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April 25, 1998

Office of the Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: Mike Hoyer's Comments to RM-9242
Requesting the creation of a
Low Power FM radio broadcast service nationwide

Dear FCC Office of the Secretary:

Transmitted herewith is an "original" and two copies of Mike Hoyer's comments to RM-9242 as requested by the FCC.

Should any questions arise concerning this matter, please contact the undersigned directly.

Respectfully submitted,

4-25-98

Michael E. Hoyer - President, DeForest Broadcasting Company, Inc.

P.S. Copies of this document have been mailed to the petitioner of RM-9242:
Rodger Skinner / President
TRA Communications Consultants, Inc.
6431 NW 65th Terrace
Pompano Beach, FL 33067

Enclosures: 1 original, 2 copies of Mike Hoyer's comments to RM-9242.

No. of Copies rec'd 0+2
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RECEIVED
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Before the
Federal Communications Commission
Washington, D.C. 20554

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

FCC RM-9242

To: FCC / Mass Media Bureau

Comments of Mike Hoyer

Submitted by Michael E. Hoyer
DeForest Broadcasting Company, Inc.

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I. INTRODUCTION

The purpose of this document is to make comments as requested by the FCC on RM-9242, regarding 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.

II. GENERAL BACKGROUND OF MIKE HOYER

SUMMARY

Mike Hoyer's over 20 years of radio experience includes (but is not limited to) remote live radio broadcasts, equipment installations, sales and marketing of radio, development of extensive radio business plans, an FCC petition for frequency allocation, application for a construction permit and live radio announcing on various AM and FM radio stations. Mike also holds a Bachelors Degree in Electrical Engineering and has held positions such as Quality Assurance Manager, Product Marketing Manager and Marketing/Applications Specialist. The following is an outline of his education, experience and community involvement as an engineer and also as a radio professional.

EDUCATION

Bachelor of Science, Electrical Engineering
New York Institute of Technology, Old Westbury, New York
GPA 3.0/4.0 in major, Graduated May 1987.

Associates in Engineering Science
State University of New York, Farmingdale, New York
Deans List, Graduated August 1984.

SUMMARY OF ENGINEERING EXPERIENCE

Nicolet Instrument Corporation, Madison, Wisconsin
Product Markteing Manager, June 1991 to Present

Responsible for developing new products and bringing them to the market place worldwide to solve customer data acquisition needs in research and development. This process includes but is not limited to market analysis, product design, product marketing, sales and training worldwide.

Customers include but are not limited to Boeing, Breed Automotive, Caterpillar, Chrysler, Ford, General Motors, Morton International, NASA, Ontario-Hydro, S&C Electric, Sandia, plus worldwide support of entire sales force including regional managers, distributors and representatives.

Hi-Techniques, Incorporated, Madison, Wisconsin
Sales/Marketing/Applications Specialist, September 1990 to June 1991

In charge of maintaining current and future clientele for the entire US territory, by providing solutions for various research, development and test applications using data acquisition and analysis instrumentation.

Typical customers were Allen-Bradley, Allied Signal, Barber-Colman, Beech Aircraft, Caterpillar, Cooper Power Systems, Eaton, Harley Davidson, J.I. Case, John Deere, Kodak, Kohler Company, S&C Electric, Xerox and Zenith.

Leader Instruments Corporation, Hauppauge, New York
Applications/Product Marketing Manager, April 1989 to September 1990

In charge of the oscilloscope product line for the entire US territory regarding technical product information and support, advertising, public relations, trade show supervision, market trends, literature, training sessions and instruction manuals.

Provided technical product information and support to customers such as General Electric, General Instruments, Honda, Panasonic-Technics, Sony and to regional managers and distributors.

Cortronic Corporation, Ronkonkoma, New York
Electrical Engineer/Quality Assurance Manager, May 1986 to February 1989

Implemented Quality Assurance Program for manufacturing arterial pressure monitor.

Supervised technical personnel to provide a quality analysis of the entire manufacturing process. Assisted/reviewed engineering department on new and current project builds per UL544, CSA and FDA codes for medical manufacturing company; utilizing various technical equipment.

RADIO EXPERIENCE

93.1 FM, DeForest-Madison, Wisconsin

FCC Petition To Start A Radio Station, December 1991 to Present

Petitioned FCC to start a radio station in DeForest-Madison, WI. Details on this matter appear later in this document.

WMMM, 105.5 FM, Verona/Madison, Wisconsin

On Air Talent, December 1991 to Present

On Air Talent for Madison's New Rock Choice.

Play variety of rock music, gave away prizes, on weekend day and morning shifts. Regulary performed shifts: Saturday/Sunday 2pm-6pm, and 6am-10am.

WBLI, 106.1 FM, Patchogue, Long Island, New York

On Air Talent, July 1986 to September 1990

On Air personality for Long Island's Number 1 Hit-Radio Station.

Played Top-40 music, gave away cash and prizes, on weekend day and night shifts. Regulary performed shifts: Saturday/Sunday 6am-11am, and 3pm-7pm.

WGLI, 1290 AM, Babylon, Long Island, New York

On Air Talent, December 1982 to July 1986

On Air personality for Long Island's Number 1 Oldies Station.

Played oldies music, gave away cash and prizes, on weekend day and night shifts. Regularly performed shifts: Saturday/Sunday 6am-12pm, 12pm-5pm, and 8pm-12am.

Christian Music Broadcast, Babylon, Long Island, New York

On Air Talent/Programmer/Producer, October 1982 to February 1983

Programmer, Producer and On Air Talent of 13 week contracted Live Christian Music Show.

Obtained sponsors to pay for on-air time on radio station, produced sponsor's commericials, programmed and hosted an exclusive full hour Christian Music Show, aired live every Sunday on 1290 AM, WGLI from 3:30pm to 4:30pm.

Assembly of God Live Radio Service, Bay Shore, Long Island, New York

On Air Announcer/Sound Engineer, June 1979 to February 1983

On Air Announcer and Sound Engineer of Live weekly remote radio program.

Announced and sound engineered entire live church service on Long Island's Contemporary Christian Radio Station, WLIX, 540 AM. Installed equipment used at the remote facility.

COMMUNITY INVOLVEMENT

High Point Church, Madison, Wisconsin
Sound Engineer, 1994 to Present
Engineer and consultant regarding the sound in the auditorium and recordings for Sunday services and live Christmas and Easter performances.

Lake City Church, Madison, Wisconsin
Sound Engineer, September 1991 to 1994
Engineer and consultant regarding the sound in the auditorium and recordings for Sunday services and live Christmas and Easter performances.

Smithtown Gospel Tabernacle, Smithtown, Long Island, New York
Sound Engineer, September 1987 to September 1990
Engineered the sound in the auditorium for Sunday morning and evening services, live Christmas and Easter Performances and Christian concerts. Installed equipment used at the church.

Bay Shore Assembly of God, Bay Shore, Long Island, New York
Sound Engineer, June 1979 to February 1983
Engineered the sound in the auditorium, on the radio and the recordings for all services, Christmas and Easter performances and Christian concerts. Installed equipment used at the church.

References are available upon request.

RECENT/CURRENT 93.1 FM FCC PETITION

I'm strongly in favor of LPFM as long as it is placed into the FCC rule books specifically in favor of small business and community owners hence keeping out medium and large businesses who wish to apply and sell construction permits and who already own existing radio stations. I say this from experience as described below:

1991-1992: Mike Hoyer surveyed the Dane County area churches and communities and concluded, without a doubt, that contemporary Christian radio was a lacking and essential component in the community which focuses on the age group 18 to 44. Hence, a vision was born to create a contemporary Christian non-profit radio station in Dane County, financially supported by the local community and area churches, in order to meet the essential spiritual needs of the community. Consequently, after extensive research and the development of a detailed business plan, it was concluded that the birth of a contemporary Christian non-profit radio station, focusing on the 18 to 44 age group, was the best method to fulfill this essential component. Therefore, Mike Hoyer formed

DeForest Broadcasting and filed a petition with the FCC to allocate 93.1 FM to DeForest, Wisconsin.

1993-1995: Many petitions (more than the usual) were filed against the allocation of 93.1 FM. After much prayer and exhaustive effort due to the filing of many additional petitions to the FCC by DeForest Broadcasting, in September of 1995 the FCC announced the allocation of 93.1FM to DeForest, Wisconsin. In response, DeForest Broadcasting submitted Form 301 (application for a construction permit) to the FCC. DeForest Broadcasting noted that seven applicants, in addition to DeForest Broadcasting, submitted Form 301 to the FCC for 93.1 FM. Despite and fully aware of the fact that the current process to allocate and apply for a construction permit is no where near logical, DeForest Broadcasting was and is still quite disturbed about additional applicants appearing last minute. For if any of the applicants had any genuine desire to start a radio station, they could have at any time in the past, petitioned the FCC to allocate 93.1 FM. But it wasn't until DeForest Broadcasting started the process of researching the community by petitioning the FCC, and successfully allocating the frequency, did the additional applicants 'jump on the band-wagon'. Hence the only alternative was for DeForest Broadcasting to wait for the FCC to finish re-writing the rules for comparative hearings and attend a hearing.

1997: DeForest Broadcasting received several pleas to surrender to one of the other applicants and join their partnership plan which calls for the buying out of the remaining applicants in the future, including DeForest Broadcasting. The applicant proposing the partnership did not share in the same vision as DeForest Broadcasting, hence this would have eliminated the vision to bring contemporary Christian radio to Dane County and would have not met the essential spiritual needs of the people in the community. Therefore, DeForest Broadcasting was faced with two options in the attempt to continue the vision as follows:

Option Number 1:

As a kind gesture on behalf of DeForest Broadcasting to help the additional applicants recover their costs of submitting Form 301, DeForest Broadcasting proposed to pay each of the additional seven applicants the amount equal to the costs incurred to submit Form 301, not to exceed $10,000 per applicant,

providing that each applicant agreed to dismiss their application. Payment to all applicants would have been maded, in full, when the FCC's grant of the DeForest Broadcasting application had become "final".

Option Number 2:

Wait to hear from the FCC.

Mike Hoyer personally paid for all professional services and spent an enormous amount of time and effort on this project since 1991. Hence, Mike Hoyer 'paid' for the frequency since step one which includes the following major steps:

1991: Identify need, research methods to fulfill need

1992: Frequency search via engineering team

1992: Business Plan via extensive research into all avenues of starting and operating the business over a 5 year period

1992: Petition to FCC via attorney

1993: Several additional petitions to FCC via attorney and engineering teams

1995: Form 301 Filing via attorney and engineering teams

These steps were taken to meet the needs of the youth and young families of the Dane County community and not to line my own pockets. However, the ideas of the additional applicants only consisted of money, money, money with no concern for Mike Hoyer's extensive plea for helping the Madison Community. To make matters worse, in August 1997, a federal auction was mandated by the federal government unless matters were settled privately by January 30th, 1998. Naturally, Mike Hoyer didn't have millions of dollars (like some of the other applicants who owned numerous radio stations) to win a federal auction for the Madison community, therefore, Mike Hoyer was forced to give up the radio frequency that he so earnstly started by giving into to a private settlement by one of the other applicants. Finally by 2pm, January 30th, 1998, all applicants agreed to a private settlement with an applicant that already indirectly owned and operated many radio stations in Madison, Wisconsin and throughout the midwest. It was a losing battle. Now, after years of hard work and money, Mike Hoyer is back to square one in trying to solve this serious Madison community problem. Question is: Will LPFM be the answer? The answer will only be yes, IF the big money maker applicants who own existing radio properties are kept out.

III. NEED FOR LPFM SERVICE

To help speed up the process in getting RM-9242 accepted into the FCC rule books, I propose that each of the three LPFM services stated within RM-9242 be examined one at a time (seperately) starting with LPFM-1 and finally placed into the FCC rule books one at a time. Let me quote an article that clearly indicates the shape that current FM is in due to the deregulation and the allowing of big business to control the FM radio industry:

Quote From Radio World Trade Publication April 15, 1998:

"According to Duncan's Radio Comments, radio is experiencing listening loss...Duncan's studied the spring 1997 Arbitron ratings and found what it terms a small year-to-year decline in the mean Average Persons Rating, or APR, which is the percentage of the population that is listening to radio in any average quarter hour (Monday-Sunday, 6am to midnight, age 12+). The current rate is 15.94 percent. This marks the fourth straight year of decline, and the first time since 1981 it has dipped below 16 percent....Duncan's offers several reasons for the trend: Less money is being spent on marketing and promotion, thanks in part to consolidation and the resulting domination of a market segment. Some listeners may have gone elsewhere because we took away their favorite station -- the report cites the examples of the commercial classical and easy listening formats, claiming their listeners are lost to radio, which is "offering less and less to listeners outside the 'golden' 25-54 demo." A third reason is what the report calls a disturbing trend away from "localness". This is a biggie. Radio's forte has been our ability to connect with the listener like no other medium. Duncan's calls this local identification bond "radio's long-term insurance policy".

The article above is just another of the many indications as to why LPFM is needed as indicated in RM-9242.

The following describes my comments on each of the matters listed within RM-9242. Please refer to RM-9242 for an understanding as to what I am commenting on.

Section	Section Letter	Section Number	Item Number	Mike Hoyer's Position
III	A		8	Agree
III	B	1	9, 10	Agree
III	B	2	11	Agree
III	B	3	12	Agree
III	B	4	13	Agree
III	B	4	14	Disagree see AA
III	B	5	15	Disagree see FF
III	B	6	16	Agree
III	B	7	17, 18	Agree
IV	-	1	19	Disagree see BB
IV	-	1	20	Tend to agree
IV	-	1	21	Disagree see CC
IV	-	1	22	Agree
IV	-	2	23, 24	Agree
IV	-	3	25, 26	Disagree see DD
IV	-	4	27	Disagree see EE
IV	-	5	28, 29, 30, 31	Agree
IV	-	5	32	Agree, except LPFM-2,3
IV	-	5	33, 34, 35	Agree
IV	-	6	36-48	Agree
IV	-	7	49-50	Disagree see AA
IV	-	8	51, 52	Agree
IV	-	8	53	Agree except see GG
IV	-	8	54	Agree except see HH
IV	-	8	55	Agree
IV	-	9	56	Agree except see GG
IV	-	10	57, 58, 59	Agree
IV	-	11	60	Agree
IV	-	12	61, 62	Disagree see BB
IV	-	12	63	Agree
V	-	12	64	Agree
VI	-	12	65, 66	Agree
VII	-	12	67	Agree
VII	-	12	68	Agree except see BB

AA:
I agree with everything except for the lottery situation. I'd like to propose the following based on experience: First my story. I tried to start a contemporary Christian radio station in Madison, WI. I surveyed the area churches, worked at the area churches, talked to many of the pastors, and congregations, etc.. and

identified that contemporary Christian radio is an extremely needed medium in Madison, WI. I started the business in 1991, performing many hours, days, weeks and months of hard work doing research, and spending lots of money on lawyers, engineering teams, books, and filing petitions to the FCC to allocate 93.1 FM Class A to DeForest, WI a town approximately 10 miles northeast of Madison, WI. The FCC decided after much debate to allocate the frequency in 1995. Then despite the fact that I spent thousands and thousands of dollars and several years of hard work and research in getting to this point, all of a sudden the local newspapers publish on the front page of their local sections about the frequency, that all of a sudden came about, and that people and companies should sign up and take advantage of this opportunity, hence, companies and people come out of the wood work and filed an application for a construction permit in September-October of 1995. Unfortunately, Bill Clinton decided to hold a federal auction if the 8 applicants including myself didn't settle this among ourselves by January 30th 1998. So, I knew that I couldn't win against some of the companies who were applicants with millions and millions of dollars at a federal auction so I had to settle for some money and go back to square one. I knew and I'm sure everyone else did too, that this was the last frequency available under current rules and regulations in the Madison area so the Madison community's desire for a contemporary Christian radio station was over....until now, there may be hope with LPFM!

Another example of my frustration with the lottery (or auction) system: Just imagine if you and I are looking for a piece of land to buy and we do research and finally find exactly what we want. Then we purchase the land and spend lots of time, hard work and money on creating a business plan for this land/community and decide based on the business plan to put some roads, landscaping, and a couple of buildings on the land. Then, we get ready to move forward on siting a area for the roads, landscaping, and buildings and we notify the community about our plans for this piece of land. The community says o'k, you have a good plan, but before it is accepted, we need to publically announce on the front page of the local paper and throughtout the community this proposal and request counter proposals for this land/building so everyone can try to put in a proposal just like you so we can hold a lottery to choose who really should get the opportunity to build. That would be insane. How can anyone develop a business plan, and move forward with their plan, only to have someone force you to sell the land and have them build on it instead of you. That is exactly what has been happening in radio. People seriously (like myself) have tried to start a radio station and after years of hard work, allocating a frequency which takes, time, hard work, lots of money, FCC attorneys, corporate attorneys, and engineers, the FCC decides that other people should be granted your property which you worked so hard for. In Conclusion: Since the first day of this planet earth, all frequencies were made available to everyone and anyone. Hence the allotment table is really a table that has always existed with all said frequencies available from the beginning of this planet. Therefore, if anyone is

truely serious about starting a radio station, then ONLY the person petitioning the FCC for the allotment of a frequency should be considered for the construction permit. There is not a reason to open a window because it was open for anyone and everyone before allotment of the frequency. If anyone else really wanted to start a radio station, they could have just as easily filed the same petition to allot the frequency at step 1. However, if and ONLY IF the initial person's construction permit application is not in good order, then, AND ONLY THEN, should the frequency be opened up to the next allotment applicant in line (time wise) just like it is when buying a piece of land, first come, first serve.

The only purpose I see for a lottery system, is when the first and second person filing a petition to allot a frequency is mailed and received by the FCC on the same exact day and that is extremely rare if not close to impossible. So I suggest that the method mentioned above for allocation and construction permit filing be used to address the following concerns:
1) Eliminate non serious radio owners
2) Speed up the process for allocation and construction permits
3) Reduce FCC involvement of having to hold lotteries, auctions, comparitive hearings, etc..
4) Encourage serious radio owners to move forward with their business plans without worrying about people on the side hoping to file a construction permit once a frequency becomes available so they can later sell the station for a profit. Believe me, I know several people in Madison, WI that do this for a living and I'm tired of them pushing me aside for their own monetary gain.
Note 1: Any applicant applying and currently an owner of a full-power radio license or has been an owner in the past of a full-power radio license should be ineligible to apply for a LPFM.
Note 2: If no frequencies are available within the non-commerical band, then a non-profit/non-commerical organization should be allowed to allocate a frequency within the commerical band when no more frequencies are available within the non-commercial band.

BB:
I'm not convinced that four distinct types of LPFM are needed. See FF, EE, DD, CC.

CC:
I'm not convinced that LPFM -2 is necessary. If pirates want to run a radio station, they can use their local community radio stations, or buy air time from a commericial station or start a LPFM-1. I've done it before with success. I'm very skeptical about LPFM-2 in that it could end up like the CB radio craze did in the 70's or much like the internet "I've got to have my own WEB page" craze today, hence these two examples over crowd the industry and render it almost useless. I would prefer serious users only on the air.

DD:
As stated in CC, I'm not convinced that LPFM-2 is necessary, see CC for details. If LPFM-2 was placed into the rule books of the FCC, and a LPFM-2 was forced to vacate due to the reasons stated in RM-9242, then the LPFM-2 would have wasted all their time and effort and hard earned money on building the station only to have it vacated. Again, see CC for alternatives which I've proposed.

EE:
I'm not convinced that LPFM-3 is necessary as described in RM-9242. The applications suggested for LPFM-3 can use LPAM instead since audio quality is not an issue.

FF:
I'm not convinced about the three tier system. See EE, DD, and CC.

GG:
Lottery should only be used when more than one applicant petitions FCC to allocate a frequency. If lottery is used cause more than one person on the same day petitioned FCC to allocate frequency then lottery should be followed as described by RM-9242.
HH:
No filing window is needed, however applicants should be reviewed for completeness.

In Conclusion:
I strongly agree that the only way to make this rule making effective will be to enforce the restrictions of '50 mile radius ownership' and 'no other forms of mass media ownership directly or indirectly in any capacity'. This is a war. We will not take no for an answer and we will not stand for unreasonably low power levels. I agree with the power levels as stated in RM-9242.

Prepared by:
Mike Hoyer
509 Walnut Grove Drive
Madison, WI 53717
Tel: 608/829-1602
Email: mhoyer@midplains.net

Signed: _____ Date: 4-25-98

Michael E. Hoyer - President of DeForest Broadcasting Company, Inc.