June 7, 1999

Secretary
Federal Communications Commission
445 Twelfth Street S.W.
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

RE: Docket No. MM 99-25 (Low Power Radio)

Dear Commissioners and Commission Staff:

Enclosed are 15 copies, plus an original, of Additional Comments by THE AMHERST ALLIANCE in Docket MM 99-25 (aka Dockets RM-9208 & RM-9242).

Since May 28, we have been trying, without success, to file these Additional Comments ELECTRONICALLY. We suspect the problem is the last Appendix (Appendix 5), which is printed text that must be "scanned in". Today, I directed John R. Benjamin, our Communications Director, to attempt electronic filing WITHOUT Appendix 5. However, these PHYSICAL copies DO have Appendix 5.

The PRIMARY purpose of these Additional Comments is to supplement the details in our previous Comments. In the first 40 pages of this filing, we present these details with a more THEMATIC development: one which demonstrates more clearly the logic and philosophies which gave birth to these details. In presenting this overall context, we endeavor to weave together the intertwining threads of hope, fear and aspiration within the Low Power Radio movement.

We have also added a SPECIAL Section, beginning on page 41, which is entitled "The Commission's Proposed Rule: Pulling Out Into Traffic". In THIS Section, we speculate about THE COMMISSION'S motivations and objectives -- pointing out areas where the Commission's Rule, as currently proposed, would either SERVE OR UNDERCUT the Commission's goals. Further, we are adding new factual information To The Record through various Appendices -- including a response to recent remarks by Senator John McCain (Republican of Arizona).

As before, we commend the FCC heartily for taking action to create the LPRS.

Sincerely,

Donald J. Schellhardt

Don Schellhardt
Co-Founder & National Coordinator, THE AMHERST ALLIANCE

Capistrano@earthlink.net
203/591-9177
45 Bracewood Road
Waterbury, CT 06706

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TABLE OF CONTENTS:

ADDITIONAL COMMENTS
OF
THE AMHERST ALLIANCE
ON
CREATION OF A LOW POWER RADIO SERVICE

FCC Docket MM 99-25 (aka RM-9208 & RM-9242)

	PAGE
INTRODUCTION	1
THE REASONS FOR THESE ADDITIONAL COMMENTS	1
OUR HOPES FOR LOW POWER RADIO	3
1(a) Community Revitalization	3
1(b) Related Policy Recommendations	4
2(a) Upward Mobility	6
2(b) Related Policy Recommendations	8
3(a) Releasing Human Potential	9
3(b) Related Policy Recommendations	11
4(a) More Choices For Listeners	13
4(b) Related Policy Recommendations	15
5(a) The Defense Of Democracy	16
(1) The Restoration Of Legitimacy	16
(2) The Preservation Of Existing Liberties	22
5(b) Related Policy Recommendations	24

FCC Docket MM 99-25
(aka RM-9208 & RM-9242)

OUR COMMITMENT 25

6. Looking Beyond Tangible Self-Interest 26

7. Overcoming Differences -- To Make A Difference 26

OUR FEARS 28

8(a) Under-Sizing Or Over-Sizing Of LPRS Broadcast Coverage Areas 28
8(b) Related Policy Recommendations 29

9(a) Initial And Delayed Displacement Of LP-100s And LP-10s By LP-1000s 29
9(b) Related Policy Recommendations 31

10(a) Inadequate Limits On Access To LPRS Licenses 32

10(b) Related Policy Recommendations 33

11(a) Inadequate Limits On Indirect Control Of LPRS Stations 36

11(b) Related Policy Recommendations 37

12 FOOD FOR THOUGHT: Burger King v. McDonald's 39

THE COMMISSION'S PROPOSED RULE: PULLING OUT INTO TRAFFIC 41

13 Combining "Class A Reform" With Low Power Radio 43

14 Needed: Re-Thinking Of Old Concepts 48
(1) Investment Patterns That Need To Be Encouraged 49
(2) Binary Thinking About "Primary Service Status" 51
(3) Binary Thinking About "Non-Commercial Status" 52

15 FOOD FOR THOUGHT: A Possible "Spillover" Effect 53

CONCLUSIONS 54

APPENDICES

APPENDIX 1

Outline Of The 35 Policy Recommendations Of THE AMHERST ALLIANCE Regarding the FCC's Proposed Rule On Low Power Radio

APPENDIX 2

A Response To Senator McCain

APPENDIX 3

25 Possible Examples Of Community-Oriented Programming

APPENDIX 4

Amherst's INTERNAL POLL On Policies Toward LP-1000s

APPENDIX 5

"ECONOMICS As If Values Mattered" by Charles Mattei, Community Development Practitioner

(First Appeared In SOJOURNERS Magazine)

UNITED STATES OF AMERICA

Before The
FEDERAL COMMUNICATIONS COMMISSION

The Portals
445 Twelfth Street S.W.
Washington, DC 20554

In The Matter Of:	)	Docket MM 99-25
Creation Of A	)	Docket RM-9208
Low Power Radio Service	)	Docket RM-9242

ADDITIONAL COMMENTS OF THE AMHERST ALLIANCE

THE AMHERST ALLIANCE is a nationwide organization, composed of groups and individuals who support greater diversity in media ownership and media programming. We were founded on September 17, 1998 in Amherst, Massachusetts, and we see our movement as a defense of democracy.

At the moment, our highest priority is the establishment of a meaningful, and workable, Low Power Radio Service -- but we ALSO support the divestiture of certain radio stations, as recently proposed by the FCC Staff, AND repeal of mandatory license auctions. We may address other issues in the future.

THE REASONS FOR THESE ADDITIONAL COMMENTS

These Additional Comments are a supplement to our basic Written Comments, which THE AMHERST ALLIANCE has already filed separately.

Since they address 35 separate issues, while offering 4 Appendices with original research, our basic Comments (dated April 28, 1999) are quite detailed.

In these ADDITIONAL Comments, we balance our basic Comments with a less detailed, more thematic OVERVIEW of our reasoning in making the policy recommendations we have. We suggest the Commission view these Additional Comments as a broad articulation of what we seek in the LPRS -- and WHY. Our basic Comments can be seen as a kind of "reference book": an indexed encyclopedia of Amherst opinions and information. An outline of our 35 specific recommendations, in our basic Comments, is found in APPENDIX 1.

We have ALSO added a special Attachment: "A Response To Senator McCain". In this document, APPENDIX 2, we answer the Senator's claim that the FCC's concerns about "outlet and viewpoint scarcity" are "anachronistic".

Before we begin our substantive exposition, we note that these Additional Comments were developed with input from Amherst's LPRS Task Force. The Task Force is composed of Don Schellhardt of Connecticut, the Chairperson (and also Amherst's National Coordinator); Bill Doerner of Texas (who is also Coordinator for the Southern & Mid-Continent Region); Adrian Kohn of Washington, DC (who is also Coordinator for the Northeast Corridor & Upper South Region, as well as Chairperson of our Legislative Action Committee); and Nick Leggett of Virginia. A draft of these Additional Comments was reviewed by the remaining Amherst Coordinators, Officers and Coordinators EMERITI: Wesle Annemarie Dymoke of Rhode Island, "Bill T." of New York, John Robert

Benjamin of Pennsylvania, Maryjane "Mj" Honner of Michigan, Kevin Lange of Indiana, Claude Stevens of Missouri, Scott A. Todd of Minnesota, Christopher Bydalek of Alaska, Matthew Hayes of California and Joseph D'Alessandro of Delaware. Then a revised draft was reviewed by the full Amherst Membership.

Thus, these Comments reflect points of broad consensus within Amherst.

OUR HOPES FOR LOW POWER RADIO

Many of Amherst's positions on specific issues can be traced back directly to our hopes for what Low Power Radio can become -- and our fears about how it might be corrupted, exploited and/or rendered irrelevant.

We begin with our hopes: the seeds from which all else grows.

The motivations of LPRS advocates are as individual as the individuals themselves. However, dialogues within Amherst suggest that ALL Amherst Members are motivated by AT LEAST ONE of the following goals:

1(a). COMMUNITY REVITALIZATION. To many of us, America seems less connected than it was before.

In our large cities, some neighborhoods seem so abandoned by the American mainstream that residents who visit the suburbs, and suburbanites who visit the neighborhood, often feel as if they have entered a different country.

In small cities, small towns and rural areas, community ties and family ties may be stronger, but the communities themselves have been abandoned

by much of the national infrastructure: first by the airlines, then by the Federal Government's farm programs and now by the radio industry.

Even in our suburbs, well-connected as most of them are to the nation's infrastructure, there is often a sense of rootlessness -- and loneliness. In Northern Virginia, for example, unincorporated communities like Annandale and Merrifield are subsumed into the mass called "Fairfax County". For many in these unincorporated aggregations of people, there truly is "no there there": no community to cling to, no neighbors sharing a specific commitment to the specific place they live, no media or "grapevines" that carry community news.

Nick Leggett -- one of the RM-9208 Petitioners and a Member of THE AMHERST ALLIANCE -- recently prepared a list of 25 different community services that a "community-sized" LPRS station could provide. The list, which is far from exhaustive, has been attached to this document as APPENDIX 3.

We hasten to add that NONE of the activities mentioned by Nick should be MANDATORY -- but ALL of them seem to be feasible if a station wishes.

1(b). RELATED POLICY RECOMMENDATIONS. The need to strengthen compact communities is one reason we consider it VITAL to include LP-10 stations in the Low Power Radio Service -- AND to protect them from being "bumped" by other, larger stations. In larger cities, and in many of their suburbs, the population density is so high that an LP-100 will cover far more than a single urban neighborhood or a single suburban community.

Often, only LP-10s will be "sized for the mission".

In small towns and rural areas, and in some small cities as well, the problem is reversed. There, a station "capped" at 100 watts may not reach far enough to draw widely scattered groups of people together. This is one of the reasons why we accept the proposed LP-1000s -- IF they are "contained" where population density is 1,000 people per square mile or less. LP-250s, if any, should be restricted to areas with 1,500 people per square mile or less.

Actually, down to a few hundred people per square mile, LP-250s could achieve the same objective as LP-1000s. This is one reason we see LP-250 as a "Transitional" Tier between LP-100 and LP-1000. Still, we will not ask the FCC to drop LP-1000s completely -- so long as they stay out of densely populated areas. (See Appendices A, B, C and D of our basic Written Comments.)

We can also accept the approach favored by REC Networks: a flat ban on LP-1000s in The Top 50 Media Markets (since raised by REC to The Top 100) AND on LP-250s in The Top 40 (since raised by REC to The Top 50).

We could also accept wattage/height limits based on the amount of spectrum available: for example, banning LP-1000s in areas where 80% of the spectrum -- or more -- is already being used by Primary Service stations.

We also stress that it is CRUCIAL to keep LPRS stations out of the hands of larger institutions (INCLUDING large non-profits). License eligibility must be tightly limited AND licenses held to "one per customer": otherwise, stations intended to serve communities could become mere satellites of larger entities.

For details, see the Sub-Section on "Our Fears".

2(a). UPWARD MOBILITY. Perhaps this point is best made by a story:

Don Schellhardt, National Coordinator of THE AMHERST ALLIANCE and an RM-9208 Petitioner, was a contract employee of the Connecticut courts when he wrote his portions of the RM-9208 Petition. Most of the words he penned in that Petition were written on courtroom breaks, with his mind still full of fresh, vivid images from the Juvenile Court of New Haven.

It took Don but a few days in a Juvenile Court to see that victims of abuse can quickly become abusers themselves. Often, he would see a child in the morning, at a Hearing on his or her parents' alleged abuse -- and then see the same child in the afternoon, at a Hearing on the child's alleged juvenile crimes.

Violence was being passed, systematically, from one generation to the next. The incubator was almost always a neighborhood marked by poor education, high crime and high absentee ownership of neighborhood businesses.

According to one school of economics, absentee ownership of local businesses is the single greatest factor in plunging a neighborhood, or even an entire nation, into poverty -- because few of the dollars stay in the places where they were earned. (On this point, see APPENDIX 5 of these Additional Comments: "Economics As If Values Mattered". This is a series of 3 articles by Charles Matthei, a community development practitioner, in the November 1993, December 1993 and February 1994 issues of SOJOURNERS magazine.)

Child abuse and juvenile crime can occur anywhere. However, MOST Defendants in this court (covering cities AND suburbs) lived in "urban islands": neighborhoods that were disconnected from much of the mainstream culture, while lacking the internal cohesion to be nurturing communities in their own right.

Most of the Defendants were STRANDED on these islands. They lacked the credentials to earn a lower middle class wage and move into a better neighborhood. Meanwhile, their current neighborhood lacked a base of locally owned enterprise that might have empowered the community to improve itself.

Don also remembers working with a different judge -- in an ADULT criminal court. On one occasion, after sentencing a 19-year-old boy to prison for selling hard narcotics, the judge retreated to his chambers and held his head in his hands. "If only we could GIVE THEM something," he said.

"Give them something?" Don asked.

The judge lifted his head out of his hands. "Give them HOPE. Show them a way to succeed WITHOUT selling drugs," the judge said. He paused. "The way these kids see it, they can sell drugs and make $1,000 a week, or more, or they can work at McDonald's for $5.25 an hour. For most of them, that's a pretty realistic view of their choices. But if there were a THIRD path -- something that would lead, over time, to $15.00 an hour or $20.00 an hour -- I believe a lot of these kids would take the deal and stay away from drugs."

The point of the anecdote is this: There have to be paths out of poverty for people who cannot obtain a college education with the resources they have.

Of course, Low Power Radio will not singlehandedly solve the problems of poverty-stricken, crime-ridden neighborhoods. However, it WILL open a path to upward mobility, and ultimately a decent standard of living, for SOME -- WITHOUT requiring them to spend 4 years in college or earn a graduate degree.

Also, by offering radio advertising opportunities for LOCALLY OWNED businesses, and perhaps becoming a local employer in its own right, an LPRS station can keep more dollars within a community that needs dollars desperately.

Of course, we do not mean to imply that "community-sized" stations are only needed in a ghetto or a barrio. Across America, on farms, in Appalachia, on Reservations and elsewhere, individuals find themselves trapped in communities or neighborhoods they can neither escape nor improve. The entry level manufacturing jobs that once offered a transition route to the middle class are mostly gone. Now, for both humanitarian reasons AND its own future stability, the larger society MUST find ways to open NEW paths of upward mobility.

2 (b). RELATED POLICY RECOMMENDATIONS. Both of the economic effects we have discussed -- upward mobility for individuals AND economic growth for the community being served -- will be eroded, perhaps to the point of oblivion, unless LPRS stations are permitted to air commercials. Many who would ban commercials from the LPRS are working for social change that would supposedly help the poor, but in the meantime their proposed ban would BLOCK a possible path to a better life for low-income individuals and neighborhoods.

This is throwing a drowning man an anchor.

The question is simple: How will individuals, and where possible entire communities, lift themselves out of poverty if they aren't allowed to make more money?

3(a). RELEASING HUMAN POTENTIAL. Although the need for LPRS stations is most acute in America's "urban islands", and also in its "disconnected" small cities and rural areas, many individuals in more affluent areas also feel frustrated by, or even trapped by, institutions that offer no outlet for letting them do what they do best -- and WANT to do most. Some of these people are aspiring entrepreneurs, while others are artists or activists with a dream, but ALL of them are PIONEERS -- eager to test their own abilities by opening a frontier, and opening it THEIR way.

In the 19th century, many of them might have settled the West. In the 21st century, their children, grandchildren and ideological kinfolk may colonize space. For now, however, they are pioneers without a frontier -- smothered professionally by corporate and/or government employers who under-value creativity and initiative (when they do not attempt to eradicate it completely) AND smothered culturally by a "global economy" that sees individuals, communities and even countries as mere atoms in a mass of consumers.

The Internet has released some of the pressure by providing a frontier of sorts, but standing alone it is not enough. It is no substitute for owning your own

business, founding your own political party, writing your own book, patenting your own invention. Bureaucracies, corporate and/or governmental, have increasingly taken control of such areas -- leaving less room for diversity and individualism in business, in politics, in publishing, in Research and Development AND in radio.

This is a dangerous situation for the larger society because "pioneer energy" will NOT go away (especially in a nation like the U.S.A., where tradition supports it). The energy will re-surface in a different, and perhaps less benign, incarnation: as anger turned inward (for example, through drug use); and/or as as anger turned outward (against authority figures); and/or (if the larger society is very lucky) through creation of a "New Frontier" SOMEWHERE, whether the society's established institutions like it or not.

While we at Amherst DO NOT advocate revolution, rebellion, disruption or even (at this time) civil disobedience, we would be remiss in our obligations to society if we did not note that the seeds of such events have already been sown. Corrective action is needed -- soon -- and the LPRS is a good place to start.

A U.S. Army Manual for fighting guerilla movements in the Third World places this statement on page 1:

"Resistance movements begin when intelligent, disciplined and highly motivated individuals conclude that what they want most from life cannot be attained by any means that are legal."

Are we so arrogant as a nation that we think this insight ONLY applies to OTHER countries?

3(b). RELATED POLICY RECOMMENDATIONS. Entrepreneurs and other visionaries need the option of airing commercials -- so they can have the cash flow to retain their operational autonomy.

Most of the aspiring broadcasters within Amherst are willing to accept "non-commercial" status IF: (a) "non-commercial" is defined to mean "non-profit" rather than "commercial-free"; and (b) this status exempts them from mandatory auctions. That is, they are willing to limit advertising revenue to the level that will cover reasonable costs (including a decent salary for themselves and their staff).

These Amherst Members would prefer to make profits, but they are willing to make this conditional concession because their PRIMARY goal is not wealth. Their primary goal is OPPORTUNITY -- to express the very best of themselves.

Some in the Low Power Radio movement dream of "radio collectives", or similar community-controlled organizations, and we agree that such "collective" stations should be included in the LPRS. However, ample room should ALSO be left for the AMHERST kind of LPRS station: a "rugged individualist" station, rooted in the spirit of the frontier and run by a man or woman who would rather spend a MONTH selling ads than spend 5 minutes having to beg for funding or programming approval from a "community collective".

Also, as with the urban neighborhood stations discussed earlier, there will be more room on the dial for entrepreneurial and/or artistic "rugged individualists" if: (a) both the LP-100 option AND the LP-10 option are available in our large urban areas; and (b) the LP-1000 and LP-250 options are NOT.

Further, as with the urban neighborhood stations, ALL stations in the LPRS should be shielded from "bumping".

Also, ALL licenses should be RENEWABLE.

The LPRS is NOT the Public Access Channel on local Cable TV. It is A FIELD OF OPPORTUNITY where individuals and communities will invest their money and their dreams in a chance to CREATE A NEW LIFE for themselves. We BEG the Commission not to doom their dreams in advance!! The FCC's decision on license renewals should be made AFTER the LP stations have had a chance to show what they can do.

If the FCC is simply not ready to guarantee an opportunity for license renewal after 7 years, then we would suggest DEFERRING the decision on license renewability -- rather than deciding the question NOW, in the negative, before the LPRS has forged a "track record" for the Commission to assess. Under this alternative approach, we recommend that the Commission should: (a) set forth, publicly and clearly, the results which the Commission expects to flow from LPRS stations, both individually AND collectively; (b) defer its decision on opportunities for license renewal until a publicly stated "date certain", 3 to 5 years after publication of the Final Rule on LPRS; AND (c) make it clear from the outset that success or failure in reaching these goals WILL be a major factor in the FCC's decision on whether to allow an opportunity for license renewal.

We suggest, in other words, that the Commission could treat LPRS stations the way a good corporate manager would treat a new employee:

Make THE RULES clear.

Make THE GOALS clear.

Set a clear DEADLINE.

THEN:

Convey clearly that there will be CONSEQUENCES, positive OR negative, that hinge on whether the goals have been met, on time and effectively.

4(a). MORE CHOICES FOR LISTENERS. Contrary to some opinions, not all Low Power Radio activists are hostile to "Pop 40". We are, however, hostile to hearing THE SAME "Pop 40" songs, "Golden Oldies" songs, "hard rock" songs and country songs played over and over again, 6 or 7 or 8 times a day.

Also, we are insulted that broadcasters think we're too stupid to notice!!

Similarly, not all of us are Hispanic, or even able to speak Spanish, but we still feel society has lost something when -- as in New Haven -- a station acquisition drives the city's single Spanish language station off the air. We also think there is something dysfunctional in the marketplace when NO conventional broadcasting company cares to pursue ONE FIFTH of the people in New Haven.

Further, most of us in Amherst are not turning the radio dial in search of something as unconventional as "The Wiccan Station" or "The Biker Station". However, we believe there MIGHT be enough interested listeners out there to justify "The Wiccan HOUR", or "The Biker HOUR", once a week, on an LPRS station. The odds of either show appearing on a Class A station are very low.

Indeed, even some fairly large "niche markets" -- light jazz, exercise buffs, science fiction fans -- are largely ignored by Class A radio stations. In most of New England, for example, no light jazz station can be found on the dial.

Of course, the situation is worst for listeners in many small towns and rural areas, and also in some of our small cities. They may have only 5, 4, 3 or less audible choices on the FM dial -- and some or all of THOSE stations may be "translators" or even "satellators". This is a gap that LP-1000 and/or LP-250 stations could fill IMMEDIATELY AND EFFECTIVELY -- in places that conventional broadcasters have largely abandoned. Indeed, we remain surprised that the NAB has not simply conceded these areas to Low Power Radio and concentrated on defending its core territory in the larger urban areas.

Finally, we note that the artificial restriction of choices on the dial permits licensed radio broadcasters to run more advertisements -- and/or charge more for each advertisement -- than they could do under more competitive circumstances. This insulation from accountability has "real world" results.

During late January of 1999, THE NEW YORK OBSERVER published an article on radio industry stocks, which ended with an unusually revealing quote:

> George Sosson, Clear Channel's senior vice president, sums up radio's new rules: Before the F.C.C. loosened its regulations, stations were afraid to increase loads [the number of ads] for fear of driving customers to "the other guy", he said. "Now, we all ARE the other guy." [Emphasis added]

4(b). RELATED POLICY RECOMMENDATIONS. Key policy recommendations for increasing consumer choice are the same as those for boosting neighborhood stations or allowing more self-expression by individuals:

** Increase the number of neighborhood stations by licensing LP-10s, while also protecting them against "bumping" by anyone.

** Adopt LP-100 as the basic standard for most LPRS stations, with smaller stations (LP-10s) common in areas with relatively high population density and larger stations (LP-1000s and/or LP-250s) common in areas with relatively low population density. Protect LP-100 stations from being "bumped" by anyone.

** License LP-1000s ONLY in areas with a population density of 1,000 people or less. Limit LP-250s, IF they are licensed, to areas with a population density of 1,500 people per square miles or less. (A roughly equivalent restriction might involve barring LP-1000s from The Top 50 Media Markets and LP-250s from The Top 40 Media Markets.) This "quarantine" will keep a single LP-1000 or LP-250 from displacing SEVERAL smaller stations in an area where the spectrum is congested. It will also help to prevent EXTREMELY uneven results from the same license: for example, enormous revenues for an LP-1000 in New York City and moderate profitability for an LP-1000 in Sioux City.

** Use a variety of policies (especially "one to a customer") to keep LPRS licenses from being acquired, directly or indirectly, by anyone besides individuals, the very smallest of small businesses and the very smallest of small non-profits.

5(a). THE DEFENSE OF DEMOCRACY. Some in THE AMHERST ALLIANCE, and elsewhere in the Low Power Radio movement, are motivated by intense feelings of patriotism -- amplified by a KEEN sense of looming danger to the liberty and security we have inherited.

To put it bluntly, most of us have grave concerns about the long term prospects for the survival of representative democracy in the United States. Some of us are even concerned about the survival of the United States itself.

Any course of corrective action must deal with two threads that are, at this point, tightly interwoven: (1) restoration of the legitimacy of the nation's business, political and media Establishments; AND (2) preservation of our existing liberties.

(1) THE RESTORATION OF LEGITIMACY. We deal with legitimacy first. We do so not because we value liberty less, but rather because legitimacy is part of the foundation upon which liberty rests.

A nation without liberty can still hold "legitimacy": that is, can arouse a widespread perception among its citizens that the existing order has value and is worth serving or even defending. Witness the "good Kings" and "bad Kings" of the Old Testament. ALL of the Kings were dictators, but SOME of them were flexible, compassionate, subject to God and The Law. OTHERS were "tyrants": selfish, ruthless, arrogant, "arbitrary and capricious", Above The Law.

However, while nations without liberty can still have legitimacy -- can still enjoy a level of UNFORCED loyalty and support, or AT LEAST acquiescence --

a nation without legitimacy cannot long sustain liberty.

Liberty is forged from an interlocking set of expectations and obligations -- held together by TRUST. GOVERNMENT must trust the people enough to believe that most citizens will not abuse their rights, to the detriment of the larger society. THE PEOPLE must trust the government enough to believe that it will not abuse its power -- or, at least, that abuses can be corrected through the ballot box, the courts or other ways to "petition for a redress of grievances". Unless this MUTUAL TRUST is present, AND deserved, then ultimately the people will not be truly loyal to the established order -- and force will ultimately be needed, in place of "the consent of the governed", to keep the society functioning. The growth of force will in turn mean a decline of individual liberty -- and a climate favorable to the emergence of civil war, rebellion, revolution and/or widespread reluctance to defend the larger society against its external enemies.

In his classic book, A STUDY OF HISTORY, Professor Arnold Toynbee examined the birth, life and death of 23 different civilizations around the world. All but 4 of them, he concluded, died from within. Some of them, such as ancient Rome, appeared on the surface to have suffered defeat at the hands of external forces -- BUT, on closer examination, can be seen to have DEFEATED THEMSELVES. Whether they collapsed in the face of barbarians, drought and famine, or depletion of essential resources, they FIRST lost respect for the value of their own society -- AND THEN they lost their resolve to struggle and adapt.

The founders of America never read Arnold Toynbee -- but they knew the importance of LEGITIMACY. By the time of the American Revolution, and later of the Bill of Rights, the theory of The Social Contract had crossed the Atlantic from Western Europe. This concept, usually expressed as a metaphor of mythical history, envisioned that human beings had once been in "a state of Nature" -- an existence of anarchy, without government -- and had then CONSCIOUSLY created law, and government, for the sake of THEIR OWN cumulative self-interest. God had not bestowed "The Divine Right of Kings": rather, THE PEOPLE had "contracted" to surrender SOME of their otherwise TOTAL individual freedom in order to obtain the benefits that only law and government can provide. If God had bestowed ANYTHING, it was not a divine mandate for leaders but a body of "inalienable Rights" for each citizen.

Our nation's founders were familiar with the Social Contract theories of Thomas Hobbes (who argued that the primary goal of The Social Contract was the establishment of ORDER) and John Locke (who argued that the primary goal of The Social Contract was the preservation of LIBERTY). The latter philosopher postulated that individuals have fundamental rights to "life, liberty and property". Thomas Jefferson, in the Declaration of Independence, changed this to "life, liberty and the pursuit of happiness": perhaps the first rejection of LAISSEZ FAIRE capitalism by the leaders of America.

The American Revolution rested on the premise that King George III had broken The Social Contract and thus voided his claim to the loyalty of Americans.

Then, after the American Revolution was won, efforts were made to assure that the NEW government would never abuse its power to the point of losing the loyalty of its own citizens. Through the Bill of Rights, Constitutional "checks and balances" in the structure of the Federal Government, avoidance of the trappings of royalty, and other steps, efforts were made to assure that the new government could CLAIM loyalty by DESERVING loyalty.

Today, it remains true, on the most fundamental level, that citizens of ANY society -- whether totalitarian, authoritarian or (like the United States) relatively libertarian -- must ultimately believe that the established order serves THEIR interests, too. For a society to be STABLE, a solid majority of its citizens MUST be able to say "Yes", consciously or unconsciously, to questions like these:

If I have a grievance, and/or a vision, will the established institutions of the society offer me an avenue to make at least SOME progress SOME of the time?

Will the leaders of my society LISTEN to me?

If they DO listen, will they CARE?

Will they avoid "playing favorites" -- and honor at least the BASIC rights of EVERY member of the larger society, no matter how humble?

Finally, just as I am sometimes expected to make sacrifices -- or, at the very least, delay gratification -- for the sake of the survival or advancement of the larger society, are the LEADERS of the society willing to do the same?

IF questions like these CANNOT be honestly answered "Yes", at least much of the time, then OTHER questions -- dangerous questions -- can arise:

Since the leaders of established institutions do not listen to me, care about me or empower me, why should I obey any laws they make that I don't like?

Why should I pay taxes to keep in power people who don't care about me?

Why should I serve in their wars -- ESPECIALLY when and if I am given no say in whether these wars should be waged?

And why am I thinking of laws, taxes and wars as "THEIRS", not "OURS"?

Eventually, IF the gap between the interests of the people and the interests of their leaders becomes TOO great, citizens may move beyond ignoring, evading or challenging specific laws and/or customs. At some point, THE GOVERNMENT ITSELF -- not just its specific laws or policies -- may lose the loyalty of the people. THEN the question may become:

Why not REMOVE the leaders of the society from power? And why not also remove the institutions those leaders were serving instead of serving the people?

Before the Civil War commenced, members of the abolitionist movement -- outraged by the existence of slavery, and even more outraged by its spread into the frontier Territories and (via the Fugitive Slave Act) into the North -- were well on their way to asking the LAST question in this chain. John Brown, in his abolitionist raid on Harpers Ferry, stepped over the line to armed rebellion -- and so, shortly thereafter, did his "opposite numbers" in the Confederacy.

We tell this story to underscore the reality that IT CAN HAPPEN HERE. The basic legitimacy of law and government CAN be lost in America -- with disastrous results that may never be fully undone.

History ALSO teaches us, however, that America CAN step back from the brink and restore itself -- can learn, can heal, can grow. The Great Depression of the 1930's, the civil rights movement of the 1950's and 1960's and the Vietnam war protest movement of the 1960's and 1970's ALL created INTERNAL crises that might have ripped the nation assunder -- but didn't. In all three cases, reform movements prevailed before revolutions erupted -- and the Federal Government altered its attitude WITHOUT shrinking the Bill of Rights.

We are hopeful that the same process -- reform rather than revolution -- has begun with the Commission's consideration of Low Power Radio.

Barely over a year ago, the electronic civil disobedience popularized by Free Radio Berkeley, Radio Mutiny and others had begun to seep into Middle America. Forced to choose between the law and their consciences, with no prospect of a LAWFUL resolution, "pillars of the community" -- Main Street businesspeople, Hispanic community activists, evangelical Christians and other "solid citizens" -- began to broadcast without a license.

THIS was the same point at which the Vietnam war became politically unsustainable: when Iowa and Colorado and Ohio began to join Berkeley and Boston and the Lower East Side in holding demonstrations, sending their sons to Canada and demanding an end to the war. When rebellion reached Main Street, the war was dead -- though the burial took years.

We hope, and believe, that the same message reached the Commission when the ranks of unlicensed broadcasters began to include Republicans.

We can report that the FCC's responsiveness has ALREADY brought SOME unlicensed broadcasters back into compliance with the law. From our perspective at Amherst, WE KNOW of unlicensed broadcasters who have "gone dark" -- VOLUNTARILY, without being asked -- as "a gesture of good faith" while the Commission considers their "petition for a redress of grievances".

Interestingly, most of these broadcasters didn't wait for the issuance of a formal Proposed Rule. They "went dark" in response to the Commission's VERY FIRST positive step: the solicitation of public comments on the Leggett/Schellhardt RM-9208 Petition (and, several weeks later, on the Skinner RM-9242 Petition).

These are people who DO NOT WANT to break the law. Like the founders of our country, however, they will break the law if the only alternative is dishonor. In their own way, they echo the words of Albert Camus: "I want to be able to love my country -- and still love justice."

We ask THE COMMISSION to echo the toast of the 19th century reformer Carl Schurz, who founded the Civil Service: "My country, right or wrong! When right, to be kept right. When wrong, to be SET right!"

(2) THE PRESERVATION OF EXISTING LIBERTIES. Within our own borders, national corporations -- indeed, even GLOBAL corporations, which seem to show no loyalty to anything that cannot be measured in dollars and cents -- have gained strangleholds over the flow of ideas and information in what remains (for now) the most powerful country in the world.

American radio is already "highly consolidated" ... Television Station Groups are plotting the absorption or elimination of their local "affiliate" stations ... newspapers, in MANY cities, face NO print media competition AT ALL in their news coverage (with the exception of "alternative weeklies", which they are now starting to acquire) ... and a handful of companies, through relentless acquisitions, have seized most of the book publishing industry -- turning large, proud and independent publishing houses into docile conglomerate subsidiaries.

The Internet, while a MAJOR counterweight to these forces, cannot singlehandedly offset their impact. It is ONE new, and freewheeling, source of information flow -- attempting to compensate for the oligopoly control of SEVERAL established, and easily accessed, forms of media.

Also, for many Americans, The Net remains out of financial reach (at least for now). News and views on The Net still elude most everyday Americans.

Even for those who CAN afford Net access, there remains the threat of censorship legislation (already attempted, but so far blocked by the courts) -- and the POSSIBLE threat that media megacorporations may initiate strategic acquisitions of key search engines and/or ISPs.

We realize that the Commission does not have jurisdiction over all forms of media. It can certainly EXAMINE AND EVALUATE all forms of media, however, to PUT RADIO IN CONTEXT. We believe such a review of the OVERALL media situation will strengthen the Commission's resolve to TAKE CORRECTIVE ACTION in those industries where it CAN make a difference.

For more discussion of media ALTERNATIVES to radio, please see APPENDIX 2 of these Additional Comments: "A Response To Senator McCain". In this Appendix, we address the recent claim by Senator John McCain (R-AZ) that the FCC's concerns about "outlet and viewpoint scarcity" are "anachronistic".

It is the Senator's apparent thesis that aspiring LPRS broadcasters could, and should, pursue opportunities in other media industries instead of radio.

It is OUR contention that these other media are largely controlled by the same KIND of people, and sometimes LITERALLY the same people, who now have American radio in a stranglehold.

5(b). RELATED POLICY RECOMMENDATIONS. For Low Power Radio, there are two broad policy goals which must be achieved.

The FIRST goal, discussed earlier in this Sub-Section on "Our Hopes", is structuring a Low Power Radio Service that will ENDURE -- and endure WITHOUT duplicating the style and programming of conventional Class A stations. Meeting this goal means carefully designing the LPRS to incubate stations which are SMALL enough to have a community and/or "niche market" focus ... LARGE enough to be financially self-sustaining (except for some of the LP-10 stations, which are likely to be part-time and/or subsidized) ... and SECURE enough to work and plan outside the shadow of possible "bumping" and/or license non-renewability.

Also, LPRS stations should be EMPOWERED to sell air time as a source of revenue. Further, LPRS stations should be allowed to obtain "non-commercial" status -- and, with it, insulation from mandatory auctions -- WHEN AND IF they are willing to become commercial-airing NON-PROFITS, selling only enough air time to cover the station's REASONABLE costs (including decent salaries).

For more discussion, see the preceding portions of "Our Hopes" -- notably including page 14.

The SECOND broad policy goal is to prevent a viable LPRS from being acquired -- openly or surreptitiously, directly or indirectly -- by institutions which are not committed to the core values of Low Power Radio: that is, ownership diversity, programming diversity, freely flowing ideas AND community focus.

For a discussion of credible scenarios for the subversion of LPRS by larger entities, AND a related discussion of preventive measures, see the Sub-Section on "Our Fears".

OUR COMMITMENT

We have described FIVE MAJOR MOTIVATIONS that have led AMHERST ALLIANCE Members to "get involved". Many of us are inspired by MORE than one of these hopes -- and some of us are inspired by all five.

The POWER of these individual commitments is reflected in two "signature characteristics" of THE AMHERST ALLIANCE.

6. LOOKING BEYOND TANGIBLE SELF-INTEREST. As we noted in our basic Written Comments (dated April 28, 1999), roughly two thirds of our Members are NOT past, present and/or aspiring Low Power Radio broadcasters. Most Members -- including Don Schellhardt, the National Coordinator -- are the proverbial "concerned citizens": in some cases, DEEPLY concerned citizens.

Moreover, even among the Amherst Coordinators, Officers and Coordinators EMERITI -- the "worker bees" who form our equivalent of a Board of Directors -- only TWO THIRDS have PERSONAL experience with, and/or PERSONAL interest in, owning and/or working at a Low Power Radio station.

It takes a special cause, ESPECIALLY in the world of MODERN American politics, to draw people who will contribute time, money and energy -- sometimes, relative to their resources, on an almost heroic scale -- in order to achieve results that may NEVER benefit them, PERSONALLY, in a tangible way. Such movements are not unknown in American politics -- in fact, during times of crisis, America has often DEPENDED on such movements!! -- but such movements ARE rare. It MEANS something when one of them surfaces.

7. OVERCOMING DIFFERENCES -- TO MAKE A DIFFERENCE. The commitments of individual Amherst Members are powerful enough to jump across major barriers that typically separate people from each other.

Even looking at only the ACTIVE Members of Amherst, we can see a stunning disregard for the usual classifications. Politically, we have rock-ribbed Republicans working with self-proclaimed "Socialists". Culturally, we have evangelical Christians working with uncloseted gays and lesbians. Generationally, we have a National Coordinator who turned 50 on January 31, after being elected unanimously by Members with a median age under 25.

We concede that people of color remain under-represented in our Membership -- perhaps, in part, because our currently modest resources limit our level of outreach for now. To a lesser extent, women are under-represented as well. We would certainly welcome more Members from both of these groups.

Overall, however, we know of few movements -- let alone interest groups!! -- that cross as many barriers as we do. We may not be unique, but we ARE exceptional.

WE TAKE PRIDE IN OUR DIVERSITY.

We believe it reflects AN INTENSITY OF COMMON COMMITMENT that is powerful enough to overcome potential divisions.

WE ALSO BELIEVE IT IS A FORETASTE of the diversity that will flourish within a meaningful, and workable, Low Power Radio Service.

OUR FEARS

8(a). UNDER-SIZING AND/OR OVER-SIZING OF LPRS BROADCAST COVERAGE AREAS. As we said in the preceding Section on "Our Hopes", the SIZING of LPRS stations will require A DELICATE BALANCE -- ideally, with built-in variations to reflect major differences in population density.

We recognize that population density is not the ONLY factor which affects the sustainability of a radio station, but it appears to be the most important factor most of the time. Salary differentials in the CONVENTIONAL radio industry, between small cities and large cities, demonstrate clearly that broadcasters see a close correlation between population density and profits.

In any case, UNDER-SIZED stations will not be financially sustainable (with the possible exception of part-time and/or subsidized LP-10s).

OVER-SIZED stations may prosper, but will tend to have economic incentives for METROPOLITAN coverage over COMMUNITY coverage -- and "MASS MARKET" programming over "NICHE MARKET" programming. In short, such stations will have a tendency to become miniature versions of conventional Class A stations -- rather than something truly NEW.

Finally, as noted, finding a balance is complicated by the wildly varied GEOGRAPHICAL CONTEXT of America. In Manhattan, an LP-100 may be over-sized. In Winnemucca, Nevada, an LP-250 may be under-sized.

One of Amherst's greatest fears is the risk that LPRS stations may be MIS-sized by the FCC -- at least in SOME areas. The INTENSITY of our concern for OPTIMAL sizing is underscored by the pattern of our words in our basic Written Comments. More than a third of that 112-page document was devoted, directly or indirectly, to the issue of OPTIMAL STATION SIZING.

8(b). RELATED POLICY RECOMMENDATIONS. We discussed our policy recommendations in some detail in the subsection on "Our Hopes". Our key recommendations are: (1) keeping LP-1000s (and/or LP-250s) out of large urban areas; (2) making LP-100 the GENERAL standard for LPRS stations; and (3) establishing an LP-10 Tier, ESPECIALLY in large urban areas, that is accessible to part-timers AND offers both FM and AM licenses.

9(a). INITIAL AND DELAYED DISPLACEMENT OF LP-100s AND LP-10s BY LP-1000s. While a case can be made for LP-1000s (or at least LP-250s) in areas with population density of 1,000 people per square mile or less, LP-1000s -- unless VERY carefully contained -- could effectively displace everyone else, everywhere else, throughout the LPRS.

To put the point colloquially, LP-1000s may be justifiable in rural areas, small towns and SOME small cities -- BUT they make most Members of Amherst nervous. They make most of us VERY nervous.

We view LP-1000s in the way that George Washington once described the Federal Government: "A dangerous servant, and a fearful master."

There are TWO DIFFERENT WAYS, which are NOT mutually exclusive, that LP-1000s could displace other LPRS stations on a MASSIVE scale.

THE FIRST DANGER would be INITIAL displacement -- before licenses are even granted -- in areas where the spectrum is even moderately crowded. The FCC's own Proposed Rule notes an FCC Staff study, which reports that metropolitan Denver can accommodate one LP-1000 or FOUR LP-100s -- while metropolitan Minneapolis can accommodate one LP-1000 or NINE LP-100s.

God knows how many LP-10s could take the place of A SINGLE LP-1000!!

THE SECOND DANGER from LP-1000s would be DELAYED displacement, affecting LICENSED stations -- IF the Commission insists that LP-1000s must have Primary Service Status while LP-100s and LP-10s are restricted to Secondary Service Status. LP-100s and LP-10s would then be "bumpable" by any LP-1000 licensee who has designs on their frequencies.

Thus, UNLESS the Proposed Rule is changed, LP-100s and LP-10s will be "endangered species" from the outset -- AND could quickly become extinct.

Such results may please a little handful of people who REALLY want to have CLASS A licenses -- BUT pose as champions of the Low Power Radio movement AND claim to speak for it. They do NOT speak for it, however.

Read what Amherst says, read what ARD says, read what CDC says, read what REC Networks says, read what Rogue Communications says, read what Prometheus Radio says. One thing will be clear: ALMOST EVERYONE in our movement WANTS LP-1000s RESTRICTED to small cities AT THE MOST.

9(b). RELATED POLICY RECOMMENDATIONS. We have discussed this matter, to some extent, in the Sub-Section on "Our Hopes".

We propose to prevent DIRECT displacement of LP-100s and LP-10s by: (1) limiting LP-1000s to areas with 1,000 people per square mile or less (PLUS limiting LP-250s, if any, to areas with 1,500 people per square mile or less); AND (2) keeping FULL Primary Service Status for LP-1000s (and/or LP-250s) BUT adding MODIFIED Primary Service Status for LP-100s and LP-10s (under which LP-100s and LP-10s could neither "bump" other stations NOR be "bumped" themselves).

The second recommendation would ALSO solve the problem of possible DELAYED displacement -- AFTER the LPRS licenses have been granted.

The Commission is correct in concluding that there ARE parts of America where LP-1000s, or at least LP-250s, are necessary -- or even desirable. In such areas, almost by definition, the spectrum should usually be open enough to prevent major competition for spectrum. Where there IS major competition for spectrum, this implies enough potential revenue to support an LP-100 or possibly even an LP-10. There is, therefore, NO NEED to license LP-1000s in such areas -- and no justification at all for letting them "bump" smaller stations.

10(a). INADEQUATE LIMITS ON ACCESS TO LPRS LICENSES. Another fear of Amherst Members, and of others in the Low Power Radio movement, is the possibility that LPRS licenses may be gained by institutions which do not share the movement's "core values" of ownership diversity, programming diversity, freely flowing ideas AND community focus.

WE COMMEND THE COMMISSION for proposing to bar existing broadcasters from acquiring LPRS licenses. This is a MAJOR step in The Right Direction -- but, unfortunately, it does not go far enough.

It does not go far enough because OTHER large institutions may well desire to acquire stations -- for reasons UNRELATED to the 5 basic LPRS goals of community revitalization, upward mobility, releasing human potential, more choices for listeners and the successful defense of democracy.

One scenario that concerns us might be called "Wal-Mart Radio". Because so many of the LPRS stations will be focusing on specific neighborhoods or communities, they might make an ideal beachhead for those with a product to sell at local outlets: discount stores, video/CD chains, fast food restaurants and so on. Few people are likely to tune in for non-stop commercials, but they MIGHT tune in for entertainment or other programming -- which could then be peppered with locally tailored ads for locally based retail outlets.

Another possibility already has a name in Low Power Radio circles: the "McChurch" scenario.

This scenario is less speculative than the first one. At Amherst, we have heard reports that The American Family Association, a well-funded evangelical group led by The Reverend Donald Wildmon, routinely files for a license on an open frequency (directly OR through intermediaries) whenever ANYONE ELSE applies for that frequency FIRST. The Commission is, of course, in a much better position to verify these reports than we are -- but we at Amherst have no reason, at least so far, to distrust our "sources". Assuming the reports are accurate, they are very disturbing: whether the AFA's intent is to "warehouse" frequencies for the future, OR to block the emergence of additional secular programming, OR both, the practical effect is the systematic delay or denial of opportunities sought by others.

We acknowledge that, under the Proposed Rule, EXISTING networks (evangelical or otherwise) would be barred from acquiring LPRS licenses DIRECTLY. However, NEW, 5-station evangelical networks (evangelical or otherwise) could be created very quickly.

10(b). RELATED POLICY RECOMMENDATIONS. Our most important recommendation is restricting Low Power Radio licenses to "one to a customer". This will make it more difficult, AND less rewarding, for larger corporations to acquire commercial-airing stations. This will also make it more difficult for expansionist non-profits, such as certain evangelical networks or NPR, to add commercial-free Low Power stations as new links in their chains.

As our SECOND priority in this area, we also recommend, at least as a starting point, a REVISED version of the size and income restrictions first proposed by Don Schellhardt, Nick Leggett and Judith Fielder Leggett in their REVISED version of the proposal in Docket No. RM-9208. Specifically, we propose limiting eligibility for an LPRS license to: (1) INDIVIDUALS; and (2) INSTITUTIONS, whether corporate or non-profit, which have $200,000 or less in GROSS annual revenues AND $500,000 or less in NET assets (excluding the value of the station itself, and of any station-related equipment, plus any equity in an owner-occupied PRINCIPAL residence).

We have made only two changes in the original proposal by Don Schellhardt and the Leggetts. That is, we have raised their proposed limits of $100,000 and $200,000, respectively, AND we have added the exclusion from net assets for the station itself and station-related equipment.

As our THIRD priority in this area, we also favor LOCAL RESIDENCY REQUIREMENTS. Specifically, we advocate requiring LPRS license holders to live within reasonable proximity of their station -- preferably within the Reception Contour, but in no event more than 25 miles away.

LPRS licenses should be reserved for individuals AND for institutions that are both local AND small. If forced to choose, however, we see size and income as the more important criteria -- because, at least these days, impersonal economics often influence institutional behavior more than geographical location. Thus, for example, an environmentalist station established at Harvard Square, by

the California-based Sierra Club, would probably enrich the total range of radio choices more than a station chartered by Bank of Boston.

ALL THREE of these policy recommendations -- in the indicated order of priority -- make sense. Therefore, we urge the FCC to adopt ALL of them.

With the extreme imbalance of power between large corporations (and large non-profits) On The One Hand, and aspiring LPRS broadcasters On The Other, we believe our recommended protections are necessary EVEN IN THE CASE OF those LPRS stations which are NOT subject to mandatory license auctions. However, WHEN AND IF some LPRS licenses are awarded by auction, the presence or absence of these protections will double or triple in importance. That is, IF the FCC determines that some LPRS licenses MUST be awarded by auction, it is VITAL that ONLY individuals and small institutions be eligible to offer a bid. Otherwise, larger institutions can "sweep the field" -- killing, at least in the case of AUCTIONED stations, any hope that these stations will ever become meaningful alternatives to the radio STATUS QUO.

We also note that Bill Pfeiffer of ARD asserts the FCC may legally exempt all LPRS stations -- non-commercial AND commercial -- from mandatory auctions. Bill argues the LPRS is protected by its status as a SERVICE. Also, according to one report, Chairman Kennard has speculated the LPRS may be protected from auctions because it is NEW: something not envisioned by Congress when auctions were enacted. While we have not had time for legal research on either argument, we urge the FCC to evaluate these points carefully.

11(a). INADEQUATE LIMITS ON INDIRECT CONTROL OF LPRS STATIONS. As we understand the Proposed Rule, "new" broadcasters would be eligible to obtain up to 5 licenses (nationwide). Unfortunately, these "new" broadcasters could be subsidiaries, affiliates, agents or franchisees of -- or even "fronts" for -- established broadcasting interests. They could ALSO be subsidiaries, affiliates, agents or franchisees of -- or even "fronts" for -- large institutions which are not currently engaged in broadcasting BUT see a sudden opportunity to acquire "a piece of the action" inexpensively.

This is, in Capitol Hill parlance, "a loophole so big you could drive a truck through it".

Revisiting, briefly, the scenarios we discussed in Item 10:

(1) An existing broadcaster could create a new subsidiary. It could even "sponsor" a totally "new" company with stock -- or other instrument(s) of institutional control -- vested in the same hands that control the existing broadcaster. Then, under the Proposed Rule as it is currently proposed, the "new" subsidiary, or unofficial affiliate, could scoop up 5 LPRS licenses across the nation. After that, or even SIMULTANEOUSLY, other voracious legal fictions could cruise for LPRS licenses -- with each one allowed a "hunting limit" of 5.

(2) Wal-Mart's or McDonald's or "McChurch" could do the same thing -- except that THEY would not even have to worry about creating the legal fiction of an "independent" institution. Rather, Wal-Mart's or McDonald's could simply charter 50 or 100 subsidiaries, authorized to "bag" 5 LPRS stations apiece, and

"McChurch" could create 50 or 100 non-profit affiliates for the same purpose.

(3) ANY of these larger institutions could hire, or otherwise recruit, individuals to "front" for them in filing for licenses. The licensee would appear independent "ON PAPER", but would in fact be financially dependent on -- OR otherwise accountable to -- an unknown institution, hidden in the shadows.

(4) This list probably does not exhaust the possibilities.

11(b). RELATED POLICY RECOMMENDATIONS. We propose, for INSTITUTIONS, that all LPRS licensees must be PARENT COMPANIES (or their non-profit equivalents) ONLY. As for INDIVIDUALS, all LPRS licensees should be PRINCIPALS ONLY.

It should be illegal, WITH appropriate penalties, for an LPRS license to be acquired by the subsidiary, affiliate, agent or franchisee (and/or the non-profit equivalent) of ANY institution or ANY individuals. ALL applicants should be required to certify, in a doubly witnessed and notarized statement which will make them subject to legal penalties, that: (1) they are acting absolutely and exclusively on behalf of themselves; AND (2) apart from an authorized sale or transfer to OTHER parties who are ALSO eligible for an LPRS license, the licensees will not cede direct or indirect control of station programming and/or operations to ANY party not listed as, AND eligible to be, an LPRS applicant.

As an additional barrier to indirect control of LPRS stations, we endorse the recommendation made by Don Schellhardt and the Leggetts in their REVISED version of RM-9208.

That is, quoting from page 64 of the May 7, 1998 Reply Comments of The RM-9208 Petitioners (which we incorporate by reference):

Otherwise eligible microstations should be barred IF they are subject to excessive influence or control by those too large to apply for licenses themselves. Licenses should not be granted to, AND purchases of licensed microstations should not be allowed for, institutions meeting these criteria:

More than 10% of the stock [in the case of a profit-making LPRS], or other instrument of control [in the case of profit-making and non-profit stations alike], is held by an ineligible source

OR

More than 20% of GROSS REVENUE is received in any form (grants, government funding, sales, whatever) from an ineligible source

OR

More than 20% of financing is received from an ineligible source (adjustable to 40% in the case of a bank with no direct or indirect financial interest, of any kind, in any form of broadcasting

OR

Any combination of the above

Finally, we note that a licensing policy of "one to a customer" -- proposed in Item 10(b) as a way to prevent access to LPRS licenses by those who are not sympathetic toward its goals -- will also complicate any schemes for indirect control. That is, under a "one to a customer" policy, parties seeking indirect control of LPRS will require 5 times the number of subsidiaries, affiliates, franchisees, agents or "fronts" to reach the same objective. They will ALSO have to leave 5 times the "paper trail", deal with 5 times the number of potential "leaks" AND place themselves under public and regulatory scrutiny 5 times as often. We believe this WILL have some deterrent effect, although MAXIMUM

effectiveness requires a complementary policy of limiting licenses to "parent companies, parent non-profits and principals" ONLY.

12. FOOD FOR THOUGHT: BURGER KING v. McDONALD'S. Given that LPRS stations are likely to be less profitable than conventional Class A stations (at least initially), some at the Commission might wonder WHY we are so concerned that larger institutions will attempt -- directly or indirectly -- to oligopolize LPRS licenses and/or acquire independent LPRS stations that have already been licensed.

We answer by urging the Commission to look beyond the SURFACE of the economics involved.

Mark Blake, of the silenced station Prayze-FM in Hartford, illustrates this point with a hypothetical question:

"Is it worth it to spend $20,000 on a vacant lot you have no intention of developing? Normally -- probably not. But what if you're McDonald's? And the lot is right across the street from you? And Burger King is going to build there unless you buy up the lot first? When THAT is the situation, you have an ENTIRELY DIFFERENT kind of economics at work."

We strongly suspect that in time LPRS stations, ESPECIALLY those which air commercials, WILL BE strong competitors -- at least collectively -- to the established megacorporations. WE have the innovation and daring that many established stations not only LACK but actually FEAR. Because "playing it safe"

is sometimes the riskiest strategy in the world, media megacorporations WILL lose some ground to LPRS stations.

The very stridency and inflexibility with which the NAB attacks Low Power Radio shows their fear of the programming we can offer to the public AND the affordable advertising we can offer to businesses (if the Commission lets us). John Earnhardt of the NAB -- the other "Man With A Hardt" in this debate -- has called Low Power Radio "the most serious issue facing the radio industry in the last 30 years". Whether they fear most OUR ability to innovate, or THEIR apparent addiction to bland and homogeneous programming, the media megacorporations have demonstrated with their statements and actions -- AND with the INTENSITY of those statements and actions -- that they see Low Power Radio stations as potentially effective competitors.

Given THIS outlook by the media megacorporations, it is difficult to believe that they DON'T view themselves as McDonald's, LPRS licenses as a vacant lot across the street -- and the Low Power Radio Service as a Burger King that can threaten their market dominance.

In short, the threat of "pre-emptive strikes" -- to keep independent LPRS stations off the air by denying them licenses, directly or indirectly -- is real AND rational. So is the threat of systematic efforts, through various intermediaries, to render Low Power Radio stations innocuous by gaining direct or indirect control. If the FCC does NOT heed these threats, and protect the LPRS against them, all that the FCC is seeking to accomplish in this Rule will be at grave risk.

THE COMMISSION'S PROPOSED RULE: PULLING OUT INTO TRAFFIC

Almost everyone who drives has had the experience of pulling out, from a standing start, into a lane of high speed traffic.

On such occasions, the natural reaction of some drivers is to move very tentatively throughout the entire episode: pulling out slowly and accelerating slowly once they enter the lane -- or even slowing down as they enter the lane.

This "natural reaction" is, of course, an invitation to a rear end collision.

The SAFEST course, apart from standing still forever, is to select a moment of RELATIVELY low risk and then SPEED UP to match the speed of the traffic.

While we have stressed that the Commission's Proposed Rule is a major improvement over the STATUS QUO, it still reminds us of a driver pulling out into high speed traffic TOO SLOWLY.

To continue the metaphor, we commend the Commission for deciding to stop standing still. However, now that the decision to enter the flow of traffic has been proposed, the safest course is NOT to seek a "happy medium" between standing still and matching the speed of the oncoming cars, buses and trucks. The SAFEST course -- the one MOST LIKELY to avoid a collision -- is a swift, smooth and even transition from one world to another.

We acknowledge that there ARE many situations where a balance of opposites is necessary or desirable: for example, a balance between intimacy and autonomy in a marriage, between family and work in a career or between outreach and self-preservation in dealing with China.

Creation of a Low Power Radio Service is not such a situation, however. Here, the Commission must be careful to avoid being caught somewhere between zero velocity and the speed of the oncoming traffic.

The present "risk of a collision" springs from the fact that the Commission seems to be trying to authorize Low Power Radio while simultaneously making the smallest possible change in OTHER standing policies.

This is often a wise strategy for those who foster innovation. When proposed changes are focused narrowly, there is less total change for established interests to digest -- and, therefore, a chance of less resistance. With the LPRS, however, this INCREMENTAL strategy is far from optimal.

The problem is that certain FCC policies RELATED to the LPRS will profoundly affect the LPRS itself. If these RELATED policies are left unchanged, while the Commission attempts to foster innovation and diversity through the LPRS, the results may be "neither fish nor fowl": not a BALANCE of innovation and tradition, but rather A COLLISION of innovation and tradition.

We present some specifics below.

13. COMBINING "CLASS A REFORM" WITH LOW POWER RADIO. We have spent considerable time and energy speculating WHY the Commission has proposed the licensing of LP-1000 stations, WITHOUT geographical limits, when virtually no one in the Low Power Radio movement ever ASKED for them. Apart from Rodger Skinner and a few others, NO ONE in the movement asked for more than 250 watts -- and most of the "players" asked for 100 watts or less.

It may be that the Commission was drawn to the simple symmetry of the system: 1 watt contemplated, 10 watts contemplated, 100 watts proposed and 1,000 watts proposed, with each Tier an order of magnitude above the Tier below it. Unfortunately, the LAST order of magnitude creates a jump in coverage area that is SIMPLY HUGE: a leap from 38 square miles for an LP-100 to 250 square miles for an LP-1000. In areas with low (or even moderate) population density, many LPRS stations may be either too small to survive (at 100 watts) or so large that they begin to think and act like conventional Class A stations (at 1,000 watts). We have proposed to fill this gap with a Transitional Tier at 250 watts -- which is also the standard size range for translators and "satellators".

WITHOUT a Transitional Tier at 250 watts, the coverage areas run as follows: 13 square miles for an LP-10, 38 square miles for an LP-100 and 250 square miles for an LP-1000. To put it another way, if 13 = 1, then the Tiers run 1, 3 AND THEN 19.

The WATTAGE in the Tiers may be symmetrical, but the COVERAGE is definitely NOT!!

WITH a Transitional Tier at 250 watts, the square miles of coverage progress more smoothly: 13, 38, 61 (for 250 watts at 100 feet), 125 (for 250 watts at 200 feet) AND THEN 250. That is, if 13 = 1, the Tiers NOW run 1, 3, 5, 10 and 19. This is hardly perfect symmetry, either, but it's a BIG improvement -- AND it permits a rational transition from the largest urban areas (LP-10s, perhaps with some LP-100s) to the mid-sized urban areas (LP-100s, perhaps with some LP-10s) and small cities and rural areas (LP-1000s and/or LP-250s, perhaps with some LP-100s for the small cities and even some LP-10s for the small towns and villages).

In any event, while the appeal of symmetry may well have played a role in the Commission's thinking, we SPECULATE that the weightier factor was this:

We suspect the FCC saw this Proposed Rule as a chance to combine the creation of TRUE Low Power Radio stations with some reform of Class A.

As currently proposed, the provisions which establish LP-1000s will have AT LEAST THREE EFFECTS on current conventional stations:

(A) At a time when the "consolidation" of the radio industry -- that is, the conversion of thousands of stations into mere satellites of a few media megacorporations -- has become legendary, the LP-1000 Tier might produce "contenders" who could "grow into Class A" over time. These new "contenders" could then increase the currently constricted pool of competitors in Class A.

(B) At a time when the number of translator stations -- and especially satellators -- has climbed far beyond the original expectations, "piping news and views" into many areas from points far removed, LP-1000s with Primary Service Status would have the right to "bump" 250 watt translators that have only Secondary Service Status. In many small cities, small towns and rural areas, stations run by and for out-of-town interests might be replaced by new stations that are LOCALLY owned, LOCALLY operated and LOCALLY oriented.

Also, since 1,000 watts provides more coverage than 250 watts (when tower height is the same), these new LP-1000 stations would reach MORE people than the translators being displaced. There would be a RISE in net broadcast coverage after the displacement.

A new Tier at 250 watts would presumably be "a wash" in most cases.

However, coverage areas would SHRINK if the Commission allowed LP-100s and/or LP-10s to displace 250 watt translators. Therefore, it makes sense to deny LP-100s and LP-10s the right to "bump" stations that have Secondary Service Status.

(C) As a variation on the same theme, some LP-1000s could become the functional equivalent of conventional stations in small cities, small towns and rural areas that conventional stations have abandoned.

Other evidence supports our speculation that an Agenda for Class A Reform has been mingled with an Agenda for "traditional" Low Power Radio. Consider, for example, the proposed limit of "5 LPRS stations to a customer" (nationwide), instead of only one.

IF LP-1000s are being groomed for eventual entry into Class A, the 5-station limit makes more sense. It promotes and facilitates empire-building, thereby fortifying the LP-1000s for their eventual assaults on Disney or CBS.

HOWEVER, in the case of LP-100s and LP-10s, a policy of "5 stations to a customer" -- ESPECIALLY if it is accompanied by Secondary Service Status -- is potentially fatal. In the dangerous game of corporate acquisitions, they are more likely to be the dinner than the diner.

We stress to the Commission that we are NOT against Class A Reform -- SO LONG AS IT IS NOT ACHIEVED AT OUR EXPENSE.

Nor are we opposed to ANY of the three specific objectives (A, B or C) that we have described above. In terms of the impact on CONVENTIONAL radio, most of us in Amherst could accept, or even cheer, the probable results.

We just worry about the impact on UNconventional radio: namely, US.

ALL of these probable results, IF achieved, will improve the situation for CLASS A listeners. However, they will NOT necessarily improve the situation for LOW POWER RADIO, in the sense that its advocates have envisioned it.

In fact, the probable results of establishing LP-1000s, under the Rule as it is presently proposed, would likely be HARMFUL to Low Power Radio stations (in the established sense of the term).

In short, the Commission seems to be grooming a new pool of competitors who can "thin the herd" of proliferating translators and satellators -- and sow the seeds of future challenges to the standing Class A empires.

Unfortunately, in its apparent pre-occupation with Class A Reform, the FCC has overlooked something. That is, stations with megacorporations in their sights might START their upward trek by hunting the EASIEST target: US.

Fortunately, this problem can be "fixed", fairly easily, and we have already told the Commission how to do it:

First, keep LP-1000s out of areas with more than 1,000 people per square mile. (Alternatively, ban them from the Top 50 Media Markets and/or from areas where Primary Service stations occupy 80% of the spectrum or more.)

AND ...

Second. do not allow LP-100s and LP-10s to be "bumped" by LP-1000s -- or anyone else.

In short:

If the FCC wants to use this Proposed Rule as a vehicle for CLASS A REFORM, it should not mix these Class A objectives with the DIFFERENT goals of "traditional" Low Power Radio. When it comes to SITING and "BUMPING", the Commission should "build a firewall" between LP-1000s and the other Tiers. To a significant extent, the different levels appear to have different FUNCTIONS: the functions of one should not be allowed to disrupt the functions of the others.

Under our proposed approach, each of the three Class A Reform objectives can STILL be pursued by the FCC.

That is, translators and satellators can STILL be "bumped" by LP-1000s and/or LP-250s in the small cities, small towns and rural areas where translators and satellators are most common. Indeed, the Commission doesn't have to go to 1,000 watts to achieve this result: the same result could be accomplished by a Tier set at 250 watts (although this would not increase net broadcast coverage).

Similarly, LP-1000s and/or LP-250s can STILL provide CONVENTIONAL programming, and AREAWIDE news coverage, in places where most or all of the conventional radio stations have vanished from the airwaves.

Finally, LP-1000s will STILL be able to build empires. They will have to build them, however, in the smaller cities and towns where they are needed most -- AND they will have to do it by displacing translators and satellators, AND/OR acquiring translators and satellators for conversion to local stations, rather than by pursuing the direct or indirect displacement of other, smaller LPRS stations.

In short, a man in metro Miami who dreams of an LP-1000 station can STILL have one. However, he will have to build it someplace like Gainesville or Pensacola, leaving metro Miami to the LP-10s and LP-100s, AND he will have to settle for displacing ONLY competitors who are NOT locally owned and oriented.

14. NEEDED: RE-THINKING OF OLD CONCEPTS. In addition to the correctable complications from mixing an Agenda for Class A Reform with an Agenda for TRUE Low Power Radio, at the expense of the latter, the FCC's Proposed Rule ALSO reflects a tendency to transplant OLD concepts into the NEW area of Low Power Radio.

As with BIOLOGICAL transplants, sometimes the new host accepts them -- and sometimes there just isn't a match.

We can think of 3 distinct areas where there "just isn't a match" between transplanted concepts and the needs of the new LPRS.

(1) INVESTMENT PATTERNS THAT NEED TO BE ENCOURAGED. As the FCC is well aware, from other statements we have made On The Record, we support the proposed Primary Service Status for LP-1000s and/or LP-250s -- but we are deeply troubled by the proposed Secondary Service Status for LP-100 stations and, apparently, LP-10 stations as well. This preferential treatment of one Tier means that larger LPRS stations can displace smaller LPRS stations.

We are ALSO troubled by the Commission's EXPLANATION for this dangerous discrepancy.

The Commission notes that the capital costs for LP-1000s are higher than the capital costs for LP-100s (or LP-10s). Because the capital costs are higher, the Commission asserts, strong incentives are needed to attract enough investment capital to build these stations. The Commission then presents a PREFERENTIAL degree of security -- that is, undiluted Primary Service Status -- as a necessary incentive for the attraction of such capital.

The Commission never explains why this security for LP-1000s has to be PREFERENTIAL: that is, why security is bestowed upon LP-1000s AT THE EXPENSE OF, rather than IN ADDITION TO, security for LP-100s and LP-10s. This is a point to which we will return shortly.

For now, we stress only that this line of reasoning fails to make any adjustment for the fact that Low Power Radio stations are -- or, at least, are supposed to be -- DIFFERENT from CONVENTIONAL stations.

Rightly or wrongly (and we would say wrongly), the CURRENT licensing of CONVENTIONAL radio does not weigh the question of access to the airwaves by everyday Americans. What counts most is the STATION, and its capabilities -- NOT the station OWNER.

In Low Power Radio, however, the question of WHO OWNS the station is supposed to come FIRST. If the owners of newly licensed LPRS stations do not reflect A DRAMATICALLY BROADER SPECTRUM of Americans than the owners of conventional stations do, the LPRS will fail in its most crucial mission before it has even begun -- and those who have labored for Low Power Radio licensing, so hard and so long, will feel outraged, or even betrayed.

Once the FCC accepts that Low Power Radio is first and foremost about WHO OWNS the station, it will hopefully realize it has been ASKING THE WRONG QUESTION in its thinking about incentives.

If the FCC doesn't care who owns the stations, there may be some logic to its "classic" reasoning for deciding who needs "economic incentives" the most. The BEST incentives go to the people who have to put up the most money.

If the Commission DOES care who owns the stations, however -- which is, hopefully, THE POINT of this exercise -- the key question changes.

Instead of asking WHO HAS TO PUT UP THE MOST MONEY, the Commission needs to be asking: WHO HAS TO PUT AT RISK THE GREATEST PERCENTAGE OF THEIR PERSONAL INCOME AND ASSETS?

It is THESE station owners who need the BEST incentives the MOST.