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In the Matter of

**Creation of a Low  
Power Radio Service**

**MM Docket No. 99-25**

## COMMENTS OF

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1. I file these comments on August 2, 1999, in the FCC's Notice of Proposed Rule Making regarding Creation of a Low Power Radio Service, MM Docket No. 99-25.

2. The Commission's proposal to establish low power broadcasting stations is most welcome. I strongly endorse the proposal to create the proposed 100 watt (FM100) class of service and encourage the Commission to proceed with the idea of creating 1-10 watt FM "microradio" class. I suggest the proposed 1000 watt (FM1000) class of service be limited to non-metropolitan areas in which there is no FM band crowding.

3. These comments are not only based on the interest of a member of the public who would hope to benefit as a listener to stations in the LPFM service and perhaps become involved in providing such a broadcast service, but also from my experience of 14 years in commercial broadcasting, (news), and five years involvement with college radio ( news and management) as a university student.

4. Relaxation of the regulations regarding ownership and operation of broadcast stations and consolidation of ownership within the industry has reduced the diversity of speech available

over the airwaves. The proposed new low power services with ownership restrictions, does create an opportunity to expand the voices available to the public. Few alternatives are quite as attractive to those who would be interested in adding additional channels of communication to the public. As noted by the Notice of Proposed Rule Making (NPRM) in this case, the Internet does not offer the coverage an over-the-air broadcast facility does. A combination of a low power FM broadcast station and, when economically feasible, simulcasting that station over the Internet is an excellent means of establishing a potential audience for a broadcaster, an audience which would be primarily within the FM broadcast area but not necessarily limited to it. The LPFM services proposed in this NPRM enhances the viability of Internet broadcasting, and vice versa, rather than either being a substitute for the other type of service.

5. The goal of increasing diversity of programming and ownership opportunities would be best met if the Commission restricted the proposed FM1000 class of service to smaller isolated population areas. While such locations might be available for existing classes of service, the possibility of building and operating the FM1000 at lower cost, as recognized by the Commission in its suggesting these stations could be a means of people entering the industry, make the FM1000 viable for such communities. However, because FM1000 stations in larger population areas would further reduce the possibility of FM100 and microradio stations, I strongly oppose adoption of any rules permitting the higher power stations in such areas. If the Commission deems FM1000 a desirable service, I ask that members regulate such service in such a way as to prevent licensing of those stations in areas in which substantial FM service already exists and in which the FM1000 would further substantially reduce the availability of the lower power alternatives.

6. If the Commission should adopt my suggestion that FM1000 class stations be limited to smaller isolated population areas, without further modification that would leave the current proposal without new primary services in more populous areas. Despite the anticipated lower cost of building and operating the FM100 stations, interest in those by responsible parties may be substantially reduced by the risk should an existing primary service move antenna locations or increase power. My personal interest and those of my colleagues in the possibility of pursuing a FM100 license would be considerably reduced, perhaps entirely eliminated, by that risk. Although LP100 stations, by effective power limitations, could not challenge regular broadcast stations for a large percentage of the larger station's potential audience, we can conceive of proposed low power FM stations actually gaining a substantial audience within a given community and the higher power station applying for higher power or transmitter relocation for the purpose of eliminating the LPFM station. The purpose of such an application by a higher power station would likely be hidden by some other alleged reason for the modification. Therefore, we strongly encourage the

Commission, in conjunction with our proposal that FM1000 stations be limited to isolated less populous areas, to amend the proposal so as to make FM100 stations primary services or otherwise protect them from possible expense and/or demise because of any applications of higher powered broadcast services. However, in advocating the adoption of the microradio class of service, we do concur that class should be considered a secondary service.

7. It seems reasonable and consistent with law that the Commission apply the restrictions on ownership and type of broadcasts to those stations applying to operate in the band currently reserved for non-commercial educational broadcasting. That is not to say that the existing stations or the Commission's guidelines on what is non-commercial prevents commercial broadcasting within that band today. In fact, the restriction is now so narrowly drawn, the average listener would find it very difficult to differentiate commercial spots on regular broadcast stations from some of the sponsorship announcements aired on so-called non-commercial educational stations. In fact, the same could be said for a considerable amount of the programming. Be that as it may, as long as Congress and the Commission maintain a separate area for allegedly non-commercial educational broadcasting, it seems appropriate such restrictions be applied to the proposed new classes of low power FM services which are located in that reserved portion of the band.

8. For both economic viability and for other reasons, I encourage the commission not to restrict commercial programming or for profit ownership of any LPFM stations outside the reserved non-commercial education channels. While the LPFM stations are not likely to be a good economic investment in terms of financial returns, the ability to defray the costs of such services through broadcast advertising certainly increases the opportunity for participation in station ownership. Many more people could reasonably consider attempting to build and operate a LPFM station if the possibility of its producing revenue through commercial spots and programming is available. The Commission's decision in this regard will have a substantial impact on just how much diversity of voices and ownership is provided through LPFM.

9. Another important argument for allowing LPFM stations not in the reserved educational channels to be commercial is the educational opportunities for students of broadcasting. In the early 1970's I was a student at two universities which maintained carrier-current radio stations for the students, both as a student voice and as a laboratory for students of broadcasting and journalism. For those who took the study seriously, it was a highly valuable learning environment, as well as an enjoyable free speech pursuit. One of the important elements to which we students were exposed was broadcast sales, spot scheduling, and other aspects of the commercial broadcast environment. As managers of the stations, students had to consider the balance between appealing to a greater audience and other factors.

Decisions such as these in a learning environment increase chances for successful broadcast managers of the future. As station manager, I opposed one university's proposal to purchase an existing educational FM license because once the station was converted to that service, I knew that both the important sales and traffic operations experiences for students would be eliminated, and because the station would broadcast to a potential audience far beyond the university's immediate community, student experience in management and making the top decisions would be reduced or eliminated. Most, perhaps all, of my fellow students supported the proposal to go broadcast FM so that they could be heard by more people. The university's purchase of the FM station resulted in the demise of the carrier current operation and the opportunities for major management decisions and commercial broadcast exposure for the students. Commercial microradio stations of 1 to 10 watts would be an excellent opportunity for students to recapture the training opportunities the old carrier current systems provided, with the wonderful benefit of a clearer, stronger signal that could be heard off campus but still restricted to the institution's immediate community. So I urge the Commission, for these reasons, not to restrict any LPFM stations, outside of the reserved educational band, from commercial broadcasting.

10. I believe all LPFM stations should be able to use radio broadcast auxiliary services under the same regulations as other broadcasters.

11. As referenced above, I strongly support the concept and urge the Commission to proceed with a proposal to create "microradio" stations. One reason is that which was cited above, possible radio stations run entirely by broadcasting and/or journalism students at colleges and universities for the purpose of giving them a full exposure to the field of broadcasting and the responsibilities it includes. In connection with this type of student station, or separate from the educational aspect, microradio is ideal for a campus community. There are likely many other identifiable, relatively small communities for which microradio would be an excellent communication tool. Again, I encourage the Commission to proceed with this idea and to implement it without the non-commercial restriction, except for stations locating in the previously restricted non-commercial portion of the FM broadcast band.

12. In connection with my strong support for microradio stations, I ask the Commission to proceed with a proposal that would include stations with up to 10 watts of power. In addition, I think such stations should be separated so that they would not cause interference within other microradio stations' primary coverage area.

13. In regard to the power and antenna height proposals for LP1000 and LP100 stations, I find the Commission's proposal reasonable, with the one proviso previously mentioned that I very much believe for the reason stated, that the LP1000 stations should be limited to isolated communities not in an urban setting. I also find no fault with the Commission's proposal to use minimum spacing requirements for separation between same channel and near channel stations as the criteria rather than the costly engineering studies that would otherwise be required.

14. Just to insure that this is clear, I believe that both of the proposed services, and any forthcoming microradio service, should be open to commercial service, except for those stations locating within the already non-commercial restricted portion of the FM band.

15. Although it is a difficult issue, I would conclude that granting LP100 station licenses based on a predicted level of interference in up to 10% of their service area would be worthwhile. The benefit of allowing more LP100 stations would seem to outweigh the objections to such interference.

16. In support of a viable LP100 service, I hope the Commission will, as outlined elsewhere in this comment, make this a primary service. However, should that not be the case, it is important that the LP100 stations be primary insofar as any future translator or booster services. Translator or booster services existing at the time of the NPRM should be grandfathered as long as they remain active so as to be primary to any new LP100 stations. The issue of translator or booster rebroadcasts of LP100 stations themselves is not an easy one, either. Ideally, the LP100 stations should use locally originated programming. However, there might be some value in allowing translator or booster rebroadcasts.

17. I concur with the Commission's tentative finding that it would be better not to extend reduced second- and third-adjacent channel protection standards to full power FM stations for the reasons cited in the NPRM.

18. Although I will not draw a conclusion about the possibility of reduced bandwidth low power FM operation, I will say that the prospect is troubling. In this one regard, I am inclined to think that the potential increase in the number of LPFM stations that could result because of a narrower bandwidth is not worth the detrimental effects on the quality of the signal. Likewise, I am inclined to believe that subcarrier operations should not be prohibited.

19. The Commission's initial findings that strict cross-ownership restrictions as outlined in the NPRM are warranted, with one exception. A school which holds a full power broadcast license should be able to license a microradio station if it demonstrates such a station would be for the direct operation and use by the students and not the school. That is to say, that the microradio station could be licensed to a school either as a voice for the students and/or as a broadcast training facility for students. Further, I do not think it is in the many interests that would be served by the current proposal to allow existing AM station ownership to apply for an LPFM station contingent on divestiture of the AM facility if their application is granted. To allow existing AM station ownership to pursue the LPFM stations would put other would-be novice broadcasters at several disadvantages, from technical issues to know-how in working with the Commission, and lead to less diversity than is otherwise possible through the current proposal. Should AM stations be able to pursue LPFM licenses, it seems quite clear

that many of those who might lose to the AM station would not then have the financial or technical means to attempt to become owners of the divested AM facility. I urge the commission not to allow AM stations to apply for LPFM licenses. The Commission's proposal to prohibit any LPFM licensee from owning a second such station in the same community is well conceived and I advocate its adoption. For the purpose of LPFM ownership restrictions, it seems reasonable to define a community such that signal overlap of commonly owned stations is not permitted. It might be reasonable to extend the definition or restriction such that a common owner not only be prohibited from owning stations with a signal overlap, but be restricted from owning stations that have adjacent primary coverage areas, that is to say, that a common owner could own stations only at locations such that another station separately owned could be located between the two commonly owned stations, said intervening broadcast area be defined as that generated by a station operating at the highest power of either of the two co-owned stations.

20. As in my case and in others of which I know, there should be no fear of cross-ownership restrictions having an adverse affect on LPFM. One of the great aspects to the LPFM proposal is the possibility that it will allow more diversity with participation from many people, including those without previous broadcasting experience. On the other hand, there are, others who have broadcasting experience as employees but not as owners who could contribute substantially to the success of LPFM, contrary to the argument in the dissent by Commissioner Harold W. Furchtgott-Roth. Nevertheless, as with any business endeavor, the Commission should expect failures in the LPFM business, and because it appeals to those with less financial resources, perhaps more failures than that to which the Commission is accustomed in the broadcast services. This is not a reason to relax any cross-ownership restriction. This is a rare opportunity to open additional channels of communication to the people at large, not just those with substantial financial resources and/or broadcast experience. Likewise, while there may be worthy reasons to allow infrequently published newspapers (weeklies) to own LPFM stations, the substitution of an established media outlet for a possible new voice as the operator of a new LPFM station seems contrary to some of the most compelling attributes of the current proposal. The Commission should consider cross-ownership restrictions to include newspapers, cable operators, and other mass media outlets, with the exception of Internet broadcasting. Although Internet broadcasting has not be among those so restricted, an argument could be made for including such broadcasters in cross-ownership restrictions. I believe the Commission would have no difficulty in seeing the unique position of the Internet as a broadcast medium and would never consider it to be a cross-ownership issue. As a preemptive argument, I ask the Commission not to consider, now or in the future, Internet broadcasting or publishing in connection with cross-ownership restrictions.

21. I believe cooperative agreements between LPFM stations should be prohibited. Again, this goes to the issue of increased diversification. Nothing should prevent an LPFM station from taking network services, but cooperative agreements in which one licensee effectively runs another licensee's facility is inappropriate for these classes of stations proposed in the NPRM.

22. For the same reasons cited above, the Commission is urged to implement national ownership restrictions. A ten station

limit seems reasonable.

23. The reasons cited in the NPRM not to impose residency restrictions on ownership of LPFM are appropriate.

24. Insofar as character requirements for ownership of LPFM stations as it relates to those who may have engaged in illegal broadcasting previously, I strongly believe that the benefits conferred with the license of any LPFM station should not be granted to such violators. I see no reasonable rationale to propose that stopping such illegal activity after notification should be a mitigating factor if the illegality was the result of an unlicensed broadcast facility. In other words, if a person broadcasts at an illegal power without license, their character should be considered unacceptable as a licensee of any broadcast station in the future. To extend this further, any willfully illegal operation of any communication radio frequency device, for example, Citizen's Band radio transmitters or amateur radio transmitters, should equally disqualify the operator from ever holding a broadcast license of any class.

25. I concur with the Commission's tentative decision not to impose local origination requirements on LPFM stations and to prohibit rebroadcast of programming of a full power station. However, I do think the local origination issue should be reviewed several years after implementation of LPFM to see if the assumptions we make as to local programming are correct.

26. At this time, it would seem the Commission's ideas contained in the NPRM are reasonable as they regard public interest programming requirements. However, I would encourage the Commission to adopt the requirements that all LPFM stations serve the public interest, convenience, and necessity, but without monitoring for LP100 and microradio stations. At some later date, should indications be that further study is warranted, the Commission could revisit this issue to determine if LPFM might not be well serving in the interest, convenience and needs of the community and, if not, adopt further requirements.

27. While the Commission has invited comment on essentially each rule in Part 73 and whether or not it should apply to the proposed class of stations, let me make a generalized statement instead. The Commission's apparent view of an LP1000 station as being similar to full power stations is warranted, and as such, Part 73 rules should apply. On the other hand, LP100 and microradio are distinctly different, appeal to a wider segment of the public, are within financial reach of a larger segment of the public, and therefore are quite appealing in their potential to increase the diversity of voices broadcast. Given this worthy goal and the special nature of the LP100 and microradio stations, and the likelihood that licensees of a significant portion of these stations may not have the financial resources to administer the procedures to comply with many Part 73 rules, I would suggest the Commission exclude them from all but the most basic and inexpensive requirements. The example cited in a Commission's question about location of the main

studio is an excellent example of a rule that probably should not apply to LP100 and microradio station.

28. There is no reason to differentiate LPFM stations of any class from the political programming rules.

29. Clearly to operate in the public interest, LPFM stations have to be on the air. Again, treating LP1000 stations in a similar manner to full power stations is a reasonable approach. For the LP100 and microradio stations, the cost of attempts to enforce minimum operating hours requirements poses a dilemma. Perhaps it would be best to specify minimum operating hours for LP100 stations and to analyze compliance a few years after they begin broadcasting to see if the requirement is generally being met. If not, then the Commission has alternatives immediately available, from changing the requirement to actions against licensees.

30. The proposed construction period requirements for the classes of LPFM stations is endorsed.

31. The Commission's NPRM raises one proposal of high concern. That is the suggestion that LP100 and microradio station licenses might be issued as non-renewable grants. As an interested party as a potential owner of such a LPFM station, I dispute the assumption that such a non-renewable license would not be a disincentive to pursue a license. It is definitely a disincentive of great weight. Further, the non-renewable license potentially deprives the public of the continuation of a valuable service, which may or may not be profitable for the operator. I cannot be more vociferous in my opposition to non-renewable licenses. If the Commission should adopt the ideas in this comment, restrictions as to cross-ownership, limiting LP1000 stations to isolated communities (rural), and the like, will allow for more LP100 and microradio stations and therefore serve the worthy interest of diversity so well envisioned by these new LPFM services. Although existing law, as referenced in the NPRM, seems to give weight to arguments against non-renewable licenses, it should not have to be a legal issue. Given the opportunity for diversity inherent in a LPFM service, especially with the suggestions made in this comment, there is no need for prohibiting license renewals without cause. I plead with the Commission not to adopt such non-renewable license regulations.

32. The NPRM suggestion regarding LP1000 stations and the Emergency Alert System (EAS) are appropriate. Insofar as LP100 and microradio, EAS compliance is inappropriate for financial and other reasons. However, there may be a real need to insure public notification of emergency situations through these lower powered stations. Therefore, it might be worthy of consideration to require that a station be able to rebroadcast emergency weather and national emergency messages as carried on inexpensive weather radios. Because such stations may not be attended at all times, it might further be a requirement that such rebroadcasts be

automatic or that a responsible party, the operator, whether that operator is in actual attendance or not, be in a position to receive such NOAA weather radio alerts and to cause them to be rebroadcast in a timely manner. Transmission of emergency information is perhaps one of the critical issues of public interest, convenience, and necessity, and I do not think that responsibility should be avoided by any LPFM station.

33. It would be my assumption that the public, familiar with traditional broadcast call signs, would be best served if LPFM stations were required to use similar identification.

34. The Commission's discussion about the possibility of requiring Electronic Filing for LPFM license applications is both rational and alarming. As noted in the NPRM, Electronic Filing is not without considerable pitfalls from a technological point of view. It is not without considerable concern that the thought of disallowing hardcopy filings is received. To suggest that a citizen cannot petition his/her government in traditional written form for benefits being administered by that government is disturbing. Since LPFM licenses are likely to appeal to a wide variety of people with a wide variety of financial resources, technical knowledge, etc., requiring electronic filing would be an even more restrictive rule than it would be on a more well defined and financially resourceful group, such as current licensees. However, the Commission makes a strong argument as to the possibility of not being able to provide the opportunities for this service at all if it is overwhelmed with hardcopy applications. The possibility of "instant" analysis of an application is also quite appealing. In the overall scheme of things, one would hope that less than highly significant matters such as licensing LPFM stations, would not raise major concerns about the rights of citizens to engage their government. The concerns are real, however, and apply in this case. It is with doubts and hesitation that I endorse the Commission's suggestions to require electronic filing. However, I would hope the Commission would endeavor to educate the public significantly about the availability and means to file electronically before the application period began.

35. The technological aspects of Electronic Filing are troubling. Expectations of an onslaught of applications which would overwhelm any such system are probably accurate. It is unlikely that either a first come, first served or a windowed application methodology will overcome this problem. What the Commission faces, then, is either an inherently unfair process in which applications are not well received through no fault of the applicant when the Commission's systems fail, or an overwhelming burden from hardcopy applications. Of all the issues raised in the NPRM, the application process is perhaps the most troubling. It may be the only method that is likely to work is one in which applications are taken on a regional basis, with the hope that such a procedure would reduce the data load so that the Electronic Filing system could cope with it. It is with this

thought that this commenter, with reservations, suggests a short windowed application period for individual regions in which a proposed LPFM facility would be located. If first come, first served methods are used, an applicant which files earliest should be granted a license for any frequencies available in the desired community for the service sought. In other words, an applicant should be granted a license on another frequency if the specified frequency is not available because of a mutually exclusive application filed earlier, if a free frequency is available regardless if any applicant for that alternative frequency filed later.

36. The Commission and earlier petitioners are right that an auction to resolve mutually exclusive applications seems contrary to a major benefit of this proposal, that is, a wide participation by the public in LPFM to diversity broadcast voices. If mutually exclusive applications can be reduced and therefore auctions avoided by the first come, first served method of licensing, then I would endorse that with the provision as cited above that an applicant should be given precedence over any later filers for any frequency in the same service should the specified frequency be already taken.

37. In the dissenting statement of Commissioner Harold W. Furchtgott-Roth, an argument is made that there are numerous paths for diverse voices to be heard without implementation of LPFM. It is argued that broadcasting has become a less powerful medium in the face of competition from other media. While this is true to some extent, there can be little doubt that broadcasting remains one of the most powerful tools for political debate and persuasion. An argument to diminish the importance of over-the-air broadcasting in our democracy is, in my opinion, premature at the very least. Therefore, contrary to the dissenting opinion, LPFM services would be a significant contribution to the diversity of voices.

38. It is with great appreciation for the Commission's decision to propose LPFM and with high respect for our form of government that allows a citizen to voice his comments before those who make the decisions, that I ask the Commission to adopt the comments herein and to create the Low Power FM service, including the microradio service. Thank you.

Submitted by:



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