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April 22, 1998

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Office of the Secretary
Room 222
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

VIA FEDERAL EXPRESS
#5056554823

Re: Comments on RM-9242

Dear Madam Secretary:

Enclosed is an original and nine copies of an "Addendum & Comments on RM-9242" from the original petitioner.

Please see that each of the five Commissioners receives a copy of these comments in addition to the normal distribution within the Commission.

Should there be any questions, please contact the undersigned.

Respectfully,

TRA Communications Consultants, Inc.


J. Rodger Skinner, Jr.
President

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

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

To: Federal Communications Commission

**Addendum & Comments on FCC RM-9242
By RM-9242 Petitioner
J. Rodger Skinner, Jr.
TRA Communications Consultants, Inc.**

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On February 20, 1998, I filed a petition for rulemaking at the FCC requesting the establishment of a Low Power FM (LPFM) radio broadcast service nationwide. On March 10, 1998 the FCC released a Public Notice Report No. 2262, assigning my petition rulemaking number RM-9242 and establishing a comment deadline of April 27, 1998 and a reply-comment deadline of May 26, 1998. Accordingly, these comments, which seek to add information to RM-9242, are timely filed. The following paragraphs are numbered to continue the numbering sequence used in RM-9242.

69. I wish to correct two inconsistencies within the original RM-9242, as filed February 20, 1998. First, the antenna height for a class LPFM-2 station as mentioned in paragraph-25 should be amended to read 150 feet HAAT to agree with the same reference made in paragraph-21. Secondly, the reference to use of a block of numbers for a lottery mechanism to reflect a four-to-one preference should indicate one number block 000 to 800 with the other number block being 801 to 999 to correctly reflect the four-to-one odds of winning for an applicant owning no other "primary" media.

70. I wish to add to the channels available for LPFM use. Originally, only channels 221-300 were specified; however, after consideration it is felt that non-commercial LPFM stations should be able to apply for channels in the reserved band (channels 201-220). This will aid in making a greater number of channels available for LPFM applicants. In order to allow for the greatest number of available channels, the educational requirement (NCE) should not be imposed on non-commercial LPFM applicants. Non-commercial applicants could specify a channel in the commercial band 92.1 MHZ to 107.9 MHZ, channels 221 to 300, only if there is no comparable channel available in the reserved band and should submit a channel study showing same with their application. All other factors, including recommended power levels, would remain the same as specified in the original petition. In addition, it is proposed that the

frequency of 87.9 MHz could be used for such non-commercial stations, but only in areas where it could be shown that there would be no interference to any Channel 6 television service. In all cases, for use of channels in the reserved band, as well as use of 87.9 MHz, interference protection to any Channel 6 facility will be governed by Section 74.1205 of the rules. The non-commercial LPFM F(50,10) interference contour for a station operating on 87.9 MHz shall be 54 dBu, the same as for 88.1 MHz as specified in Section 74.1205.

71. If the Balanced Budget Act of 1997 can be amended in a timely manner by Congress to reinstate the authority to the Commission for the use of lotteries to settle cases between mutually exclusive (MX) LPFM applicants, then lotteries should be the preferred method. If the Commission is unable to use a lottery method to select between mutually exclusive applicants, then I propose the use of a first-come-first-served system as currently used for FM translators and as specified in Section 74.1233(g) of the rules. Since a "filing window" system is proposed, as has been successfully used in the Low Power Television service, applications will be filed on a "demand" basis without an allocation table, which has acted to increase the number of applicants. The number of MX situations should be minimized in this manner. In those cases, where there are mutually exclusive applications, the applicants should be given a 30-day period in which to settle amongst themselves, with financial settlements limited to four-times the amount invested in the application. This would help conserve Commission resources and speed service to the public. If no financial limit is imposed it could result in applications filed merely for profit. If the limit is held to only expenses, there would be no incentive for any applicant to withdraw to settle the matter. If after 30 days the applicants are unable to reach a settlement, then the FCC should hold an auction among the MX applicants to settle the matter. In this case, there should be a prohibition against use of a "white knight" or outside party providing any funds for bidding in the auction in exchange for an interest or option for an interest in the application. In this type of LPFM auction, or any other type of auction the Commission might consider for awarding LPFM licenses, there should be no minimum bid stipulated and no "white knights" allowed. Bidding should be limited to only MX applicants, each meeting the 50-mile residence requirement outlined in RM-9242. The four-to-one preference for applicants owning no other "primary" media would be reflected in a 4x-bidding preference. For example, a bidder eligible for the four-to-one preference, described in RM-9242, would have a \$5,000 bid multiplied by a factor of four to equal a \$20,000 bid. Again, auctions should be considered only as a last resort method of awarding LPFM licenses. The order of preference for methods for settling between MX applicants is lotteries, first-come/first-served or auctions. I will be reviewing comments in this proceeding to see if anyone can contribute any detailed methods to avoid the use of auctions.

72. I propose that there be a general amnesty for all so-called "pirate radio" broadcasters who have broadcast without a license before rules are enacted for creation of a LPFM service. I view these as acts of civil disobedience that demonstrate to authorities the need for a change in the FCC rules that at the present time do not allow any method of

licensing for such stations. I regard these acts of civil disobedience as similar to the "sit-ins" at lunch counters in the South during the civil rights movement of the 1960s. Any such acts should not be used to deny a license to any LPFM applicant. All FCC prosecutions of such cases should also be withdrawn from the courts upon creation of a LPFM service. After a LPFM service is created and an opportunity for obtaining a LPFM license exists, then the FCC should once again enforce its rules against unlicensed broadcasting. It should be understood that this amnesty is not to condone illegal unlicensed broadcasting or to reward "pirates" in any fashion for their misdeeds but rather as a show of good faith for a new beginning. It should also be clear that no "pirate" has any certainty of receiving the channel on which they previously broadcast without a license. I believe that most people will not broadcast without a license, if they are given a fair chance to obtain one. The FCC should be able to deal with any small number of unlicensed broadcasters who refuse to abide by the new rules for LPFM licensing. Although no plan can be expected to give a channel to 100% of the applicants, the vast opportunities opened up with the implementation of the plans put forth in RM-9242 will extend these opportunities to the largest number of applicants possible and go a long way in increasing the diversity of ownership of broadcast stations among small business, minorities, women, churches, schools and others of limited financial means.

73. The LPFM-1 class of station proposed herein is to be a "primary" service and will be able to displace a "secondary" service user of a channel, such as a FM translator, if necessary. The LPFM-1 will provide local origination of programming to serve as a new voice added to the community and therefore should be preferred over a translator, which only extends an existing voice. A LPFM-1 applicant proposing to displace a FM translator on its channel should be required to submit an engineering study showing that no other "comparable channel" is available to it. Comparable meaning a channel which can support the use of the same power level as proposed by the LPFM-1 station. This should be done to assure displacement of the minimum number of FM translators. Using the same logic that the FCC uses to justify displacement of some LPTV stations by digital (DTV) stations, FM translators knew they were a "secondary" service when their authorization was received. This should also apply to FM translators rebroadcasting AM radio stations, if rules are changed to allow rebroadcasting of AM stations on FM translators. FM translators should not be allowed to upgrade to LPFM status but if desired should turn in their FM translator license and then apply for a LPFM during a FCC sanctioned "filing window". Previous use of the frequency for translator use should not entitle the applicant to any preference over other applicants for the channel.

74. Due to the Commission's implementation of the digital television service in which each full-power television station was given a second channel there is an unfortunate circumstance whereby several hundred LPTV station owners are being displaced, put out of business! Most of these stations were build by local owners of limited financial means investing their life savings, like myself. Although these LPTV owners knew their service was "secondary" and could be bumped by a full-power TV station changing towers or channels,

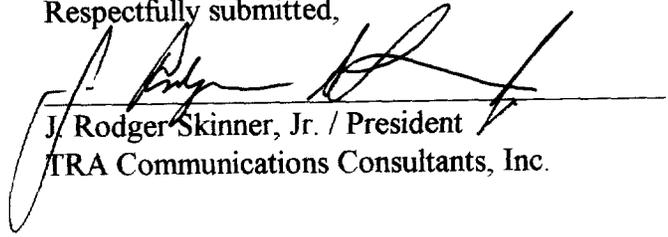
there was no way to envision the need for the "doubling of channels" needed for full-power TV broadcasters as a result of the digital television proceeding. Indeed, digital television had not even been thought up at the time many LPTV broadcasters, like myself, filed for their channels. I urge the Commission to grant, as requested by a displaced LPTV, an absolute preference for one LPFM channel. A preference for one LPFM channel should be available to any LPTV CP-holder or LPTV license-holder, whether or not the displaced LPTV authorization is in the same community as the proposed LPFM. The impact of this preference should be small since many displaced LPTV owners that I have spoken with will not desire a LPFM license and thus will not request this preference. Again, only one preference can be used for any one LPFM application even if that person or entity had several displaced LPTV stations. The value of the LPFM facility in many cases will not begin to match the value of the displaced LPTV station, but it is one easy method for the Commission to address what most view as an unfair predicament forced upon many unsuspecting LPTV station owners.

75. There has been some discussion as to the power levels proposed in RM-9242. I wish to make it emphatically clear that these power levels are the minimum needed to assure the success of this new broadcast service. For example, in the Low Power Television service stations are allowed power levels that achieve coverage on the order of 15 to 20 miles in all directions. The LPFM service should receive no less! It should be pointed out that not every LPFM-1 station will have an ERP of 3KW, since the interference restrictions will limit many LPFM channels to somewhat lesser power. To limit the service to power levels far below those specified in RM-9242 would place an unnecessary burden on LPFM station owners since it would severely limit their ability to attract commercial advertisers to support their stations. The cruelest form of torture would be to give minorities and others of limited financial means a channel that they have wished for their entire life only to find that the power level authorized does not allow them to succeed financially. Many will be sinking their life savings into building and running their local LPFM stations in communities where they live. To deprive them of sufficient coverage, as proposed in RM-9242, would be a governmental travesty! I cannot overemphasize this point since I have sold radio advertising for a number of stations and understand how limited coverage can cause advertisers to withhold advertising orders. Given the power levels in RM-9242, it will still not be an easy task but it can be done. Providing power levels (coverage) of far less than that provided for in RM-9242 would doom the service to failure. I ask that the FCC Commissioners not bend to the pressures placed on them by the National Association of Broadcasters or other broadcasters to kill or severely limit the new LPFM service. I remind the Commissioners of their statutory obligation under Section 257 of the Telecommunications Act of 1996 to provide for entry of small business into broadcasting. I would also remind those in the U.S. House of Representatives and the Senate that LPFM stations will be able to offer attractive advertising rates, or possibly free advertising to political candidates. I have faith that these Commissioners, led by Chairman Kennard, will do the right thing and act in the public interest in the purest sense of that term by creating a LPFM service with effective power levels and extend the opportunity of broadcast station ownership to a new class of Americans.

April 22, 1998

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Respectfully submitted,



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