DOCKET FILE COPY ORIGINAL

FCC
Office of the Secretary
Room 222
1919 M Street NW
Washington, D.C. 20554

Comments regarding RM-9242

No.

It's ironic that the largest, most in-depth of the low power broadcasting petitions can be summed up so easily by one of the smallest words in the English language.

Rodger Skinner, the petitioner, solicited comments from interested parties regarding his petition. Yet, during those solicitations, the only comments he chose to heed were those giving him 100% support. I, for one, have attempted constructive dialogue with him regarding some disturbing aspects of his petition. Like so many others, I found myself ignored at first, then found myself mocked by the petitioner, who stated my disagreements with aspects of his petition was due to my apparent lack of "real world" experience.

Perhaps eight years in the broadcast industry seems small to the petitioner. However, it provides enough "real world" experience to allow me to recognize some glaring imperfections in RM-9242... imperfections that, after several of my attempts toward constructive dialogue, the petitioner has actively chosen to ignore.

Indeed, this petition, as opposed to RM-9208, is the sole product of Rodger Skinner. It represents *his* views, judgments, and biases only, and any attempt on his part to claim his petition represents a greater group of people is, indeed, false (aside from a recent revision allowing amnesty for past and present unlicensed broadcasters). In fact, Skinner only made the text of his latest revision to RM-9242 available to the public April 24... much too late for public consideration prior to the April 27 comment deadline.

Skinner quotes, in paragraph 1, information from the FCC Website, noting that roughly 13,000 individuals and groups express interest in starting a low-power station each year. Yet, with his somewhat confusing provisions expressed in paragraph 59, an initial launch of low power broadcasting under RM-9242 would allow only one LPFM station per market. Given roughly 260 Arbitron-rated "markets", this allows roughly 2% of those individuals and groups to be served by the Skinner petition. Add to this the likelihood that a number of applicants will meet residency requirements for more than one "market", and thus could apply for more than one LPFM license simultaneously, and one quickly sees how the "diversity" Skinner seeks simply is not served by RM-9242. Indeed, Skinner notes in paragraph 3 that "thousands of new LPFM stations will spring up" under RM-9242. Yet, excessive power levels, as well as the unlikelihood that Arbitron-rated

markets will each yield an average 4 open FM frequencies, make Skinner's own goal improbable at best. Dividing open frequencies into smaller "cells" (as mentioned in RM-9208) would allow greater diversity, more opportunities, and precise community service.

There are clues throughout the petition that display Skinner's mindset as a commercial broadcaster first, and a community broadcaster second (or farther behind). The power ceiling is excessively more than necessary to serve any community (the RM-9242 petitioner tells me that "higher power" eliminates the likelihood that a "commercial will fade out when you drive away from the transmitter"). My view is simple: one does not need a spotlight to illuminate their front porch. If the goal is to light a neighborhood rather than a porch, well... that's what street lights are for. Likewise, three kilowatts is simply too much power to be considered "low power", and if one is seeking that kind of broadcast power, they should instead seek a Class A license, for which a procedure has already been established. The FCC's resources are already stretched to the point that "reinventing the wheel" should not be a consideration.

Skinner's petition is the only one that makes no use of the NCE band for non-commercial low power broadcasting... indicating the concept of non-commercial broadcasting was not properly considered. Skinner also loses touch with the fact that many people interested in starting a low power broadcast station do not live in a currently established "market", which his petition references throughout.

Skinner mandates that his upper tier of stations would require a four-letter call sign, under the suggestion that "Arbitron cannot recognize or print station calls exceeding four letters". False. Arbitron currently polls listening audiences not only using call letters, but also using positioners, and even names of programs and broadcast talent. Furthermore, Arbitron software utilizes six-letters (four letter call sign, plus "AM" or "FM") to differentiate between stations. Four letter call signs make a station more marketable, by making jingles sound smoother, and making the stations calls easier to remember for a potential diary holder. Four letter call signs, however, do nothing to advance the cause of community radio.

Indeed, the petitioner could already own and operate the kind of station he's looking for (a marketable, powerful, money-making broadcast enterprise), if he was willing to shop around and pay the necessary costs for a Class A license. RM-9242 provides the petitioner with a method of gaining one or more of these stations at a fraction of the cost... sort of "free meal", while taking from the plates of countless potential low power broadcasters and listeners who would be "left out" by this petition.

I, personally, feel for the petitioner, in the sense that his current LPTV property is in jeopardy. However, I know of no precedent where the FCC has compensated a licensee for their loss, nor should there be any requirement to do so, expressed or implied. The Skinner petition represents more of a compensation package for jilted LPTV owners than a community service. Nowhere in RM-9242 do I see any guarantees regarding programming in the community interest. Given the provisions in this petition, one could conceivably operate a station using as little community programming (or for that matter, local programming) as today's corporate broadcast empires. Rather than offer a listening alternative for large portions of the country, this petition, regardless of

the author's true intentions, serves only a select few in allowing them to get as large a "piece" of the remaining "pie" as they can.

One of the more frightening aspects listed in RM-9242 can be found in paragraph 12. In this paragraph, Skinner notes (correctly) that minority ownership of broadcast media has dropped. However, he contradicts himself by stating that minority preferences "may not be needed" for a low power broadcast service. I (as a white male) am sharply opposed to any suggestion that minority preferences be ignored; in fact, I believe minorities should be granted special considerations similar to those of educational institutions (as noted in RM-9208).

Frequent contradiction throughout RM-9242 cause confusion, not to mention gaping loopholes which could prove advantageous to opportunistic corporate interests. Perhaps the most concentrated of these is paragraph 59. This paragraph states that a LPFM service could be "strengthened" by...

- allowing three LPFM stations per owner, regardless of MSA. It's bad enough that an owner can live up to 50 miles away from their station and still be considered as "serving the community". After all, someone living in Chicago does not necessarily know or understand the news and needs of the residents of nearby Kankakee, Aurora, or Hammond. Imagine, then, a station owner trying to serve up to three individual communities/markets simultaneously. Once again, I see no indication that this would provide any kind of diversity or community service.

- allowing one person or group, whose members live within 50 miles of more than one market simultaneously, to *apply* for up to three LPFM stations simultaneously without restriction. There is no angle that this provision can be expressed that implies even a hint of diversity. It should be noted that, based on current residence, the petitioner would be in prime condition to take advantage of this fact.

- allowing three LPFM stations per MSA per entity. There are a number of current broadcast owners who have purchased ailing stations under the guise of "bailing them out", only to simulcast the audio from one of their other stations in an effort to extend their broadcast range.

Paragraph 59 could be immensely improved in at least two ways. First, three stations is two stations too much. Perhaps an alternative would be to allow an ownership cap of one station, or, given unusual circumstances that would be judged on a case-by-case basis, two stations (provided that the stations do not simulcast, and both provide their own methods of serving their respective communities). Second, integrating the ownership restrictions from the revised RM-9208 would keep any corporate broadcast interests within a 50 mile radius at bay.

In paragraph 8, Skinner notes five goals that RM-9242 allegedly fulfills:

A. Make more efficient use of the FM band without interference
RM-9242 fails to provide an efficient use of the FM band. 13,000 people/groups want "in". Skinner himself states this petition would allow thousands of new stations. As I mentioned

previously, given the power maximums and initial restrictions proposed, reaching either number is extremely unlikely.

B. Increase diversity of ownership of stations including "minority ownership"
RM-9242 might slightly increase the number of owners, but not necessarily increase diversity of ownership. Using loopholes in paragraph 59, a corporate entity meeting the 50 mile residency requirement could still own up to three stations (by acquisition, possibly all in the same city) with power up to 3 kilowatts. Furthermore, Skinner does not believe that minority preferences are necessary, which does little to "include" minority ownership.

C. Give the listening public more and better listening choices
RM-9242 can not guarantee listening choices will be "more" or "better". Because this petition lacks programming restrictions, a potential LPFM owner could choose to simulcast their properties, or run a satellite-driven jukebox.

D. Provide for affordable radio advertising to small businesses, even in large markets
I personally like this idea, but see few supporting statements. The petitioner assumes that a 3 kilowatt station created under RM-9242 will offer reasonable advertising costs, but does little to guarantee this. If an RM-9242 station became the top station in a given market, do we assume that they will not attempt to raise their advertising rates accordingly?

E. Create jobs nationwide at new stations, equipment manufacturers, and suppliers
For weeks, I've been trying to remember where I'd heard this before. Now, I finally remember. A politician used nearly this exact phrase to justify building a local penitentiary. He stated it would create new jobs, not only locally at the prison, but also for contractors, suppliers, and the like. When the prison was built, the majority of the staffing was handled by transfer, rather than hiring local residents. The economic "boom" this prison should have provided did little more for the community than create an eyesore no one really wanted. The same can apply to radio as well... radio equipment manufacturers and suppliers rarely charge less than list price, so supporting them simply allows the rich to get richer. And there's no guarantee that the station owner won't simply automate their station and program their station strictly from satellite feeds; if the owner chooses to be the sole station salesperson as well, he or she will, in effect, have done nothing to create new jobs, instead finding a new, quick way to line their pockets with revenue earned by selling an intangible medium.

While looking at the petitions, one question constantly ran through my mind. **Could the petitioner, or other interested parties, potentially use this petition to achieve results that are directly opposite of the petition's stated goals?** The Skinner petition, while considerably more thorough than its counterparts, leaves too many unanswered questions, and too many loopholes. RM-9242 reaches to fulfill just causes, but stops way short of doing so.

Could RM-9242 be used by corporate interests to further their financial causes, as opposed to fulfilling a community need? More so than any other petition, yes it can. And truth be known, if I was forced to make a choice between RM-9242 and nothing at all, I would, without hesitation, choose nothing.

It is obvious that much thought, time, and research went into the planning of RM-9242. However, this petition appears more as a "rough draft", waiting patiently for some needed airbrushing. Instead, the petition has been submitted as a final draft. With luck, the FCC will be able to get better response from the petitioner of RM-9242 than the rest of us. In lieu of that, I cannot, and will not, support RM-9242.

Thank you for your consideration.

Sincerely,

Kevin Lange, N9NFT
PO Box 8414
Terre Haute, IN 47808-8414