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FINAL COMMENTS ON FM-9242 and RM-9208

Before the Federal Communications Commission

1. Comes now Cosmopolitan Enterprises of Victoria, licensee of radio station KTXN-FM, and John J.(Joe) Tibilettti, its president and principal stockholder in participation in the final comments in the above cited rule-making.

2. Commentor is somewhat confused as to its status before the Commission in this rulemaking for the fact that its comments were omitted from equatbly being presented on the internet site "http;//www.concentric.net/~radiotv, maintained by principals in the original filing of RM-9242. Thusly a fair treatment of essentials of the filing of comments in this matter was circumvented and as a result many commentors were deprived of a exposition of the engineering position taken by Cosmopolitan/KTXN/Tibiletti and were lead down a path of misinformation. Since this is the first time that the internet has been used in a proceeding, commentator asks privilege per section one of the Commission's Rules and Regulations and the dismissal of the entire docket including all comments, and subsequent additions and actions/requests thereto. Specifically this paragraph and all subsequently related paragraphs is a prayer requesting the dismissal with prejudice of the above cited rulemakings for non-equatibility of the presentation of the essence of the matter of the dockets in question -- low power radio. The matter in law is equivalent to the exchange of exhibits between the

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parties.

3. Commentator has spent considerable time in preparing its presentation which dealt with many facets of the rulemaking and its side has been made a subject of discrimination and the denial of acess to by all sides has resulted in improper information beingused as a basis of comments. The comments showed the engineering reasons for the denial of above cited rulemaking RM-9242 in a filing that exhaused some ten plus pages annotated with cases from the Federal Communications Commission and other sources.

4. Commentator hereby requests rulemaking the instituted for new rules in the part one of the rules and regulationsof the Code of Federal Regulations section 47 to the affect thus" All internet presentations of rulemaking of the commission, either done by commission or proponents or adversaries shall come under the requirement of presentation of all sides and filings being treated equally in all aspects. The non-treatment of any party to a rulemaking shall result in a disqualification of instant case from any further commission action, and dismissal with prejudice." Since the herein cited internet site was an extension of commission action, it can only be concluded that commission rules prevailed.

5. Since this site made a mockery of trade organizations with a caricature of a rat trap relative to them this site is also the cause of internet liability to the defamed and properly dismissal of improper and unprofessional means to an end used by the petitioner. Thus commentator moves for dismissal of cause based upon this if abovecited are otherwise in-sufficent to do same.

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6. Should essence of commentator's comments herei n contained and previously mentioned be mooted or acted upon independently in ths rulemaking, the following commentator requests commission consideration relative to the RM-9242 and RM-9208.

7. Commentator requests the dismissal of the essence of RM-9208 from the rulemaking as redundant or superflous, or un-workable, or at best un-clear and the root cause of deterioration of the freqnency modulation broadcast band due to lack of engineering and reduced professional operation of equipment and a extreme strain on the commission's already limited resources in the field in enforcement. In short and in complete agreement with the proponent of RM-9242,Roger Skinner, this one won't fly and is admittedly the result of some academic class in putting into action some attempt to remedy the abridgement of imaginery freedoms -- to use the airwaves whenever one feels like it with whatever power and facilities one wants -- without any regard to proper engineering and decourum of air presence. If one wants to do what the petitioners have suggested there have been for years two bands available -- amateur and citizens band. As well there is the TV program the "Dukes of Hazzard" to even participate vicariously. Whether or not the petitioners have the intention of using the facilities if granted in the rulemaking is of concern and question. Had this commentor's filing been put on the internet, many of the superflous commentors in this rulemaking been informed about the need to do more homework before they ventured into the

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waters of broadcasting -- even if only in a wish fashion. This commentator agrees with all other commentators/petitioners who have thus expressed the need for dismissal of this petition RM-9208. While the matter of low power radio broadcasting contained in the petition herein cited is not favored by this commentator. There are other forms of this broadcasting mode that are relative to a favorable comment. This shall be subject of further discussion in this filing.

8. Summarily presented in order of presentation in previously cited web site are comments of others that were contained in this rulemaking RM-9242, with appropriate comments from this commentator:

ACRN-FM's comments about need for students and town populatin in Athens, Ohio is already met by educational channels.

Adventure Radio Group mentions IBOC and complications to be bandwidth to beoccupied by the in-band-on-channel developmen t of FM. This is the concern of several commentators of experienced, broadcaster interests who are looking into the future for the improvement technically of FM, this commentator agrees completely with them. We are considering a major improvement that should be firstly considered before we give leavings or marginal holes in the spectrum to other causes.

City of Allentown asks for space on the air for the annual festival of the Holiday Light Display; this can be accommodated already within the rules -- specifically part 15 of cfr 47.

Columbine Investments, Inc. supports low power for tourist type information radio stations. This is one of the few practical uses of low power FM stations that this commentator supports, for their is a demonstrated need. Several AM stations in Florida, North Carolina, and California have been able to establish a nitch with this informative service.

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Bruce F.Elving supports a low power service, but for an established long term reason: community need un-served by other distant stations in rural areas not served by other stations. In effect, allowing translator operations to do local programs. Commentor feels that local events of no more than 5-7 hours a week should be allowed on these translators -- such as local sports, festivals, and possible religious services,that are purely local in nature and would tend to bring in monies for the operations of the translators. This is the case in Canada with the very low power fm stations. The rule would state that no other local service is available to the locale (with the exception of areas that have been encroached by interloopers as such was the case with his attempt to up grade.)

Helixing Inc. Commentor documents the history of a dream for the development of a new type of transmitting antenna, that was not give further test authority, and local flooding conditions not given airing. His mention of un-licensed -- part 15 cfr 47 sanctioned -- limits on radiation AM and FM makes sense and is practical to the extent of 800 mW for AM and 400 mW for FM. This uses is precisely what this commentator has found to be the reason for existence of a new emergency station at the Du Pont plant in Victoria, Texas, operating on 1580 kilohertz and low power. This is a use of low power that I support for AM and/or FM, which I will address later.

National association of Broadcasters refused to co-operate with me in providing their petition in copy. Being a 35 year broadcast owner, I agree with the substance of their comment as to lack of needs for a diversity of views and over-crowded dial asit is,let alone the need to look at a world standard of IBOC technology which low power would most likely preclude.

National Hockey League supports the need, mirrored by this commentor,of some type of temporary limited radiation stations for stadiums. However it appears this is already fulfilled with products from LPB.

Renard Communications Corp. Supports lpfm but like the AM based travelers' information stations. Requests that frequency response be extended to

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5 khz from 3khz -- which this commentator has seen no justification for in the first place. The fact of the matter is that AM is the place for tourism related stations -- however using the 1580 kilohertz station in Bloomington, Texas, which has a radius of well over 5 miles in the day, the night time sky-wave limits its signal to slightly more than 1.5 miles and does not even get to the nearest population area -- Bloomington. Thus the matter of AM skywave which was touched upon by another commentor is real and must dealt with. The idea of a daytime station on AM has been put out of the commission's regulations for right at a decade might just have to be re-appraised for stations of power of 10 watts or less whose intent is similar to the Du Pont proposal, with a possible very limited power FM to complement the coverage area of the AM at night -- should the need arise. This is one low power FM use that I personally approve -- with power enough to cover no more than area of AM and only at night.

ACAMBA proposes use of low power FM for night coverage for AM limited coverage stations. This used in Canada in Toronto with CHIN, an Italian radio station on 1540. In this country there is an example of this with WAMB in Tennessee, which is limited on occasion by Cuban co-channel interference. Commentator gives a go ahead for these uses with severe restrictions on power to equal cojmplementary AM coverage area -- or enough to fill-in areas in principal city not covered due to nite limited sky-wave.

State Broadcasters Associations oppose the concept of low power radio for technical, economic and laissez faire let anyone have a station, as well as the aspect of IBOC and other technical developments now in the development -- e.g. IBOC -- these would be precluded by low power as RM-9242 proposes. Additional concerns are expressed at the taxing of commission staff and resources that processing of these additional new proposals -- not to mention the enforcement of its rules in the field. This commentator Cosmopolitan/KTXN/Tibiletti totally agrees with in all areas. This is in spite of Texas Associaton of Broadcasters not co-operating with this petition comments and reply comments.

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State Broadcasters Associations comments continued . The additional stations will split resources of advertising revenue to a point where public service programs and service would have to be curtailed for lack of financial resources. These comments are totally in agreement by commentator who has actually seen this happen in the Victoria, Texas radio market and television market as the inroads of new stations made public service less and less desirable to the operators.

Robert B. Tanner supports low power radio on the basis of no way a small business owner can own a radio station. Actually Tibiletti can not agree more with this -- for a different reason. The auctioning of licenses and the Telecommunications Act of 1996 have made it possible to out bid the lesser pocketed financially. In reality that is just the way the world plays the game today -- nothing new! Lets take a suppose in this one. What happens if one does not have the wherewith all to keep a low power station going with losses -- which seem to not be going to happen in this world of government sanctioned lower transmitter power bills and cut to the bone expenses and coverage. Several stations' comments reveal that they have gone for years without making a profit.

USA Digital Radio, L.P. Suggested a freeze on new radio services using the existing broadcast bands, since the IBOC digitalradio system being developed is based upon existing interference standards and rthe altering of these standards would either requjire a redesign of the system -- which already some 20 million has been invested --or the prevention of its implementation at all. The matter of low power radio stations using the second and third adjacent channels to exisrting stations would preclude this world class improvement. Most commentors favoring low power radio didNot read any of the technical information. Technical reasons are very real for the denial of low power radio transmitting.

Michael C. Trahos suggests that we use intermediate frequencies on the FM and AM for low power stations. Firstly, the digital auto radios will not receive these evenjumps on the dial in most cases, while the AM band use of these intermediate channels would necessitate a massive re-allocation

of the standard broadcasting dial and untold millions to be spent on the research of transmssion modes, and adjustments on directional arrays and transmisson processing equipment as well as possible obsolesence of radios. There has been one split channel AM station near the Canadian territory and south of Newfoundland on 1370 for years, additional split channel stations have been located in Belize and in several islands in the Caribbean. The protection ratios to these stations create wide areas of loss of service. About twenty years ago the commission attempted to re-allocate the standard broadcast band to 9 kilohertz jumps to the resultant dismay of the industry for essentially the same reasons. His suggestion that type-approved transmitters be used is well taken. On the internet, one finds numerous low power transmitters available for the proposed service -- but from out of the country.

Several commentors mentioned various other uses of low power radio. One mentioned the radio station -- albeit un-licensed -- for prisoners at a correctional facility. A study of this situation found that the station was not licensed because the person(s) in charge did not bother to go through proper channels for frequencies are available per a professional study. This commentator wilingly has offered to help this organization -- but they do not answer their faxes. Another group of pro low power advocates wish to have a night time voice to complement their daytime AM. This case can be solved by simply getting a professional study done for their AM frequency. It is most amazing to this commentor that one purchasing a radio station, or owning one, is not familiar with CFR 47, section 73 and the allocations for AM radio. In the late 1980 decade it is my understanding that the commission sent letters to all stations showing them the power that might be used at night if it were possible. This should have been kept as a part of the station's public inspection file. One purchases expensive property and does not read the instruction manual. Folks, please find out what food is on your table before you complain of being hungry.

9. This commentor wishes to state some basic engineering facts of life --albeit not popular with some commentors who did not do their homework.

The radio receiver in automobiles -- such as the Thunderbird -- is in many cases digital. It can not tune the in-between frequencies such as 1375 kilohertz for AM, or 98.6 megahertz for the FM, thus the concept of split channels will not work there. Additionally, at the time of the original docket quoted by Skinner's RM-9242, there was a petition by a now probablylong gone firm called FM Unlimited that suggested that these intermediate jumps be put into the FM allocation. It did not state whether the polarization should be horizontal or vertical -- a delicate question that would need to be explored if such would be intermixed with the vertical (or more precisely elliptical polarization used today by most stations)!

10. The tests that were conducted by the Federal Communications Commission on radios and cited in my previous submissions, I refer the reader for more information. The general rule is that: MOST RECEIVERS TESTED DID NOT DISCRMINATE BETWEEN STATIONS OF TWO OR THREE CHANNELS REMOVED FROM A DESIRED STATION. As a practical matter,it is quite common to have radios of seven or ten years old in use today, who do not have the sensitivity and selectivity of these modern radios. There needs to be wholesale re-appraisal of radio receivers in this docket, for purposes of discrimination between signals, as well as for the on-going studies of practical IBOC (in band on channel) digital radio.

11. Lets take a ride in a 98 Thunderbird and listen to the radio. You are visiting me and we are on the way to the bay for some fishing. We leave my house where my transmitter for KTXN is located, go past the

site of KEPG (100.9 mhz) some two miles away. Dialing to KTXN (98.7 and 100 kilowatts) we find that a pattern emerges as we are still in the 80 and 100 dbu contours:

-600 khz	98.1 MHZ	station is blocked out in 100 dbu contour
-400 khz	98.3	station is blocked out in the 80 dbu contour
-200 khz	98.5	KTXN over rides and is heard almost all over the 60dbu (protected contour)
	98.7	KTXN is loudly heard to end of 60 dbu contour
+200 khz	98.9	KTXN over rides and is heard almost all over to the KTXN 60dbu (protected contour)
+400 khz	99.1	station is blocked out in the80 dbucontour
+600	99.3	statioj is blocked out in the 100 dbucontour

The 600 khz is the third adjacent channel, 400 khz is the second adjacent channel, while 200 khz is the first adjacent channel. As one gets out of the close in contours -- 80 and 100 dbu -- weak stations are heard, but the signal blanks out the first adjacent channel on plus and minus sides of the carrier frequency. This same pattern exists for all local stations as listed:

	88.5	80 watt trnslator,holds c.p for 1 kilowatt
KXBJ	89.3	25 kilowatt repeat of Houston area KSBJ
KVRT	90.7	50 kilowatt repeat of Corpus Christi, 90.1, which is heard in black out area of KVRT.
KVLT	92.3	3 kilowatt, holds c.p. for 6 kilowatt
KVIC	95.1	100 kilowatt
KTXN	98.7	100 kilowatt
KEPG	100.9	3 kilowatt
KIXS	107.9	100 kilowatt.

12. Other markets' stations have similar patterns. KHMC in Goliad is authorized with 25 kilowatts and blankets the second adjacent channel for some five miles, the second adjacent channel is over ridden in its whole 60 dbu contour area.

13. With low power stations squeezed in between, there will be interference caused to the existing station out to the third adjacent channel, while the 80 bud and 100 dbu contours -- yes they do exist -- here will blank out stations to even several megahertz away selectively.

14. There is additional concerns, and can not be forecast until it happens. That is the inter-mod (or the intermixing of several signals) that blanks out other stations for no apparent reaons. A good example is what happens in Robstown, Texas (just outside of Corpus Christi) where the following occurs:

2	x	99.1	(KRYS-FM)
minus		99.9	(KSAV)
		98.3	KKHQ Odem licensed as class c2.

Additional concerns will be found in the use of the remote broadcast pickup frequencies used for radio station remotes , which will inter-mix and cause problems for the lower power stations and the other way around.

15. For the above and herein cited reasons this commentator is opposed to most low power broadcasting.

16. There are several uses of low power that need further consideration. Firstly commentator calls reader's attention to the graphs as contained in the comments of CBS showing tat there is a need for a guard band around the low power stations and the actual contour to be considered for non-overlap with existing stations is the 40 dbu. All previously submitted comments and reply comments by this commentator are hereby made a part of this submission.

17. There is a need for a low power FM in localities where there can not

be located full spaced class A FM stations, such as the case in Waelder, Texas, where a good intentioned local petitioned for a channel to be only challenged by a full fledged non-local operator for Yorktown (some 50 miles away) for the same channel. The FCC gave the channel to Yorktown -- more population. Criteria, would be denial of petition, engineering exhibit showing filled up channels. Criteria would be power up to 1 kilowatt and 150 feet -- the 1960 and before class A criteria. It would be required to meet the translator criteria for first,second, and third adjacent channels, as would the co-channel criteria.

18. Suburban locations are a challenge that might not be met as for the translator criteria for allocations. Additional consideration would have to be given to the US-Mexican and US-Canadian treaties which provide for some low power operations.

19. Confined areas -- such as prisons -- should be able to have a limited radiation device that will serve only their area. Just enough power to be heard. There is one prison radio station now located in Angola, Louisiana on 91.7 with 100 watts. Again translator rules should apply.

20. Travelers Information Stations such as suggested by the North Carolina commentor which has one experimental one on 98.7 in Charlotte are another acceptible one, but at very low power only for highways and highly directional. Again using translator rules of allocations.

21. Translators are already covered for local origination.

22. There shall be no low power stations in any market that is already

served by at least two full fledged FM stations -- full class facilities.

23. Minorities as target audiences should be acceptible for a low power station that would otherwise serve their respective areas -- but with the translator rules. This shall immediately exclude any minorities that are now either the owner in or serve an area. In short there shall not be 6 Hispanic stations on low power in an area, when one full fledged Hispanic owned station is already there. Actually, the use of sub-carriers would be more to the liking of the minorities. Such is the case in Los Angeles with the Korean and Persian groups. Much more area can be served than a low power station of less than 1,000 watts and 150 , which I feel is the maximum facilitity to be allowed even under these conditions.

24. No transfer of ownership of a low power station or translator shall occur to a otherwise owner of any station of any class -- LPTV, translator, low power , or full facility. Nor shall any non-low power operator have any local marketing agreement with any low power station,nor shall any financing be provided by any operator of a full fledged station. There shall be no operator that lives outside the coverage area (60 dbu) of his low power station. Should any new technology bring with it a new form of transmission that would require any low power station to be displaced, the operator shall understand this as he goes into the game.

25. There shall be no Berwick rights to upgrade at the expense of any existing station over any territory at license renewal, and fullfledged FM

stations shall be dominant users of the FM spectrum and any upgrades or technical changes shall the firstly given tothem . For the low power stations shall be considered as a secondary operators.

26. No former un-licensed operator shall be considered as eligible for a license of any low pwer radio station.

27. The local expression argument for low power radio is rejected in full as cable local access channels are begging for local programming and go un filled a good part of the day. Quite frankly in the 35 years of broadcast operations I have found that the vast amjority of the population is apathetic and those who talk about it ain't going there when it comes to so called needs for local expression.

28. As to the matter of the poor people, they need to be around those who are successful and have it together for advancement. But do not think too much aboutthem if you are not one of them for it will tear you down. Take it from one who has been helping the never do wells formany years.

29. Minorities as owners should be allowed entrance into some school that teaches the nuts and bolts of station operations --this is the lack thereof that has brought them down as owners. The same rulesapply to all.

30. There seems to be some concept in the RM-9242 et al that low power is the answer to economic problems... Let it be said thusly. Low power means lower electirc bills, lower coverage area, lower numbers of audience and ultimately lower income. There has not been a prototype low power station as was the case of low power TV, we need some bench marks in the industry.

31. Further, to meet the translator rules of interference, for the matter

of short spaced FM stations does not eliminate the second and third adjacent channel spacings, it simply makes the maximum facilities allowed on the frequency in question less and eliminates the interference question that way. Thus a good example of where not to look for low power frequencies is where local stations are spaced less than this example in Victoria, Texas

106.9 class C3 KLUB to 107.9 class C KIXS ...

utilizing the translator rules there is no space to go from 106.9 up or from 107.9 down and accommodate all the channels to third adjacent channel.

SUBMITTED AGAINST LOW POWER RADIO AS HEREIN DESCRIBED AND FOR AS HEREIN DESCRIBED.

Cosmopolitan Enterprises of Victoria,Inc.
licensee,
KTXN-FM
John J. (Joe) Tibiletti

individually as entities

July 18, 1998

To: Corrections Corporation of America, Davis Correctional Facility,
Route 4, box 40, Holdenville, OK,74848-9245

KTXN-FM
98.7 FM Stereo
THE ALTERNATIVE

Serving South Texas Since 1965

June 26, 1993

FAX 405-379-6496

Dear Chaplain Bill Boyd:

I have noticed that your agency has filed comments in the docket RM-9242 in favor of low power FM radio stations.

I have found a legitimate frequency for your operations and am willing to do whatever paperwork is necessary to get the station to be properly licensed. I'm a veteran of 35 years in the industry and have filed numerous applications anf gotten grants for them. I will get back with you in the next few days with further details.

My station I have owned since it was founded my me in 1965. Please stay in touch.

Additionally I have a chaplain friend Coral Ryan who is a member of my Church (Maronite Catholic) in Austin who is looking for work in the prison system.

Excuse brevity as I am on way to Austin meeting, I will walk you through the whole process. Phone nunber is 512-645-2487 to talk to my associate Weldon Horadam. Please work with me and the project will be successful.

Joe Tibiletti,

JT,

President KTXN-FM
2618 FM 1685
Victoria,Texas, 77905

JT/LOW.

STEVE BURKE

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