

ignored for full-power short-spaced grandfathered FM stations. In its Report & Order in MM Docket No. 96-120, released August 8, 1997, the Commission states page-11, paragraph 29 --

“29. *Conclusion.* As the majority of commenters in this proceeding agree, we believe that reinstatement of the pre-1987 rules regarding second and third-adjacent channel grandfathered stations would best serve the public interest. We see little advantage to require additional exhibits from grandfathered stations proposing site changes or facility modifications. The small risk of interference is far outweighed in the improvement in flexibility and improved service (emphasis added).”

The interference protection provided in RM-9242 for co-channel and 1st-adjacent channel stations is identical to that provided in Section 73.215(a)(1) of the FCC rules for full-power short spaced stations as shown here - -

(2) The interfering contours, for the purpose of this section, are defined as follows. For co-channel stations, the F(50,10) field strength along the interfering contour is 20 dB lower than the F(50,50) field strength along the protected contour for which overlap is prohibited. For first adjacent channel stations ( $\pm 200$  kHz), the F(50,10) field strength along the interfering contour is 6 dB lower than the F(50,50) field strength along the protected contour for which overlap is prohibited. For both second and third adjacent channel stations ( $\pm 400$  kHz and  $+600$  kHz), the F(50,10) field strength along the interfering contour is 40 dB higher than the F(50,50) field strength along the protected contour for which overlap is prohibited.

It should be noted in the above that the F(50/10) field strength along the interfering contour is 40 dB higher than the F(50/50) field strength along the protected contour for which overlap is prohibited. This means that a LPFM station that is on a 2nd adjacent channel to a full-power station would have to have a F(50/10) signal strength that is 40 dB or more greater than the full-power stations F(50/50) signal strength at any point in order to be considered to cause interference. As pointed out earlier in these comments<sup>26</sup>, any point where a LPFM station would exceed the signal strength of the 2nd or 3rd adjacent channel by more than 40 dB would exist only in a very small area immediately around the antenna site of the LPFM station and thus could be ignored. This small area would be smaller but similar to the “blanketing

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<sup>26</sup> *Id* at 6.

area” of a full-power FM station, where reception of other stations is impaired due to the excessive strength near its antenna site (tower). Additionally, no commenters in this proceeding have provided any evidence whatsoever to contradict our engineering information showing that LPFM stations operating on 2nd and 3rd adjacent channels to full-power FM stations would cause no harmful interference.

13. In its comments, the NAB states “The FCC should not establish a new service in the hopes of curbing the flood of pirate radio broadcasters”.<sup>27</sup> They add “The Commission should not create a new service to placate people who are flagrantly violating the law as it exists today.” I take exception to that statement, personally. I desire to establish a LPFM station here in South Florida and I do not flagrantly violate the law as the NAB contends above. There are many others, like myself, with many years of experience in the broadcast industry who are excited about an opportunity to finally get a chance to own our own radio station where we live. These are law abiding, productive citizens who have been shut out of broadcast station ownership due to the high barrier to entry. As pointed out earlier in these reply-comments, most major metropolitan areas of the U.S. do not have any frequencies available for application and construction of a full-power station, under existing spacing rules, even if one could afford the engineering, application and legal fees and construction costs. It has been shown in RM-9242 how many LPFM stations can be constructed for less than the price of a new car, using type-accepted equipment that will not cause interference to other FM stations or other radio services. I stated in my original LPFM petition, and I still believe that

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<sup>27</sup> *NAB comments* at 32.

the vast majority of so called "pirate operators" would comply with FCC rules, if such rules for a LPFM service were made available. It is because the average American has been shut out of any chance at radio station ownership for so long that pressure has built up and is being shown as "pirate radio" station operation. The Commission should not buy the NAB argument that to license a LPFM service is "legalizing pirates". Nothing could be further from the truth. This is nothing more than a mean spirited attempt by a frustrated organization to try to squelch any possible new competition and should be condemned. That would be similar to saying that the creating the civil rights laws of the 1960's that allowed minorities to sit at previously "all white" lunch counters was "legalizing criminals". Prior to this period, those that conducted sit-ins at such lunch counters were technically violating the law. If the NAB member stations are doing such a good job at serving their communities, as they try to establish in their comments, then why are they so afraid of any new stations (competition), low power competition at that? I believe that they know their house is not in order and listeners would welcome a breath of fresh air and the programming alternatives that would be provided by LPFM broadcasters. Like the child who misbehaved and was caught, I believe the NAB protesteth too much.

14. In its comments NAB states "The Skinner petition does propose a Low Power FM (LPFM) service (LPFM-1 status stations) that would exceed the FCC's minimum 100 watt minimum power for some of the low power stations. NAB believes that any proposal to operate above the FCC's power minimum is no longer a low power station, thus an individual

should be required to apply for a full-power license under existing FCC procedures.”<sup>28</sup> It should be noted that many low power television stations operate at power levels in excess of the minimum set for the full-power television service and are still considered “low power” stations. The minimum power for full-power television stations is 100 watts<sup>29</sup>, while the maximum limit for UHF low power television stations is now 150 KW. There is no precedent for the NAB’s contention, while there is precedent for calling stations “low power” stations at power levels as proposed in RM-9242.

15. In comments from National Public Radio, Inc. (“NPR”), many of the same arguments raised in the NAB comments were repeated. Most of these arguments have been dealt with above in these reply-comments. NPR states “The proposed low power broadcast stations are likely to pose unacceptable interference to full service stations and undermine the transition to digital radio broadcasting.”<sup>30</sup> NPR fails to present any evidence or engineering data to support this contention and therefore the Commission must reject this argument. NPR when referring to the regulatory requirements of a LPFM application relating to facilities owned by a single entity, residency requirements (50-mile ownership residency rule), minimum hours of operation, etc. suggests that assuring compliance with these requirements would

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<sup>28</sup> *NAB comments* at 5, footnote 26.  
*NPR comments* at 6.

<sup>29</sup> *FCC rules* Section 73.614(a).

<sup>30</sup> *NPR comments* at 5.

overburden the Commission.<sup>31</sup> As stated earlier in these reply-comments, the Commission could easily use a self-certification process on the application form with sufficient warning that if an applicant falsified information and/or falsely certified to something, it could result in revocation of his/her station license. Random audits should easily enforce compliance with this tough no excuses policy. This is something the Commission is already doing with its forms in other services and would work well with the LPFM service as well.

16. Comments filed by the American Community AM Broadcasters, Inc. (“ACAMBA”) seek to complain about competition from any proposed LPFM stations.<sup>32</sup> I would refer these folks to Section 257 of the Telecommunications Act of 1996 that encourages competition in the communications industry and directs the FCC to lower the barriers to entry for small business. If some AM station owners are hanging on by such a thin thread, as implied in these comments, then they might possibly be better served by supporting the creation of a LPFM service and applying for a LPFM that could serve their market 24-hours a day without reduced power at night or having to sign-off at sundown. There are no other factual comments in this opposition to which I can reply other than to deny that the ownership and eligibility requirements as proposed in RM-9242 are un-American, as they state. To the contrary, I believe that RM-9242 is a blueprint for a better America!

17. Just when I thought I had seen it all, I read The Joint Comments of The Named

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<sup>31</sup> *NPR comments* at 8.

<sup>32</sup> *ACAMBA comments* at 3.

State Broadcasters Associations (“the Associations”). These folks, although parroting many of the NAB arguments, should receive an award for the “most colorful” comment on RM-9242. I was particularly struck by the line in their summary that states “This CB-ization of radio broadcasting stands the Communications Act on its head”.<sup>33</sup> This totally unsupported hyperbole is nonetheless colorful. Here is another line that is laughable “A careful reading of the Petitions and supporting comments filed in this proceeding illustrate that the true (and improper) motivation behind their effort is to provide amateur radio operators with their own personal AM and FM band stations.”<sup>34</sup> I’ll bet the guy/gal who wrote that line would really flip if they new my amateur radio callsign was W4FM :-). They continue with the same misconceptions confusing LPFM operators with “pirate radio” operators using non-type accepted equipment and causing interference (the dreaded “I-word” again). They spend much time attacking the RM-9208 original petition of 1-watt stations<sup>35</sup>, which they should have known was amended by the petitioners to discard the notion of 1-watt stations, so all their arguments against 1-watt stations are moot. In amongst all the unsupported accusations directed towards LPFM was one statement that rings loud and clear and is, in my opinion, the real reason for the avalanche of opposition from the NAB and its member stations. They said “based on the experience with pirate radio stations which have sprung up across the country, these stations will no doubt splinter audiences and compete for local advertising dollars with

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<sup>33</sup> *The Associations comments* at summary page.

<sup>34</sup> *The Associations comments* at 10.

<sup>35</sup> *RM-9208 petition for microbroadcasting* amended March 4, 1998.

existing broadcasters.”<sup>36</sup> To put it another way, don’t approve LPFM because it might present competition! They continue with “As the microradio stations proliferate, they will no doubt target the very advertisers that are targeted by the local radio broadcaster.”<sup>37</sup> Thank you to a station owner who was kind enough to fax me a memo from one of the State Associations, that is a party to these comments. In this memo this State Association says “With the micro-radio proposal of Chairman Kennard, the radio industry is looking at moving backward to the instability of the late 80's and early 90's. In addition, serious interference problems with currently operating FM radio stations could come about as a result of the implementation of this proposal. There are also FCC and congressional scholars who believe the FCC, under the new Communications Act, lacks the legal authority to unilaterally bring about this change to the FM band without the approval of the Congress. The Indiana Broadcasters Association believes the proposal of Chairman Kennard to be ill conceived and would urge your opposition to its implementation by the Federal Communications Commission.”<sup>38</sup> More unsupported hyperbole! This memo was also sent to their Congressmen and Senators and is just one example of how hard the NAB and its affiliated associations are fighting LPFM. It will take brave Commissioners at the FCC to withstand this frontal assault by the second most powerful lobby in Washington, but I have faith in Chairman Kennard and the other Commissioners that they will realize that this is a unique opportunity to help reshape America by lowering the barrier to entry to broadcast station ownership, opening the door to individuals, minorities,

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<sup>36</sup> *The Associations comments* at 15.

<sup>37</sup> *The Associations comments* at 15.

<sup>38</sup> *Memo* from John Newcomb, President, Indiana Broadcasters Association.

women, small business, churches and community organizations. Getting these voices on the air with local owners who can contribute much to their communities if given the chance, should be a worthy goal for the Commission.

18. Comments filed by Greater Media, Inc. ("Greater Media") in general, as with other comments filed by station owners, tend to parrot the same arguments put forth in the NAB comments. They make an offhand reference to testing of various consumer receivers by the National Radio Systems Committee ("NRSC") and the Electronics Industry Association ("EIA") that reveals that consumer receiver performance is highly variable. They then state that these studies show that second and third adjacent channel interference criteria, as well as IF spacing limitations, were both necessary and appropriate in order to assure that a substantial percentage of the universe of receivers performed adequately. They fail however to state what receivers were tested, what percentage received or did not receive interference, what comprised the test conditions or, in fact, there was no supporting data provided at all to back up these statements. There were no comments filed in this proceeding by either the NSRC or the EIA, thus the above statements made by Greater Media carry no weight as they are totally unsupported. A receiver study done in 1996 provided data that conflicts with the above statements in that it found that the majority of receivers tested were not subject to 2nd adjacent channel interference. This exhaustive study<sup>39</sup>, was titled "FM Receiver Performance in the Presence of Second Adjacent Channel Interference" and dated October 4, 1996. It was

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<sup>39</sup> *FM Receiver Second Adjacent Tests* submitted by Thomas B. Keller. Tests conducted at the NASA Research Center, Cleveland, Ohio, in a laboratory operated by the Electronics Industries Association Consumer Electronics Manufacturers Association (EIA/CEMA).

submitted attached to reply-comments of the NAB in the grandfathered short-spaced FM stations proceeding (MM Docket No. 96-120). It was in this proceeding that the FCC concluded in its Report & Order<sup>40</sup> that it would delete 2nd and 3rd adjacent channel restrictions for grandfathered short-spaced full-power FM stations seeking new antenna sites or improved facilities. Under present Commission rules<sup>41</sup>, a LPFM station that is on a 2nd adjacent channel to a full-power station would have to have a F(50/10) signal strength that is 40 dB or more greater than the full-power stations F(50/50) signal strength at any point in order to be considered to cause interference. As pointed out earlier in these comments<sup>42</sup>, any point where a LPFM station would exceed the signal strength of the 2nd or 3rd adjacent channel by more than 40 dB would exist only in a very small area immediately around the antenna site of the LPFM station and thus could be ignored. This small area would be smaller but similar to the “blanketing area” of a full-power FM station, where reception of other stations is impaired due to the excessive strength near its antenna site (tower).

19. Comments filed by Saga Communications, Inc. (“Saga”) deal primarily with the subject of FM translators. In its comments, it states “If the FCC grandfathered existing FM translator stations to protect them against future low power FM station[s] it would largely make the proposed LPFM service worthless because of lack of available FM frequencies on

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<sup>40</sup> *MM Docket No. 96-102 Report & Order*

<sup>41</sup> *FCC rules Section 73.215*

<sup>42</sup> *Id* at 6.

which to operate.”<sup>43</sup> This need not be the case. By deleting 2nd and 3rd adjacent channel restrictions, many channels will be available for LPFM that will make the displacement of FM translators largely unnecessary. LPFM-1 stations can still be given “primary status” under Part 73 rules, but there need not be a wholesale displacement of FM translators under my plan which I submitted as an Addendum to RM-9242<sup>44</sup> and Comments in this proceeding. I will repeat the relevant section of those comments here to show why FM translators need not be displaced in large numbers. 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

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<sup>43</sup> *Saga Communications, Inc. comments* at 3.

<sup>44</sup> *Addendum to RM-9242 and Comments* of J. Rodger Skinner, Jr. filed at the FCC April 23, 1998.

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. While Saga attempts to make a direct comparison of displacement of a FM translator to displacement of a LPTV station, the comparison cannot be made since loss of the FM translator while having some effect on the FM station that it rebroadcasts will not put that station off the air and out of business. Operation of the FM translator is not a business. A displaced LPTV station, unable to find a replacement channel, is put off the air and out of business. Many LPFM stations will choose to operate as a LPFM-2 class station, as secondary-status, and as such could not displace a FM translator. If a LPFM-1 is unable to find any other comparable channel, it should, as a "primary service" locally originating station be able to displace a "secondary status" FM translator that merely rebroadcasts the programs of an existing station.

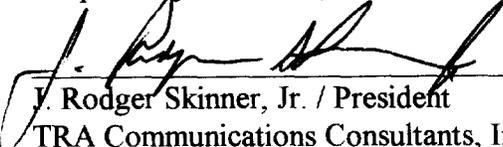
20. IN SUMMARY -

The proposals contained in the LPFM petition RM-9242 will provide the following benefits and advantages:

- A. Make more efficient use of the FM band without interference.**
- B. Increase diversity of ownership of stations including "minority ownership".**
- C. Give the listening public more and better listening choices.**
- D. Provide for affordable radio advertising to small businesses, even in large markets and increase competition.**
- E. Create jobs nationwide at new stations, equipment manufacturers and suppliers thus spurring the economies of many areas.**
- F. Help to level the playing field in the broadcast industry by lowering the barrier to entry for radio station ownership.**
- G. Create a large number of locally owned radio stations that, on the whole, will be more responsive to the needs and issues of the local communities.**

The actions requested in this petition can be quickly and easily implemented by the Commission with a minimum of resources. Any negative effects are outweighed significantly by the advantages achieved herein, namely diversification of ownership in media and all the inherent benefits that accompany this lofty goal. Add local ownership by individuals, minorities, women, churches and small business, previously denied a voice, and you have a powerful plan to achieve meaningful results in many important areas. The proposals put forth in this petition will clearly serve the public interest, convenience and necessity. I have addressed all the concerns filed in comments on RM-9242 herein and find no reason that the Commission cannot move forward with the next step in the creation of a viable LPFM broadcast service for America. I respectfully request that the Commission, at its earliest opportunity, issue a formal Notice of Proposed Rulemaking for the creation of the Low Power FM broadcast service as described in RM-9242.

Respectfully submitted,

  
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May 23, 1998

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## Low Power FM Coverage Area Examples

### Low Power FM Stations of Various Power and Antenna Heights:

Chart Showing Coverage to 1 mV/m (60 dBu) Contour in Miles:

		Antenna Height in Feet (HAAT)						
		50	100	150	200	250	328	
<b>P</b>	<b>1watt</b>	.6	1.1	1.4	1.6	1.8	2.0	MILES
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<b>O</b>	<b>W 20w</b>	1.6	2.3	2.8	3.3	3.7	4.2	MILES
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<b>E</b>	<b>R 50w</b>	2.1	2.9	3.6	4.1	4.6	5.3	MILES
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<b>W</b>	<b>A 100w</b>	2.4	3.5	4.3	5.0	5.6	6.4	MILES
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<b>T</b>	<b>250w</b>	3.0	4.4	5.5	6.3	7.1	8.1	MILES
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<b>S</b>	<b>500w</b>	3.5	5.3	6.5	7.6	8.5	9.7	MILES
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	<b>1000w</b>	4.1	6.3	7.8	9.0	10.1	11.5	MILES
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<b>E</b>	<b>2000w</b>	4.8	7.5	9.3	10.8	12.0	13.7	MILES
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<b>R</b>	<b>P 3000w</b>	5.3	8.3	10.3	11.9	13.2	15.0	MILES

Distances calculated from FCC F(50/50) Distance to Contours Chart / Figure-1 of Section 73.333 of FCC rules.

**HAAT**=height above average terrain    **ERP**=effective radiated power in watts

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## CERTIFICATE OF SERVICE

I, J. Rodger Skinner, Jr., President of TRA Communications Consultants, Inc., do hereby certify that I have on this 23rd day May of 1998, sent by First Class United States mail, postage prepaid, copies of the foregoing **REPLY-COMMENTS OF J. RODGER SKINNER, JR. ON RM-9242** to the following:

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