

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of:

Creation of a Low
Power Radio Service

MM Docket No. 99-25
RM-9208
RM-9242

TO: The Commission

**FORMAL COMMENTS OF
NORTH CASCADES BROADCASTING, INC.**

COMES NOW, North Cascades Broadcasting, Inc., through counsel, with “Comments” in the above-captioned Rule Making Proceeding.

On February 3, 1999, the Federal Communications Commission adopted a Notice of Proposed Rule Making in the Matter of “Creation of a Low Power Radio Service” and requested “Comments” on a wide variety of issues addressed by the “Notice”. These “Comments” are in response to that request.

North Cascades Broadcasting, Inc., (“NCB”) is the licensee of KOMW-AM, KNCW-FM and KZBE-FM, Omak, Washington. These small-market stations are located in north central Washington state and we concerned about the impact that the creation of LPFM will have on our stations and many others like ours.

1. Background

The primary studios for the NCB stations are located in the north central Washington community of Omak in the middle of what we believe is some of the most beautiful country anywhere. We enjoy four distinct seasons, a very rural setting, easy access to hiking, hunting, fishing and a variety of other outdoor pursuits. Our economy is primarily agriculture based in apples, cherries, pears, cattle and wheat. and the region is thinly populated and the topology is mountainous. This

proves to be a big challenge in providing adequate radio service to address the needs and problems of our community of license and to serve the needs of our advertisers. Our market consists of 7 or 8 very small (1500 to 4000 people) towns that are 8 to 20 miles apart and lie along the bottom of two adjacent valleys. The terrain is quite rugged. Please note one overriding factor is that there are only 40,000 or so people living in a 6000 square mile area. We are also very close to the Canadian border. In an attempt to provide a viable listener base for our stations and to cover what is a very distinct and separate “market” area we operate or are carried on a system of 6 translators. This is necessary because of the mountainous terrain. Despite rugged terrain separation between the small population centers we serve, businesses rely on our ability to reach each population center. These communities also share very similar economics, issues and concerns. The towns in this area are over 100 miles from Spokane (150,000 pop) and 250 miles from Seattle (1 million + metro), which are the nearest markets of any substance. In the Notice of Proposed Rulemaking “NPRM”) , the proposal to create a new class of FM stations, particularly the LP1000 class of stations, will have a devastating effect on our existing stations. Our stations will notice an immediate and drastic drop in revenues due to Low Power competition and our loss in revenue will, of necessity, **RESULT IN A REDUCTION OF OUR EXPENDITURES IN LOCALLY PRODUCED PUBLIC AFFAIRS PROGRAMMING** because we will not be able to afford the talented people who help us to produce those programs. In other words, creation of a Low Power class of stations will result in a **LOSS OF JOBS**.

2. Needs for Coverage

It is significant to note that each example cited in Docket No. 99-25 of possible coverage benefits from LPFM were examples of the types of coverage small market stations like those we operate are *already* providing. We regularly broadcast notices of school closures, city council meeting minutes, school board reports and high school sporting events for the schools and communities in our coverage areas. These types of coverage are *already* what separates our stations from the larger “metro” stations that cover our communities. This type of coverage is the bread and butter of our existence. It is the reason that listeners and therefore advertisers view our programming as viable. Many small stations like ours *already* face the conflict of having more than one “local” station covering a single high school sports event. How many more stations need to broadcast each event? Where is the need? Our stations also broadcast regular local news coverage and local talk/forum programming that provides easy access to the airwaves for nearly anyone who chooses to take advantage of the opportunity. Our forum programs include such things as the local school levies, live discussions with our state legislators from our state capital, county

commissions discussing local issues, local clubs, the county pet shelter and many others. This programming serves the public interest and need to communicate in our area where communities are remote and isolated. We provide *free* airtime to local political candidates so voters can meet them and make more informed choices.

These program offerings serve the public interest well. They are offered because they are important to the communities we serve. Adding more stations providing these same services will only dilute the revenue streams necessary to pay for the high cost of operating radio stations. Additionally, all radio station operators are bracing for the commencement of Satellite Radio services. Soon, in our small market, we will wake up to find that 200 new radio program choices are competing for the attention of our small audience base. The advertiser will quickly realize that our stations no longer provide the same number of listeners due to the fractionalization of our tiny market and will either discontinue radio advertising or demand that we lower our advertising rates. We expect this to happen once Satellite Radio begins to acquire market share. In order to compete against Satellite Radio, we have to re-double our efforts to produce interesting LOCAL programming. If LPFM is also allowed to compete in our marketing area, our dilemma becomes irreversible. We simply cannot survive as a local, interested, concerned broadcaster, with LOCAL programming, if our market is fractionalized further by LPFM. More is NOT better. In this case, MORE leads to disaster.

2. Competitive Disadvantages to Existing Broadcasters.

As pointed out above there are a significant number of “full service” stations currently operating in very small markets. The Commission must be careful not to place these stations at a competitive disadvantage. In areas like ours, just because the license says “C2” does not necessarily mean a large audience or a large coverage opportunity. The reason is the terrain and the very sparse population. As proposed, LP1000 stations will be able to deliver superior signal strength than some existing full power stations. LP1000s, as proposed, have the advantage because of their exclusion from the Canadian limits imposed on our translators and on the LP100s.

As proposed, many broadcasters will be competing for the same advertising dollars with an LPFM who operates by a different, less expensive set of rules. In small markets like ours there is a very finite amount of advertising revenue available from the business community. Please do not assume that there is some small or large, untapped revenue stream that will magically appear

to support LPFM. In our market and those like it, the revenues will come out of the budgets of existing small market radio stations. There is *no other source*.

A. Ownership Limitations

We also seriously question the necessity of excluding all existing broadcasters from the proposed LPFM service. It seems logical to place limits on group ownership to discourage LPFMs from being gobbled up by larger group owners. However, in the tiny markets we do business in, existing broadcasters would have the greatest ability and experience to provide the service desired. As a result, existing broadcasters would have the greatest ability to produce a viable LPFM enterprise. There should be a provision made to allow existing broadcasters in small markets to have the opportunity to participate in LP1000 ownership.

B. Interference

For the reasons stated above and below, all LPFM stations should be required to fully protect existing classes of service. To give LPFM primary designation ahead of existing services will greatly damage existing services' ability to compete in the market place. Again this is particularly significant in the very small markets we operate in where application and engineering costs are a huge part of our operating expense. Giving LP1000s or LP100s preference over existing FM translators will significantly impact existing broadcasters by forcing them to incur the expense of moving their translator frequencies. Many of these translators are paid for by small community groups who do not have funding to make these expensive changes. It is also a possibility that because of the additional congestion caused by LPFM, that usable translator frequencies would be scarce. If an existing translator is eliminated by LPFM then choices for listeners and opportunities for broadcasters are reduced. This will happen as a result of LPFM as proposed.

C. ERP Levels

Under current rules, the communities we serve are often reached via translator. Because of the Canadian limits, these translators often must operate at less than 25 watts ERP, with many lower than 5 watts ERP. All have gone through the established process and expense for obtaining authority through the FCC to operate. We would welcome the opportunity to have the advantage proposed for LP1000s. We and others like us could do tremendous good for the communities we serve if we were not hamstrung by current Canadian ERP limits. We are *already here*, providing

the local access and coverage that is the stated goal of the Commission's proposed LPFM service and are not afforded the opportunity that the new rules will extend to this new service.

The current ERP realities in small mountainous areas like ours are an everyday obstacle. The small signals we use are the *only avenue available to us*. The small power outputs we use to reach our market area are not an indication that our attention is directed to other areas, or that our revenues are based in some other area. They are the limits according to the rules. Placing better tools (new LPFM rules and higher ERPs) in the hands of a competitor and then telling us we will not have the same advantage is not fair.

Because of the current power limits and the mountainous terrain we operate in, broadcasters in our position will be placed at a tremendous disadvantage to LP1000s as proposed. The "Full Service" title will no longer be significant because LP1000s will provide stronger signal coverage than what was "Full Service," and again the result will be loss of choices for listeners, dilution of revenue and loss of jobs.

4. Use of Noncommercial frequencies

NCB strongly urges that LPFM not be allowed to use noncommercial frequencies, if it is a commercial service. In markets like ours these frequencies are very important to public and religious radio stations. Without them, listeners will lose choices on the dial. Many small translator associations do not have the money to relocate their frequencies. Many very popular stations will no longer be available.

5. Summary of Concerns

The proposed LPFM service will have significant negative impacts on existing broadcasters, particularly those in small markets. In these areas, small stations are already providing the types of coverage, access and choice that is the stated goal of LPFM. These small markets have very finite advertising revenue opportunities. LPFM will dilute this revenue resulting in significant negative impacts on existing broadcasters. There is little or no untapped broadcast revenue. The result will be situations where two or perhaps three or four stations will be attempting to operate on the revenue that previously supported one.

LPFMs will have significant signal strength advantages and reduced interference limitations over existing FMs, particular in mountainous terrains. This will give LPFM advantages that existing stations do not share, but will have to attempt to compete against for limited advertising revenues.

6. Recommended Modifications

We recognize the potential benefits to communities from increasing access to the valuable information and entertainment available from radio stations. We agree that these benefits are worthy goals to pursue in considering the proposed LPFM service. However, any proposed changes and additional services must protect existing stations.

A. Need?

We recommend that in small and very small markets that LPFM should not be allowed where another local station is providing service and coverage. This is because in many small markets there is already an existing station providing the kinds of coverage and access envisioned for LPFM.

If LPFM is allowed then the following revisions should be made.

B. Noncommercial

In small and very small markets LPFM must be made a noncommercial service. If is not noncommercial the result will be a direct impact on the financial viability of existing small and very small market stations. There simply is no revenue sufficient to support a myriad of new independent stations. If LPFM is made a commercial service the result will be loss of jobs and loss of choice for listeners.

If LPFM is made a commercial service then these provisions should be made:

C. Ownership in small markets.

Existing stations in small markets are already providing many of the types of coverage envisioned for LPFM. They know the communities they serve well and are the most logical choice in delivering improved service made possible by the new rules proposed for LPFM. Therefore, an allowance should be made for LPFM ownership by existing stations in small or very small markets. This could be done by setting the ownership guideline according to the population served by an existing station's primary contour.

The population served could also be used to define how many stations could be owned by one entity. We suggest that multiple ownership be permitted in situations where population within the primary coverage contour is less than 35,000 people. If this is not done, the result will be loss of choice, loss of jobs and perhaps dilution of revenue to the point that existing, more expensive, stations will be put out of business.

D. Multiple Stations in adjacent small communities.

If multiple ownership is allowed and existing owners are excluded, the result will be LPFM operations in adjacent communities which are superior to “full service” stations. This unfair advantage will negatively impact small market “full service” stations. For this reason multiple ownership should not be allowed where existing owners are excluding from ownership. Also, for this reason, multiple stations should not be allowed to operate as “repeaters” or “simulcast” with another LPFM.

E. ERP

The 1000 watt ERP limit for LP1000s is too high. In many areas this power level will place them as the strongest signal available for 20 to 50 miles. This statement is not to say that coverage or signals are not available or that other stations do not desire to provide superior signal coverage. In many of the communities small stations serve, LP1000s and some LP100s will have a superior signal to existing translator services. Again these advantages should be offered to existing stations in small markets on an equal footing with LPFM. We do not seek to have a “better” deal, just an equal one. Why should LPFM enjoy advantages, which are routinely withheld from other broadcasters operating in the same market? This would be arbitrary, unfair and likely could be successfully challenged.

F. Translators

Under no circumstance should a LPFM be allowed to retransmit any part of another LPFM station’s programming. This ability would allow LPFM stations to be linked together to create coverage that would surpass that of some existing stations. LPFM stations should first be made available to full service stations, like those operated by NCB and hundreds of stations like ours, in exchange for the translator frequencies we use.

G. Newspaper Ownership

If existing broadcasters are excluded from ownership of LPFMs then newspapers should be as well. Any other approach will place broadcasters at an additional disadvantage, particularly in small markets where the newspaper is the largest competitor for advertising dollars.

H. Pirate Ownership.

Do not reward those who have chosen to live outside the rules. Pirates are pirates because they have chosen to ignore the processes that fee paying, licensed broadcasters follow. Their behavior indicates they would be likely to ignore whatever rules they wish to, even under the new LPFM approach. Do not reward their lawless ways.

Conclusion

Some of the goals stated for LPFM are interesting. However, as proposed, the LPFM service will have heavy negative impacts on existing small and very small market stations, like those we operate, unless the plight of small market stations is taken into account. In many small and very small markets, LPFM will push existing services out of the market. NCB urges the Commission to seriously consider modifications to the LPFM proposal, as suggested above. Please consider the contributions already being made by existing stations toward these goals, consider the very finite nature of small market budgets and above all **PLEASE PROVIDE A LEVEL PLAYING FIELD** for all who wish to be broadcasters. As proposed, the rules are not fair to existing stations that may be forced to compete with LPFM.

Respectfully submitted,

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