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RM-9208

From: Mike Hoyer <mhoyer@midplains.net>
To: Chairman William Kennard <wkennard@fcc.gov>
Date: 5/26/98 11:55pm
Subject: LPFM, IBOC, and communities can work together: COMMENTS

Dear Chairman William Kennard & Commissioners:

I have submitted, to arrive Tuesday, May 26th, my reply comments on LPFM to the FCC. These comments, as I've summarized below, provide an excellent methodology for LPFM, IBOC and support for local communities. Based on my 20 years of experience in radio and community involvement, I strongly urge you to read my entire report and take the statements I've made seriously in order to bring vital radio service to our communities in a sensible manner.

RECEIVED

MAY 27 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Thanks for your excellent efforts on this matter,
Mike Hoyer, email: mhoyer@midplains.net

SUMMARY of MIKE HOYER'S REPLY COMMENTS ON LPFM:

Mike Hoyer appreciates this opportunity to provide views on LPFM to satisfy the vital needs of the communities across the United States as stated by FCC Chairman Bill Kennard in Radio World April 15, 1998. Mike Hoyer as well as Kennard are interested in creating a low-power radio service, *so that small businesses and churches and community groups can use the airwaves to broadcast to their communities.* In a world in which most Americans get most of their news from broadcasting, Kennard asked, *How can America have a strong democracy when most stations are concentrated in the hands of only a few?* The answer to that question is provided in Section VI (summarized below) of Mike Hoyer's document which establishes a more efficient use of the spectrum while maintaining and exceeding the minimum power levels as described within the code of federal regulations for telecommunications Title 47, Part 73.211 hence furthering the Commission*s goals in providing stable, efficient and diverse radio service to the public.

The change proposed within Section VI of Mike Hoyer's document attached would not be detrimental to the evolution of in-band, on-channel (*IBOC*) digital radio since the change maintains the code of federal regulations for telecommunications
Title 47, Part 73.207. Therefore, adding the service would not prevent radio broadcasters from implementing IBOC digital technology.

Mike Hoyer states that there are very few stations that are unique hence most stations are redundant and therefore not unique. For example, the Madison, Wisconsin metro area is served by several FM radio stations, however many of them are redundant, for example there are four secular rock stations, four secular contemporary stations, two secular country stations, and only one traditional Christian station. Most of these stations are owned by two or three large corporations that own many other stations in other areas of Wisconsin and other states, therefore dominating the mainstream media. The Telecommunications Act of 1996 and the Bill signed in August of 1997, which forces the FCC to auction mutually exclusive applications, has caused a severe decrease in the diversity of ownerships and formats industry-wide to the point that desperate measures need to be taken as soon as possible to provide exactly what FCC Chairman Bill Kennard has requested, as stated in Radio World April 15, 1998. Mike Hoyer agrees that greater efficiencies have evolved, but Mike Hoyer emphasizes that these greater efficiencies have been paid with the loss of diversity.

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List A B C D E

The proposal for low power stations as described in Section VI of this document, would place nearly 0% additional FCC administrative burdens. The FCC would only need to update two tables of information and modify one (or more) rule(s) for low power stations as described in Section VI of this document. In this regard, the lower power stations would also be self-policing by having the same incentive to abide by regulations.

Mike Hoyer requests that the proposal for low power stations be seriously considered as described in Section VI of this document which is similar to RM-9242.

SUMMARY OF SECTION VI.

THE NEED FOR LPFM AND MIKE HOYER*S PROPOSAL FOR LPFM

A. THE NEED FOR LPFM SERVICE

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.

B. MIKE HOYER*S PROPOSAL FOR LPFM

Mike Hoyer proposes that two classes of radio stations, Class A1 and Class A2 be added to the FCC rule books as shown below.

TITLE 47, PART 73.207 SHOULD ADD THE FOLLOWING ITEMS LISTED:

73.207 Minimum distance separation between stations.

(b) The distances listed in Tables A, B, and C apply to allotments and assignments on the same channel and each of five pairs of adjacent channels...

(1) Domestic allotments and assignments must be separated from each other by

not less than the distances in Table A which follows for class A2 and A1 stations:

Table A - Minimum Distance Separation Requirements In Kilometers (Miles)

Relation	Co-Channel	200 kHz	400/600 kHz	10.6/10.8 MHz
A1 to A2	71 (44)	45 (28)	19 (12)	5 (3)
A1 to A1	82 (50)	52 (32)	23 (14)	6 (4)
A1 to A	102 (63)	65 (40)	28 (17)	8 (5)
A1 to B1	122 (76)	78 (48)	34 (21)	10 (6)
A1 to B	150 (92)	94 (58)	41 (25)	11 (7)
A1 to C3	122 (76)	78 (48)	34 (21)	10 (6)
A1 to C2	150 (92)	94 (58)	41 (25)	11 (7)
A1 to C1	180 (111)	113 (70)	49 (30)	15 (9)
A1 to C	203 (125)	128 (79)	55 (34)	16 (10)
A2 to A2	61 (38)	39 (24)	16 (10)	5 (3)
A2 to A	89 (55)	57 (35)	24 (15)	6 (4)
A2 to B1	112 (69)	71 (44)	31 (19)	8 (5)
A2 to B	139 (86)	89 (55)	37 (23)	11 (7)
A2 to C3	112 (69)	71 (44)	31 (19)	8 (5)
A2 to C2	139 (86)	89 (55)	37 (23)	11 (7)
A2 to C1	168 (104)	107 (66)	45 (28)	13 (8)
A2 to C	190 (117)	120 (74)	52 (32)	15 (9)

(2) Under the Canada-United States FM Broadcasting Agreement...U.S. Class A2 and A1 allotments and assignments are considered to be Class A.

(3) Under the Mexico-United States FM Broadcasting Agreement...U.S. Class A2 and A1 allotments and assignments are considered to be Class A.

TITLE 47, PART 73.211 SHOULD ADD THE FOLLOWING ITEMS LISTED:

73.211 Power and antenna height requirements:

(a) Minimum requirements.

(1) FM stations must operate with a minimum effective radiated power (ERP) as follows:

(viii) The minimum ERP for Class A1 and A2 stations is 0.1 kW.

(2) No minimum HAAT is specified for Classes A1 and A2 stations.

(3) Class A1 and A2 stations may have an ERP less than 100 watts provided that the reference distance, determined in accordance with paragraph (b)(1)(i) of this section, equals or exceeds 6 kilometers.

(b) Maximum limits.

(1) Except for stations located in Puerto Rico of the Virgin Islands, the maximum ERP in any direction, reference HAAT, and distance to the class contour for A1 and A2 FM station classes are listed below:

Class	Station Maximum ERP	Reference HAAT meters (feet)	Class contour distance kilometers (miles)
A2	1.5 kW	100 (328)	14 (9)
A1	3.0 kW	100 (328)	20 (12)

Mike Hoyer proposes these two Classes of radio stations 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 the 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 publicly announce on the front page of the local paper and throughout 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 truly 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 one 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:
i) Eliminate non serious radio owners
ii) Speed up the process for allocation and construction permits
iii) Reduce FCC involvement of having to hold lotteries, auctions, comparative hearings, etc..
iv) 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 or Class A1 or Class A2 as previously stated.

Note 2: If no frequencies are available within the non-commercial band, then a non-profit/non-commercial organization should be allowed to allocate a frequency within the commercial band when no more frequencies are available within the non-commercial band.

Again, Mike Hoyer would like to state that a 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. Also, no filing window is needed, however applicants should be reviewed for completeness.

VII. GENERAL BACKGROUND OF MIKE HOYER

SUMMARY

Mike Hoyer*s approximately 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 Marketing 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
commercials, 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
made, 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 earnestly 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.

VIII. CONCLUSION

The only way to make this rule making effective will be to legalize the information that is stated within Section VI of this document which is designed to satisfy the vital needs of the communities across the United States as stated by FCC Chairman Bill Kennard in Radio World April 15, 1998. Kennard is interested in creating a low-power radio service, *so that small businesses and churches and community groups can use the airwaves to broadcast to their communities.* In a world in which most Americans get most of their news from broadcasting, Kennard asked, *How can America have a strong democracy when most stations are concentrated in the hands of only a few?* The answer to that question is provided in Section VI of this document (similar to RM-9242) and at the same time it maintains the well-founded Commission policies.

The low power radio service as described in Section VI of this document establishes a
more efficient use of the spectrum while maintaining and exceeding the minimum
power levels as described within the code of federal regulations for
telecommunications Title 47, Part 73.211 which is mentioned within Section VI of this
document. Therefore, the low power radio service as described in Section VI of this
document (similar to RM-9242) would further the Commission*s goals in providing
stable, efficient and diverse radio service to the public.

Prepared by: Mike Hoyer, 509 Walnut Grove Drive, Madison, WI 53717
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