**Before the**
**FEDERAL COMMUNICATIONS COMMISSION**
**Washington, DC 20024**

**In the Matter of**

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| **Creation of a Low** | **MM Docket 99-25** |
| **Power FM Radio Service** | **RM-9208** |
| | **RM-9242** |

**To: The Commission:**

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**·Comments of Europa Communications, Inc.**
**and Kevin M. Fitzgerald**

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Europa Communications, Inc. and Kevin M. Fitzgerald, (hereinafter 'Europa & Fitzgerald'), present comments to the proposal to create a new Low Power Class of FM stations. Europa Communications, Inc. is the Licensee of station WPHD, Tioga, PA. Kevin M. Fitzgerald is the President of Europa Communication's, Inc. and also the FM Technical Consultant for a few dozen radio stations, mostly located in the greater Pennsylvania, New York, and Maryland areas. These comments address numerous issues including many technical issues that are being considered. Each issue will be numbered with a header to better organize these comments.

**1. Low Power FM, Ownership and Need for Service**

Europa & Fitzgerald generally supports a new Low Power FM service, as long as the ownership of this service is not prohibited by current attributable FCC station Licensees. Granted, some ownership prohibitions would need to be factored into this proposed service. One ownership proposal that need be considered is a national ownership cap which would count both low power FM's and any currently held, attributable full power AM and FM stations. Any one owner should only be allowed to own up to 24 Low Power FM's. This number would be lowered by the number of full power commercial or non-commercial stations

one owner has. A current radio licensee who holds 24 or more commercial or non-commercial FM or AM licenses would not be eligible to own any low power FM's unless they dropped their numbers below 24 full power stations. An additional ownership prohibition should be that no current FM or AM licensee can have its primary service contour of a currently owned station overlap the primary service contour of a co-owned Low Power FM. An example of this would be a station owner who holds a Class A FM station and wishes to operate a Low Power FM station 40 miles away, the Class A FM station's 60 dBu contour could not overlap the Low Power FM's 60 dBu contour, in all likelihood, the Class A FM station owner would be able to operate the Low Power FM. Some of the low power proposals suggest that low power FM's owners be required to live within a certain distance of a low power FM, this idea should be dismissed as it would likely be unenforceable and difficult to police. Europa & Fitzgerald states here again that it is in support of a Low Power FM service, as long as current FCC licensees could have some limited opportunity to own stations in this class, Europa and Fitzgerald DO NOT support this Low Power FM proposal if it precludes current licensees from owning stations in this new class.

**2. Low Power FM, Class of Service**

A new Low Power FM service should NOT be considered a primary service, it must be designated as a secondary service. If it were a primary service it would be no more than a new Class A service. In 1989 the FCC recognized that Class A stations were having problems and increased their power from 3 to 6 KW. Designating Low Power FM's as primary would put them in the same predicament as 3 KW Class A stations were stuck in before 1989. Also, designating Low Power FM's as primary might preclude the allotment of new Primary FM's

that would provide improved service. The FCC in the early 1990's improved the FM translator Class of auxiliary stations by designating translators as "fill-in" or "outside area" translators. The FCC should formally designate all secondary service stations as either Secondary Level I or Secondary Level II. Level I secondary stations would include all "fill-in" translators, FM Booster stations, "white area, outside area" translators, translators rebroadcasting National Public Radio affiliates, and Low Power FM stations with greater than 10 watts ERP. These "white area, outside area" translators are translators outside the primary coverage area of their respective stations that provide the only aural service to a specific area. All "outside area" translators not either in a "white area" or not rebroadcasting National Public Radio affiliates would be considered Secondary Level II stations. Class D FM stations should also be considered Secondary Level II stations. Also, any Low Power FM stations with 10 watts of ERP or less (micro-radio) should also be considered Secondary Level II stations.

**3. Low Power FM, Protection of FM Translators**

The Commission in its original Rulemaking proposal for Low Power FM asked whether or not current FM translators should be protected from new stations created under a new Low Power Class of FM. The Commission SHOULD protect currently existing "fill-in" translators, "white area, outside area" translators, and translators rebroadcasting National Public Radio affiliates. These translators are important to the survival of their primary stations and also provide a type of service often difficult to replace in an area. Europa Communications, Inc. notes here its use of two "fill-in" translators in Elmira and Corning, NY. Because of the mountainous terrain in this area many locations within the primary service contour of Europa Communication's WPHD are shadowed and have weak or multi-pathed sounding signals. The use of these two "fill-in" translators fills in these signal holes. Based on the Europa & Fitzgerald proposal in

paragraph 2, any new Low Power FM service would be even in status with "fill-in" translators thus protecting them from being bumped off air. At the very least the Commission should grandfather all currently existing "fill-in" translators, "white area, outside area" translators, and translators rebroadcasting National Public Radio against being bumped off-air by any new Low Power FM's.

**4. Low Power FM, Technical Standards**

Europa & Fitzgerald propose that any new Class of Low Power FM be designated as two classes only; Class I would operate using the same standards as Zone II FM translators, 47CFR74.1235(b)(2). Class II would operate with 10 watts ERP or less into a non-directional antenna system (similar to Class D FM stations). This Class I standard would provide 250 watts of ERP in many areas with power limitations at greater heights. These heights and associated power limitations should be based on the same table used in 47CFR74.1235(b)(2) and the use of 12 radials with an associated maximum power on any one of these 12 radials. Directional Antennas should be allowed using the identical standards as used with FM translators. By making the Technical standards of Class I of these Low power stations the same as FM translators in Zone II, much less confusion will be created over these standards. The technical standards used for FM translators in Zone II represent a known, simple, easy standard that has proven to be technically successful as a way to base standards for a class of stations. Class II of this low power proposal is reserved for micro-radio stations of 10 watts or less. These would include special and sporting event stations.

**5. Low Power FM, Spacing Standards**

In the rule making proposal suggesting the creation of a Low Power FM service, the idea of eliminating the 400 kHz and 600 kHz frequency separation standard was suggested, this is a bad idea. The current FM allotment standards have been shown to work very well in most areas of the country. Some petitioners for Low Power FM have suggested that the 400 kHz and 600 kHz separation standards are not needed with Low Power FM because the interference area around a low power FM is so small. The problem is that even a small area could potentially cause harmful interference to many thousands of listeners if a Low Power FM had its antenna located in a densely populated residential area. The spacing standard for 400 kHz and 600 kHz frequency separations for commercial stations is 40 dBu down or for Class A, C, C1, C2, and C3 stations a 60 dBu protected contour not overlapping the 100 dBu interference contour. For a 250 watt Low Power FM at 100 meters HAAT this would be a 1.11 km radius interferening contour. For Class B stations this interference area is greater as the 94 dBu interference contour is considered. A Low Power FM with 250 watts at 100 meters HAAT would have a 1.61 km radius interfering contour. If a Low Power FM were to use an antenna site in a densely polulated area, it could cause grave interference. As an example, If a Low Power FM were to operate non-directionally at the coordinates of the Empire State Building in New York City (40-44-54 N. Lat., 73-59-10 W. Long.) at a HAAT of 100 meters with 250 watts ERP, 161,450 persons in that 94 dBu interference contour to any 400 kHz or 600 kHz spaced Class B station would receive interference and a loss of those persons in their coverage area. If a Low Power FM in this example were operating on 94.3 Mhz, then FM station WFME, Newark, NJ would lose 161,450 listeners to interference caused by this new Low Power FM. A solution does exist to this problem. The FM translator rules in

47CFR74.1204(d) allow for FM translators to cause interference so long as that interference is in an sparsely populated or unpopulated area or over water. The translator mentioned on 94.3 mHz at the Empire State Building could actually be built in such a way as to not cause interference to WFME as long as its transmitter site were built on the opposite side of the Hudson River in New Jersey and then were to use a directional antenna to eliminate any interference in New Jersey with its power beam focused toward New York City from across the Hudson River. Translator Licensees have found many clever ways to eliminate interference to primary stations by many different means using the rule in 47CFR74.1204(d). Europa & Fitzgerald propose that any new Low Power Class of FM stations be required to have some sort of minimum separation standard with respect to 400 kHz and 600 kHz frequency separation to all Primary and Level I Secondary stations. These minimum spacings need be based on the current commercial standards of 40 dBu for 400 kHz and 600 kHz frequency separations. A special rule should be included with the new rules for Low Power FM stations similar to 47CFR74.1204(d), applicable only to the 400 kHz and 600 kHz frequency separations, that would allow Low Power FM stations to short space Primary or Level I Secondary stations that are 400 kHz or 600 kHz from the frequency of any proposed Low Power FM station upon a showing that the proposed interference area would contain no populated areas or populated areas of very small numbers (less than 500 persons). Requiring a minimum separation standard for 400 kHz and 600 kHz frequency separations will continue to maintain the integrity of the FM band; allowing the use of a rule similar to 47 CFR74.1204(d) would give enough latitude without compromising the integrity of the band to Low Power FM proposals in congested signal areas such as large cities. This 400 kHz and 600 kHz plan seems to be a good compromise to various plans that have been proposed for low power FM.

**6. Low Power FM, Commercial or Non-Commercial**

Any new Low Power FM service should provide both Commercial and Non-Commercial facilities. Any Low Power FM allotted to the reserved FM band should be required to operate as a non-commercial station. Low Power FM stations allotted to the non-reserved area of the FM band should have the option of operating as a commercial or non-commercial station. Petitioners willing to operate a new Low Power FM as a non-commercial station should be considered first and above those proposing to operate as a commercial station.

**7. Low Power FM, Fill-In for AM Daytimers**

Any AM daytime-only station or any AM station with a nighttime authorization of less than 100 watts should be allowed to own one Low Power FM station within its Community of License or within 5 km of the coordinates of its AM station's antenna. This Low Power FM should be required to simulcast the AM station 100% of the time and be allowed to operate on a 24 hour schedule. Applications by AM daytimers should be given extra credit when seeking these frequencies if involved in an auction.

**8. Low Power FM, Other Technical Issues**

Low Power FM stations should be required to conform to the same standards as stations in the FM translator service. Additionally, Low Power FM stations should be required to have main studios just as primary stations but with less staffing requirements. Low Power FM stations with 10 or less watts should not be required to have a main studio and should not be required to observe a minimum schedule of operations. Low Power FM stations should have their own call signs with the designation LF as a suffix to a standard four letter set of call letters. Low Power FM stations should be allowed to be rebroadcast by FM translator stations or by Primary FM stations. Low Power FM stations should be restricted to rebroadcasting a Primary

Station for a maximum of 25% of its on air broadcast schedule. Low Power FM stations should be allowed to rebroadcast other Low Power FM stations (or a translator rebroadcasting a Low Power FM station) up to 100% of their schedules.

**IN CONCLUSION**

**The Low Power FM service does have the potential to provide a much needed service to many areas of the country. Hopefully, some of the ideas expressed in these comments will prove useful in setting up a new Low Power FM class with the hopes that this new FM class will be distributed fairly and equitably without compromising the current FM technical standards that have worked so well for so long.**

**Respectfully submitted,**

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