Romar Communications Inc.

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April 24, 1998

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

Dear Ms. Salas:

Transmitted herewith are the original plus multiple copies of our company's Formal Comment in RM-9242, the Rulemaking Petition filed by Rodger Skinner, Jr. advancing proposals for Low-Power FM Broadcasting. The Commission has invited public comment on that petition.

Please forward the enclosed to the proper personnel who are reviewing these comments. We trust our opinions and perspectives will be given thoughtful consideration.

Respectfully submitted,

Robert A. Lynch
President

Encl.

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Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

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In the Matter of:	)	
	)	
Creation of a new class or classes of Radio Broadcast Stations; Petition by Rodger Skinner, Jr.	)	RM-9242

To: The Commission

FORMAL COMMENT

Romar Communications Inc. ("Romar"), of 175 Gray Road, Ithaca, New York 14850, hereby submits its Formal Comment on the Petition for Rulemaking ("the Petition") filed by Mr. Rodger Skinner, Jr., president of TRA Communications Consultants, Inc., Pompano Beach, FL, said Petition designated by the Commission as RM-9242 and opened for public comment. In that Petition, Mr. Skinner proposes the Commission adopt procedures to establish several new classes of low power FM broadcast stations ("LPFM's"). In principle, Romar supports Mr. Skinner's initiative and urges the Commission to advance the concept of LPFM broadcasting to the rulemaking stage. Romar believes establishment of LPFM stations would advance the public interest by providing additional listening choices for the American public, while also offering new opportunities for small-scale entrepreneurs residing within their communities of choice to further diversify the field of broadcast ownership. Nonetheless, Romar also maintains LPFM broadcasting should be established only under fully professional standards; that LPFM applications be forced to comply with Commission standards of allocation; and that LPFM licensees be required to maintain the same

obligations of public interest broadcasting as are demanded of other AM and FM licensees. Romar supports Mr. Skinner's request that the Commission establish strict eligibility criteria for LPFM applicants to ensure diverse, community-based ownership. However, Romar also urges the Commission to consider extending LPFM ownership to licensees of local owner-operated stand-alone AM broadcast stations. Romar will detail its opinions in the paragraphs that follow.

COMMENTER'S QUALIFICATIONS

Romar Communications Inc., established in 1987, has advanced several FCC broadcast applications during the past eleven years to create a new, community-based commercial AM broadcast station in Lansing, NY. Its current proposal (file no. 971126AH) remains under staff review. Romar also filed application (BP-880407MV) to construct a new commercial FM broadcast station established under Docket 80-90 in the adjacent community of Homer, New York. (Under a settlement agreement reached in 1990, the Commission awarded that FM facility to a Homer-based applicant.) Romar's principals, president Robert A. Lynch and his sister Marcia E. Lynch, Romar's vice-president, both experienced broadcasters in the Lansing/Ithaca market, value the importance of community-based broadcasting that puts the public interest first. Each has resided in the Ithaca market for more than 25 years, and both view the establishment of a new local broadcast station as their career goal.

Additionally, Mr. Lynch has served since 1987 as a broadcast consulting engineer with the firm Independent Broadcast

Consultants, Inc., Trumansburg, New York. In that capacity, Mr. Lynch has prepared numerous AM and FM broadcast applications under his signature on behalf of clients nationwide, and assisted in the preparation of numerous other filings directed by the firm's management. As such, Mr. Lynch is thoroughly familiar with the Commission's technical standards for AM and FM assignment. He is also fully aware of the technical challenges facing modern broadcasters in the era of increased spectrum utilization and a relaxed regulatory environment. As such, Romar recognizes that this is no time for a second tier of stations to become second class. Order must be maintained on the airwaves as the Commission seeks to expand ownership opportunities.

PUBLIC INTEREST CONSIDERATIONS

With regard to Mr. Skinner's Petition, Romar will direct its greatest attention to the so-called "LPFM-1" class of stations the petitioner requests be established, those stations with the highest power and largest potential service area. If assigned to appropriate applicants and authorized on sound technical principles, LPFM-1 stations could, Romar believes, serve as the most effective vehicle to diversify broadcast ownership in decades. The Commission stands well aware of the frantic consolidation that's taken place since passage of the Telecommunications Act of 1996. In its Formal Comment in General Docket No. 96-113, the Notice of Inquiry toward identifying and eliminating market entry barriers for small businesses, Romar warned of the Act's impact on "mom and pop" broadcasting. Indeed, those fears have been realized. Many markets, including Romar's own, have become effective monopolies. New FM allocation opportunities created by Docket 80-90 have largely

been exhausted. And in all too many cases, the 80-90 facilities already assigned have since been gobbled up by larger duopolies. (In Romar's own Lansing/Ithaca market, no Docket 80-90 allocations were ever established.) Consolidation remains perfectly legal. And many consolidated stations serve their licensed communities admirably. Nonetheless, new voices clamor to be heard. Women, minorities and upstart entrepreneurs stand eager to make their mark in broadcasting. And with increasing numbers of stations being purchased by out-of-town chains, no substitute exists for local ownership. The Congressionally-mandated institution of auctions for new broadcast spectrum will impose increased barriers for lesser-capitalized applicants who use traditional filing procedures. Current prices keep established facilities out of reach for all but the very rich. Personal wealth should never be a requirement for access to the First Amendment. For these reasons, Romar believes a new class of lower-powered FM stations assigned to local owner-operators according to strict criteria would enhance the public interest while opening a window of opportunity for the "little guy" to take entrepreneureal risk and experience the American dream. As long as incumbent broadcasters suffer no technical harm, the impact of the proposed LPFM-1 class of stations would appear to be 100% positive.

LPFM FACILITIES

Romar has no quarrel with the Petitioner's concept of low-power "Special Event" LPFM-3 facilities authorized for short durations and perhaps coordinated by non-governmental organizations. Nor would intermediate power LPFM-2 facilities likely impose allocation difficulties. However, the Petitioner may have over-reached by proposing that LPFM-1 operate with effective radiated

power of up to 3,000 watts at antenna heights of 100 meters. Essentially, the Petitioner seeks to establish a new class of stations with potential facilities equivalent to those of the original Docket 80-90's. Romar predicts such an ambitious proposal would face stiff opposition from incumbent broadcasters, trade groups and regulators. Furthermore, close crowding of LPFM-1 stations on a contour-only basis could worsen the ability of established stations to move sites or undertake reasonable facilities changes. Moreover, by dangling a full 3 kilowatt assignment as the prize, the Commission would encourage otherwise-unqualified applicants to bend the rules so as to win the station for themselves. Once again, the "little guy" would be frozen out.

As a starting point, Romar suggests the following. Any new LPFM-1 station would be limited to one kilowatt ERP at a maximum antenna height of 100 meters AAT (with appropriate power reduction levels for higher antennas.) As such, the average maximum 60dBu coverage radius would extend as far as 19 kilometers (nearly 12 miles.) Assignment would be made on a contour protection basis similar to that for FM translators and non-commercial FM broadcasters. Directional antennas would be permitted under the same Section 73.316 rules and affect other broadcasters. LPFM-1 stations would exist as secondary services, protected by other new or modified FM translator, Class D or LPFM stations, but <u>not</u> by Class A, B or C licensees. LPFM-1 stations could contribute second- or third-adjacent channel interference to other LPFM, Class D or FM translator stations; but could <u>not</u> contribute such interference to Class A, B or C operations. Like Class D stations and FM translators, LPFM-1 stations would <u>not</u> be protected from <u>received</u> interference caused by other broadcast stations, foreign or domestic.

Should a subsequent facilities change by a Class A, B or C station preclude the LPFM-1 station's existence, the LPFM-1 licensee would be entitled to modify facilities so as to remove prohibited overlap, or be given preferential opportunity to migrate to a new channel. Romar welcomes alternative suggestions.

ELIGIBILITY LIMITATIONS

Romar strongly endorses the Petitioner's request that licensing eligibility for LPFM stations be strictly limited. The failure of Docket 80-90 to truly diversify the FM spectrum with fresh voices should be remembered. The Petitioner suggests all parties to an LPFM-1 construction permit or assignment application be required to live within 50 miles of the station's antenna site. Romar proposes even tighter ownership rules be established. To ensure true community-based control, Romar proposes at least a voting majority of ownership reside within either the LPFM-1 station's 60dBu / 1mv/m coverage contour or within the station's "market" as defined either by Arbitron or by the Commission's overlapping contour method. The Commission may wish to consider requiring 100% ownership within the market boundaries. No other FM broadcast licensee within that market, nor that licensee's stockholders or employees, would be allowed to hold an LPFM-1 license. Licensees of stand-alone AM broadcast stations in the market would be eligible for an LPFM-1 license as will be discussed in the following paragraphs. Local Marketing Agreements or time brokerage arrangements between the LPFM-1 station and those otherwise ineligible broadcast licensees in the market would be prohibited. Assignment of the LPFM-1 license could only occur to parties which would qualify for an LPFM-1 station were it a new facility. If no suitable buyer could be found, the Commission would be entitled to cancel the LPFM-1 license.

AM LICENSEE ELIGIBILITY

For more than a decade, stand-alone AM broadcasters have sought a regulatory vehicle by which to compete successfully with their FM counterparts. In past proceedings, the Commission has rejected proposals to allow AM broadcasters to utilize FM translators. Romar submits the LPFM initiative may provide the AM licensee its best opportunity yet toward commercial parity.

Romar insists an LPFM facility should remain a community-based resource. Therefore, not every AM licensee would be eligible for an LPFM-1 license. Only "stand-alone" (AM only) licensees would qualify. And only locally-owned and managed AM stations, those fulfilling the ownership criteria for the LPFM-1 station itself, would hold regulatory standing for an LPFM authorization. Were the AM station to be sold to a non-qualifying LPFM-1 entity, the LPFM-1 license would be forfeited. The AM licensee would hold no comparatime disadvantage with other LPFM-1 applicants should multiple parties file for an FM frequency. AM/FM simulcasting would be permitted either completely or for a reasonable fraction (such as 50-75%) of the broadcast day. AM/LPFM-1 licensees would be allowed the opportunity for completely separate programming should they desire.

TECHNICAL STANDARDS

Unlike some low-power FM advocates, Petitioner Skinner proposes all LPFM facilities utilize type-accepted equipment. Romar endorses this proposal. Use of substandard equipment would only weaken the entire industry and reduce low-power broadcasting to a second-rate service. But as with type-acceptance, other standards of excellence must be maintained for the protection of all.

Application for any new LPFM-1 stations should be made on FCC Form 301 with the same rigorous engineering studies as are required for other classes of broadcast applicants. Contour protection studies should adhere to all Section 73.215 standards; and any proposed directional antenna should comply with all requirements contained in Section 73.316 of the Rules. To pull their own weight, LPFM-1 applicants should pay filing fees equal to those for other comparable FM filings. The Commission should impose reasonable annual regulatory fees. LPFM-1 licensees should abide by Commission rules regarding operator requirements, minimum hours of operation, and EAS compliance. Installations should be made according to Standards for Good Engineering Practice.

COMPETITIVE SELECTION

Romar agrees with the Petitioner that the use of auctions to select among mutually-exclusive LPFM applicants would only serve to discourage financially weaker entities from filing applications. If necessary, the Commission should encourage Congress to amend the Budget Reconciliation Act to exempt LPFM services from mandated auctions. Ideally, Romar would favor comparative hearings to resolve mutual exclusivity, thereby giving applicants maximum opportunity to prove their worthiness to be a public trustee. However, should the Commission be reluctant to undertake the additional responsibilities hearings entail, the Petitioner's suggestion of lotteries should be weighed as a preferable alternative to auctions. In any event, whenever mutually exclusive applications arise, the Commission should entitle applicants reasonable opportunities to resolve engineering conflicts. Resolution should include the option for permitting share-time arrangements between parties seeking the same channel and market.

CONCLUSION

For anyone with radio in his blood, broadcast ownership stands as the ultimate career goal. And the public benefits most from passionate, professional broadcasters who strive for excellence in serving their home communities. The Commission should nurture this human resource for the public good, just so long as technical standards are not compromised in the process. Toward that objective, Romar's ownership believes a carefully-crafted set of rules to authorize low-power FM broadcasting would open new opportunities for those who seek to serve and those who seek new listening choices. Romar urges the Commission to institute a formal Rulemaking proceeding at the earliest opportunity.

Should the Commission adopt this commenter's proposal to allow limited LPFM-1 ownership by AM-only licensees, Romar Communications Inc. hereby states its intent to request an LPFM-1 authorization to complement its AM facility. But putting its own interests aside, Romar maintains low-power FM broadcasting would improve the utilization of available spectrum, expand business opportunities for the community-based broadcaster, and breathe new life into our industry. We await the Commission's response.

Respectfully submitted,

April 24, 1998

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