

Proposed Rule
To Create A
LOW POWER RADIO Service
Docket MM 99-25

DUE AUGUST 2, 1999

August 1, 1999

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

RE: FCC DOCKET MM 99-25 (Low Power Radio)

Dear Commissioners and Commission Staff:

I am a strong supporter of Low Power Radio.

I am filing these Comments ELECTRONICALLY.

I commend the Commission for taking action to end the current ban on Low Power Radio. I urge the Commission to carry this process forward until a viable, and meaningful, Low Power Radio Service has been firmly established.

Specific recommendations for making a good proposal better can be found in the enclosed Written Comments.

Sincerely,

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UNITED STATES OF AMERICA

Before The
FEDERAL COMMUNICATIONS COMMISSION
The Portals
445 Twelfth Street S.W.
Washington, DC 20554

(In the Matter of
MM 99-25

(Creation of a Low Power
9208
(Radio Service
RM-9242

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WRITTEN COMMENTS OF [INSERT YOUR NAME]

I am [Insert whichever of the following is applicable -- djs] an aspiring

Low Power broadcaster [and/or] a citizen concerned about the narrowing range of ideas, information and entertainment over the airwaves.

I hereby file, with the Federal Communications Commission, my Written Comments in FCC Docket MM 99-25 (aka Dockets RM-9208 and RM-9242).

This Proposed Rule would establish a Low Power Radio Service.

THE COMMISSION IS COMMENDED

Let me begin by commending the Commission for issuing this Proposed Rule. The drafting of the Proposed Rule reflects careful thought -- and the ISSUANCE of the Proposed Rule reflects political courage.

Please count me among those who say "Thank You".

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THERE IS "ROOM FOR IMPROVEMENT"

Having said this, however, I need to add that there IS "room for improvement" in the Proposed Rule.

One of the larger LPRS activist groups, THE AMHERST ALLIANCE, states that its goal for Docket MM 99-25 is "establishment of a viable, and meaningful, Low Power Radio Service".

BOTH adjectives are important.

The new Service must be VIABLE. That is, it must be capable of sustaining itself -- financially, operationally and otherwise. At the same time,

the new Service must also be MEANINGFUL. That is, it must actually make a major difference in the diversity of radio ownership and radio programming.

The Low Power Radio Service can bring a wide range of benefits to American society -- including community revitalization, upward mobility, releasing human potential, more choices for listeners and the defense of democracy (which depends, after all, on freely flowing information and ideas). NEVERTHELESS, unless the Service can be made both viable AND meaningful, these benefits will be more potential than real.

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HOW TO ASSURE THAT THE LPRS IS VIABLE

The Commission's Proposed Rule raises numerous issues that relate to the viability of the Low Power Radio Service. In my personal opinion, however, FOUR issues are particularly crucial.

(1) MODIFIED PRIMARY SERVICE STATUS FOR LP-100 AND LP-10

STATIONS. As proposed by the Commission, LP-100 stations should be:

(a) licensed; and (b) established as the general urban and suburban NORM for Low Power station wattage and HAAT. As contemplated (but not actually proposed) by the Commission, LP-10 stations should also be licensed -- primarily in "urban core" areas, or other areas where population density is much higher than the urban and suburban norm, and perhaps in small towns and villages as well. NEVERTHELESS, many of these newly licensed LP-100 and LP-10 stations will have a tragically short life expectancy UNLESS they are shielded from "bumping" by larger stations (including larger LPRS stations).

I URGE THE COMMISSION to accord LP-100s and LP-10s a MODIFIED form of Primary Service Status: that is, a new variant, under which they could neither be "bumped" by others nor "bump" others themselves.

(2) KEEPING LP-1000s OUT OF LARGE URBAN AREAS. The FCC's own study shows metro Denver can accommodate one LP-1000 or four LP-100s. In metro Minneapolis, the choice is one LP-1000 or NINE LP-100s.

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Clearly, unless LP-1000s are barred by law from the nation's largest metropolitan areas, dozens -- or even hundreds -- of LP-100s and LP-10s will be "strangled in the cradle". Further, the ONLY ones to benefit from this slaughter of opportunity will be FALSE Low Power stations, sized to operate in practice as just another herd of Class A stations -- in miniature.

I URGE THE COMMISSION to:

(a) adopt a Tier of LP-250 stations, with full Primary Service Status (as proposed by THE COMMUNITY RADIO COALITION in 1998 and, later, by THE AMHERST ALLIANCE and REC Networks in 1999);

AND

(b) at a MINIMUM, limit LP-1000s to areas with population density of 1,000 people per square mile or less (as proposed by THE AMHERST ALLIANCE) and/or limit LP-1000s to areas outside of The Top 50 Media Markets (as proposed by REC Networks, which has since "upgraded" its proposal to authorize LP-1000s only in areas outside THE TOP 100 MEDIA MARKETS).

Again, these are the MINIMUM restrictions I would impose on LP-1000s. I would not object to stronger restrictions, including COMPLETE SUBSTITUTION of LP-250s for LP-1000s.

(3) RENEWABLE LICENSES. Individuals and communities will be making real sacrifices to launch LPRS stations. A policy of prohibiting license

renewal, after 7 years, would be unfair -- and could discourage investment.

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I URGE THE COMMISSION to make all LPRS licenses renewable after 7 years. Where statutory laws permit, "the public interest" should be the standard for granting or denying renewal of a license. To limit litigation, and/or reduce administrative complexity, the Commission to assess "the public interest" by applying a uniform, weighted formula that rewards diversity.

IF the Commission is not prepared to guarantee opportunities for renewal at this time, THEN -- as a "fallback" -- I urge the Commission to: (a) defer the decision on license renewability until "a date certain" in the future; (b) in setting this "date certain", allow at least 3 years (preferably 5) for the community of newly licensed stations to develop a "track record"; and (c) indicate to possible LPRS licensees NOW, in clear terms, what kind of results the Commission will need to see THEN in order to justify a policy of renewability.

(4) COMMERCIALS. The FCC is weighing whether LPRS stations should be able to air commercials. If commercials are NOT allowed, many entrepreneurial stations will never be established -- and the community of LPRS stations will likely be dominated by HIGHLY IDEOLOGICAL broadcasters (primarily radicals and The Religious Right). In addition, local merchants will continue to be denied affordable advertising in their competition with "the chains". Indeed, ADVERTISERS IN GENERAL will be denied the lower advertising rates that might otherwise result from increased competition for advertising dollars.

In 1997, four corporations collected 90% of all dollars spent on radio ads.

That report comes from RADIO WORLD -- which also notes that these corporations collected "only" 80% of all radio advertising dollars the year before.

I URGE THE COMMISSION to grant LPRS licenses to a reasonable mix of BOTH commercial-free AND commercial-airing stations.

IF the Commission determines that only "non-commercial" stations may

be exempted from mandatory license auctions, THEN I urge the Commission to:

(a) make the LPRS entirely "non-commercial"; BUT ALSO (b) define the regulatory term "non-commercial" to include stations which air commercials TO THE EXTENT NEEDED to cover reasonable costs (including decent salaries).

HOW TO ASSURE THAT THE LPRS IS MEANINGFUL

Although other issues are clearly relevant, the preceding four policy recommendations should lay an adequate FOUNDATION for LPRS viability.

NEVERTHELESS, as I noted earlier, the LPRS must be MEANINGFUL as well as VIABLE. If the Service is turned into "Business As Usual" under another

name, then the promised benefits of the LPRS will remain but a promise.

As an even graver matter, the legitimacy of the Federal Communications Commission -- and, more broadly, of the Federal Government and political system that stands behind it -- will be slashed again, in another "self-inflicted

wound". The FCC's consideration of Low Power Radio in general, and issuance of MM 99-25 in particular, has "brought back from the brink" a wide range of alienated Americans. The revived hopes of these people should not be dashed.

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For many of these alienated Americans, this proceeding is NOT "just" about

Low Power Radio. On a level that is only SLIGHTLY deeper, it is REALLY about

Whether The System Can Be Trusted.

For SOME Americans -- whose ranks are drawn from Left-of-Center political activists, Right-of-Center political activists, people of color seeking

upward mobility, young adults seeking direction and "Middle Americans from Main Street" -- this may be the LAST chance The System will ever get.

Dashing the newly revived hopes of these people now would do great harm -- ESPECIALLY if the hopes are dashed through a deception that establishes Low Power Radio "in name only". It cannot be good for the country to have hundreds or thousands of highly motivated, ambitious and/or idealistic citizens conclude they cannot achieve their goals within The System that now exists.

As with the question of VIABILITY of the LPRS, many issues are relevant here. NEVERTHELESS, just as four issues are particularly crucial in affecting LPRS viability, so THREE issues are particularly crucial in deciding whether the LPRS can become a MEANINGFUL alternative to the radio STATUS QUO.

(5) "ONE TO A CUSTOMER". The LPRS will produce the best "payoff for the public" if it consists of small stations, owned and operated by small institutions (and individuals), with a high degree of operational autonomy.

To reach this result, "One To A Customer" licensing is VITAL. It may be

the single most important factor in blocking absorption of stations into "chains".

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I URGE THE COMMISSION to limit licensees to one station each.

(6) "BACK DOOR" LICENSING. Even a licensing limit of "One To A Customer" leaves the door open to multiple licenses gained through affiliates, subsidiaries, franchisees and/or agents of a single institution or individual.

I URGE THE COMMISSION to ban the acquisition of LPRS licenses by

affiliates, subsidiaries, franchisees and/or agents of an institution or individual.

In the case of institutions (including non-profit institutions), a maximum of ONE

license should be granted -- to the parental institution ONLY. With individuals,

a maximum of ONE license should be granted -- to principals ONLY.

I FURTHER URGE THE COMMISSION to adopt the Leggett/Schellhardt proposal for restrictions on the control of an LPRS station by an outside party. These proposed restrictions, as modified mildly by THE AMHERST ALLIANCE, can be found in Amherst's Written Comments to the FCC (dated April 28, 1999).

In this regard, I incorporate by reference pages 40 through 45 of that filing, which spans the Sections entitled "Restrictions Proposed By RM-9208 Petitioners" and "Prohibition of Multiple LPRS Station Ownership".

(7) SIZE AND INCOME RESTRICTIONS. If the LPRS licenses are to be held only by individuals, the smallest of small businesses and the smallest of small non-profits, criteria for determining what is "small" will be necessary.

I URGE THE COMMISSION to adopt the Leggett/Schellhardt proposal, as moderately modified by THE AMHERST ALLIANCE, on this point.
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Like the modified proposal for restrictions on outside control, the modified proposal for restrictions on size and income can be found on pages 40 through 44 of Amherst's April 28, 1999 Written Comments. As modified by Amherst, the proposal states that INITIAL gross revenues of a prospective licensee should be \$200,000 or less -- while INITIAL net assets should be \$500,000 or less.

CONCLUSION

For the reasons set forth herein, I URGE THE COMMISSION to: (a) proceed with issuance of a Final Rule, in Docket MM 99-25, that will establish a

Low Power Radio Service; AND (b) adopt all of the policy recommendations which are contained herein, in order to assure that the Low Power Radio Service will be both viable AND meaningful.

Respectfully submitted,

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