

**Before The  
Federal Communications Commission  
Washington, D.C.**

In the Matter of ) MM Docket No. 99-25  
Creation of a Low Power ) RM-9208  
Radio Service ) RM-9242

Comments of du Treil, Lundin & Rackley, Inc.

du Treil, Lundin & Rackley, Inc. hereby submits the following comments in response to the Notice of Proposed Rulemaking in the above referenced proceeding. The firm's history includes representation of broadcast station licensees dating back to 1941.

**INTRODUCTION**

The FCC has proposed to create a low power radio service in the FM band and to modify the adjacent-channel interference protection standards in order to allow the creation of as many new low-power stations as possible. Under this proposal, some of the new stations will operate with low power on a secondary basis (protecting full-service stations from interference although not entitled to interference protection from them) and some, operating with 1000 watts, will be entitled to interference protection from other stations.

We here at du Treil, Lundin & Rackley, Inc. see that a number of important technical issues are raised by this proposal. We have identified and developed positions on what we believe to be the most important ones that we are qualified to address.

**POINT 1 – EROSION OF EXISTING SERVICE**

It must be remembered that the presently licensed stations now provide meaningful service beyond their normally-protected contours. The present allocation system is based on keeping stations spaced at minimum distances from one another to

avoid interference to their normally-protected signal contours at the tangent points between them. Since the number of stations is limited by the need to be fully-spaced with other stations, there are large areas located outside of these normally-protected contours and away from tangent points that receive interference-free radio service. The addition of a large number of low-power stations within the FM band will erode service within these areas and significantly reduce the ability of presently licensed FM stations to provide interference-free service to the listening public.

#### POINT 2 – LPFM IS NOT LIKE LPTV

Approximately 20 years ago, the FCC created the Low Power Television (“LPTV”) service. It became possible for smaller communities to have their own LPTV stations that fit in between the channels of the established full-service television stations. At first glance, it might appear that the FCC is now simply trying to apply this principle to the FM radio band. The limited success of LPTV in bringing local television service to smaller communities might in some way have inspired the LPFM “movement.”

A clear distinction between television and FM radio must be understood here. Prior to the creation of LPTV, there were approximately 1,000 television stations on the air in the United States. Their channels and communities had been assigned using standards that assumed that all of them would be maximum service facilities. They were licensed mainly to larger cities. In the case of FM, there are approximately 7,500 stations on the air today. The number is large because the Rules have provided for local community radio service for almost four decades – that is why we have so many different classes of FM stations that employ a wide range of power and antenna height to serve different size areas. Any argument that we need to create a new LPFM service in order to have local, community service is flawed.

#### POINT 3 – ADJACENT-CHANNEL REQUIREMENTS AND FM STATIONS

With properly interpreted test data, we believe it will likely be possible to modify the third-adjacent and, possibly, even the second-adjacent protection requirements to create more “space” for locating transmitter sites. It would, in our opinion, be a travesty of justice for such a revision of the protection requirements to be made for the purpose of fitting new LPFM stations into the band without giving existing, licensed stations the opportunity to modify their facilities using the new standards. We believe that many existing stations could benefit from being able to have wider areas within which their transmitter sites could be relocated and, in some cases, upgrade to higher power.

**POINT 4 – ALL LPFM STATIONS SHOULD BE SECONDARY**

If a new LPFM service is ultimately created, we believe that the stations authorized for it should all operate on a secondary basis (protecting full-service stations from interference although not entitled to interference protection from them) relative to the licensed stations within the band. We believe that the present classification scheme provides enough options for protected, licensed stations (ranging from 6,000 to 100,000 watts) to make the creation of a new 1,000 watt class of protected stations unnecessary. It was not long ago that the licensees of 3,000 watt Class A stations convinced the FCC to increase their power to 6,000 watts so that they might achieve coverage closer to on “par” with the higher classes of licensed FM stations. It makes no sense to now create a new 1,000 watt substandard class of licensed FM station; the preclusive impact of new protected stations within the band would unduly burden existing licensed stations that need to change their transmitter sites without providing the level of service expected of licensed stations.

**POINT 5 – LPFM STATIONS SHOULD MEET TRANSLATOR RULES**

The present Rules contain provisions for establishing secondary facilities for re-broadcasting programs of licensed stations, known as “translators.” These Rules were enacted using the FCC’s rulemaking process to carefully consider all pertinent interference protection issues. They have stood the test of time and may be updated to reflect whatever relaxation of the adjacent-channel protection requirements may be found to be in order.

We believe that, if a new LPFM service is to be created, it should use the same technical Rules as translators. This is the principle employed in the television service, where LPTV stations that originate programming are subject to the same allocation standards as TV translators. The Rules may be modified, if indicated, but the same rules for maximum power and interference protection should apply to both translators and LPFM stations. The same application process for demonstrating that no interference will be caused to licensed stations should be used for both, as well.

**POINT 6 – TOTAL REVISION OF ALLOCATION PROCESS**

If the FCC’s purpose is to maximize spectrum utilization within the FM band, then it may wish to explore contour overlap standards for all FM stations, both primary and secondary. At the present, FM translators and licensed stations within the noncommercial educational portion of the FM band are allocated on the basis of

overlap between service and interfering field strength contours while commercial FM stations are allotted on the basis of distance separations. The distance separation method was established in the early 1960s to streamline the process of applying for commercial FM stations and, thus, encourage development of what was then an underutilized block of spectrum. The FM band is no longer an underutilized block of spectrum. We suggest that the distance separation method of allotting commercial FM channels may have outlived its usefulness and, indeed, now may stand in the way of efficient spectrum utilization since the terrain surrounding many stations departs considerably from that assumed in establishing the present separation requirements.

We believe that, with overlap standards appropriate to protect the service areas of licensed stations, the same allocation standards could be used for all broadcasters operating within the FM band – commercial stations, noncommercial educational stations, translators, and, if approved, LPFM stations. The potential impact of new LPFM stations on the service areas of existing stations must be considered in the process, however. If the FCC is likely to ever consider converting the commercial FM band to the contour overlap allocation scheme, that possibility should be considered in the context of the LPFM rulemaking.

## CONCLUSION

We hope that our observations and suggestions are useful to the Commission in this rulemaking process. We ask that they be given serious consideration.

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