number of hands, with a resultant loss in the diversity of ownership, including a loss in the number of minority owners. Authorization of LPFM with strict ownership limits and limited operating power would provide a mechanism by which to accommodate ownership diversity without impacting the financial integrity of existing broadcast stations.

2. Furthermore, the escalating value of existing classes of broadcast stations has increasingly resulted in outlying stations shifting their focus toward nearby

metropolitan areas, often at the expense of the communities these stations were originally intended to serve. Authorization of LPFM could return local broadcast service to many of these communities, furthering the goal of fair and equitable distribution of service outlined in Section 307(b) of the Communications Act.

3. The petitioner believes that a properly regulated LPFM service could address these concerns while limiting the potential for interference to existing broadcast services. The petitioner also believes that offering such a service will provide a mechanism for controlling the spread of unlicensed radio stations, which are inherently unregulated. The outline for such a service is proposed as follows:

II. Technical Rules for LPFM Service

4. The petitioner advocates that LPFM stations be allocated on a first-come first serve "demand" basis (i.e., no requirement to petition to amend the FM Table of Allotments prior to filing an application for a construction permit).

5. LPFM stations should be permitted to operate with a maximum ERP of 250 watts at 100 meters maximum HAAT, or any equivalent combination of ERP and antenna HAAT. Minimum ERP should be 5.0 watts, with no minimum antenna HAAT. These power levels will provide coverage areas comparable to those currently achieved by FM translators and are intended to allow LPFM stations to fill a variety of niches (such as serving small towns, portions of a larger urban area, or even a neighborhood within a larger city) without competing directly against full powered FM stations.

6. Spacing requirements for LPFM stations shall be as specified in 73.215 for shortspaced class A , with the following exceptions:

a) Minimum spacing requirements of the table in paragraph 73.215(e) shall not apply, since these requirements are based on the minimum allowable ERP of 100 watts for class A stations, which would not be applicable for LPFM.

b) LPFM stations operating with less than 50 watts ERP at 100 meters HAAT, or any equivalent combination of ERP and antenna HAAT, shall not be required to meet second or third adjacent channel spacing requirements. We feel that this exception is warranted to insure that LPFM stations are allowed to operate in larger urban areas, especially in view of the fact that the FCC has previously determined that second and third adjacent channel short spacing poses a "small risk of interference" when permitted for grandfathered short-spaced FM stations (see paragraph 29 of Report & Order on "Grandfathered Short-Spaced FM stations" adapted August 8, 1997, MM Docket No. 96-120, RM-7651) operating at much higher power levels than proposed for the LPFM service.

c) Otherwise prohibited contour overlaps will be allowed where it can be demonstrated by the applicant that no actual interference will occur due to intervening terrain, the overlap occurring over a body of water, or such other factors as may be applicable.

d) Prohibited contour overlap would also be allowed where an agreement has been reached between the LPFM and the station(s) affected agreeing to the overlap, if the FCC determines that allowing the overlap is in the public interest.

e) LPFM stations operating in the noncommercial band should be subject to the prohibited contour overlap requirements of the non-commercial rules, 73.509(a),modified by subsections b, c, and d of this paragraph.

7. A proposed LPFM station and allotment would be considered acceptable if it complies with the spacing requirements specified above based on the proposed station's ERP and antenna HAAT. The use of directional antennas and power levels below the LPFM class maximum shall be acceptable to meet these requirements.

8. The petitioner proposes that LPFM stations be allowed to operate as either commercial or non-commercial stations, with commercial operation limited to channels 221 through 300 and non-commercial operation allowed on any open FM channel. No preference is proposed for non-commercial stations operating outside the reserved band (channels 201 through 220).

III. Proposed Ownership Restrictions

9. To insure that LPFM remain a service geared toward providing local community service and increasing the diversity of ownership voices, this petition proposes that ownership of LPFM stations be limited to one per entity, although ownership of LPFM stations in common with other broadcast stations might be permitted under some circumstances (subject to the restrictions proposed in paragraphs 10 and 152 of this document).

10. The petitioner further proposes that applicants, permittees, and owners of LPFM stations be required to meet the Small Business Administration definition of a small business for radio stations, modified to impose $1,000,000 limit (baselined in the current year of 1998 and adjusted for inflation on an annual basis) on gross revenues from all broadcast related activities including existing AM and FM stations, LPTV, cable television, and the LPFM station. This limit is proposed for both commercial and noncommercial LPFM stations. The petitioner feels that the only appropriate exception to this rule should be if the preponderance of this revenue (90% or greater) comes from the LPFM station. In the event that the owner of a LPFM station ceases to meet this rule, a reasonable period (perhaps one year) should be allowed to either divest the LPFM station or make whatever changes are required to return to conformance for the ownership rules for a LPFM station.

11. The petitioner also proposes that the owner of a LPFM station or proposed LPFM station be required to maintain primary residence within 80 kilometers of the transmitter site of the proposed station (and to have lived in that location for a reasonable period of time prior to the application, such as one year minimum). If the owner is a partnership or corporation, we propose the local ownership rule apply to all cognizable owners, members of the board, and shareholders of record. In the event that the owner(s) of a LPFM station moves to a primary residence outside this 80 kilometer zone, a

reasonable period (perhaps one year) should be allowed for the owner to divest the station.

12. The above proposed restrictions (paragraphs 9, 10, and 11) should limit the number of applications received by the FCC, reducing the likelihood of this service getting bogged down by an excessive number of applications, as happened in the early days of the LPTV service. Hopefully, this will allow for speedier implementation of the new LPFM service for the public.

13. The petitioner believes that it is important to discourage speculation and trafficking in LPFM construction permits. To avoid trafficking, this petition proposes that the sale or transfer of LPFM construction permits be prohibited.

14. However, the petitioner proposes that the sale of on-air LPFM stations be allowed, provided that the buyer meets all the requirements for owning such a station. To restrict speculation, the petitioner suggests that a rule similar to the previous anti-trafficking regulations (which prohibited the sale of a broadcast station at a profit if it had been operating under current ownership for less than three years) be imposed on LPFM transactions. Allowing sales will promote continuity of service in the event that the LPFM operator is no longer able (or chooses not) to continue with ownership of the station for any reason. The anti-trafficking guidelines would discourage station speculation and promote responsible operation of LPFM stations.

15. The petitioner proposes that to further insure that LPFM stations be locally oriented, they be prohibited from simulcasting or rebroadcasting the signal of another broadcast station of any service, including other LPFM stations, except in case of shared urgency, such as impending severe weather or other urgent, non-entertainment programming. Furthermore, it is proposed that ownership of LPFM stations be prohibited in common with any other broadcast station(s) whose protected contour would overlap the protected contour of the LPFM station.

IV. Rules for Granting LPFM Construction Permits

16. As previously indicated in this petition, the petitioner desires that LPFM stations be allocated on a "first come, first serve" basis without a requiring a prior petition to amend the FM Table of Allotments. Implementing such a "demand" allocation scheme would result in applicants being able to provide speedy implementation of new local services to their communities. It would also provide a simple and relatively inexpensive application system for applicants, many of whom may have limited financial means. We feel that this system would be preferable to the use of a lottery for granting LPFM applications, as was used in the past for LPTV grants.

17. In the event that two or more mutually exclusive applications are received on the same day, the petitioner proposes that the permit be granted to the application received earliest in the day, if that application is otherwise valid.

V. Primary Status for LPFM Service

18. Unlike FM translators, LPFM stations will have a significant investment in equipment to originate local programming, which means that the secondary status currently conferred upon translators would be inappropriate for the proposed new service. The CRC believes that LPFM stations should be accorded primary status similar (but not identical) to that of existing full powered commercial and non-commercial FM stations. Specifically, this petition proposes that a LPFM station :

(a) Could be required to change frequency and/or modify facilities to accommodate a rule making request for a full powered station, but could not be required to leave the air to accommodate such a rulemaking.

(b) LPFM stations would be compensated by the proponents of such a rulemaking for all reasonable costs associated with the frequency and/or facilities change, including any engineering or other studies needed to implement such a change.

(c) Such changes would only be ordered if the changes to the facilities of the LPFM station would not result in a loss of coverage to more than 5% of the population within the LPFM station's previous protected contour.

(d) LPFM applications would not be granted in situations where such grant would require existing LPFM or full powered stations to change frequency, alter facilities, or incur interference from the proposed LPFM allocation.

(e) LPFM stations and applications will take precedence over existing or proposed translator stations. An LPFM station may displace an existing translator without compensation to the translator owner/operator, just as full powered stations are currently allowed to do. The petitioner believes that in most instances the public benefit of the new local service from a LPFM station would outweigh the loss of service from a translator importing a non-local signal.

19. The petitioner believes that one step upgrades from LPFM status to any full powered FM station class (A, B, B1, C, C1, C2, or C3) should not be permitted. Since the proposed rules for LPFM stations are significantly different from those currently in place for full powered stations, allowing one step upgrades between the two services could have the effect of encouraging some applicants to use LPFM stations as a back door to obtaining a full powered station.

VI. Public Service and Local Origination Requirements

20. Since spectrum auctions are not being proposed for LPFM applicants, the petitioner feels that it is reasonable that these stations be required to meet some public service requirements in return for their licenses. This petition proposes a requirement that a minimum of 10 hours of each LPFM station's weekly broadcast time between 6:00 AM and Midnight Monday through Friday and 9:00 AM and Midnight on Saturday and Sunday be dedicated to locally originated non-entertainment public service programming. Stations should, however, be granted the flexibility to meet this requirement through either long form or short form programming, or a combination of both.

21. One of the major goals of the proposed service is to provide locally oriented broadcast services. The petitioner therefore proposes that LPFM stations be required to operate a main studio within the protected contour of the station and to originate a minimum of 90% of their broadcast day between 6 AM and Midnight from this studio or other locations within the protected contour of the station. However, the petitioner believes that stations should be given flexibility in meeting this requirement with live, delayed, or automated programming, as long as this programming is locally originated. This flexibility would give the stations the ability to best serve the public interest of their local communities with locally responsive programming while operating within the strict financial constraints that would likely exist at many of these stations. However, LPFM stations should not be allowed to circumvent their local origination requirements by airing long form programming which is originated, controlled, or produced elsewhere, but played back at a local studio. This includes programming delivered via satellite, recorded media, air, wire or cable, and/or the use of playlists, music logs or rotations provided by an outside entity or entities. This does not apply to the use of locally selected, pre-recorded musical selections. Exceptions to the local origination requirement should include the airing of urgent news and/or emergency programming including weather alerts, in any instance where public health or safety is at risk. Commercial LPFM stations should be restricted from airing advertising during these types of broadcasts. These restrictions are not designed to limit programming options. They are included as a mechanism to help ensure that the proposed service remains locally focused and is not converted into a non-local service by virtue of having programming supplied by outside entities. Additionally, this section does not attempt to limit the type of programming aired on an LPFM station, merely the source of said programming. There is already precedent for regulating programming source in the Commission's FM translator regulations, which prohibit any local origination beyond a thirty second announcement once per hour. Travelers Advisory Radio (TIS) is also restricted in the type and source of its programming. The petitioner is concerned that without strict ownership and program origination restrictions, the new service may usurped by non-local entities, thus defeating its intended purpose as a vehicle to provide local broadcast service.

VII. Fee Structure

22. The petitioner believes that it is important that a LPFM service be kept affordable to applicants, meaning that fees associated with the application process should be kept to a minimum. This petition proposes that the current fee structure for FM Translator stations provides a reasonable basis for setting the fees for the proposed LPFM service.

VII. Conclusion

23. For the above reasons, the petitioner requests that Section 73, Subpart B, be amended as required to authorize a LPFM Service as proposed within this petition.

Respectfully submitted,

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Separate Supporting Statement by Jeremy Lansman

This Petition for Rulemaking for a Low Power FM Broadcast Service is but one means that could be used to increase the scope of economic and cultural and ethnic diversity represented on the American FM broadcast band. I support this petition as a means of expressing my dissatisfaction with consolidation of ownership in the broadcasting business. My support of this petition should not be construed to indicate lack of support or interest of other ideas, many of which are not mutually exclusive with the concepts expressed herein.

I urge the Commission to review all Petitions for Rulemaking regarding LPFM and to adopt a variety of licensing ideas that might, we can hope, improve citizen access to broadcast spectrum, as well as increase participation by small business, women and minorities in broadcasting.

Jeremy Lansman
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