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July 27, 1999

To: Office of the Secretary  
Federal Communications Commission  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Comments of Bayard H. Walters on the  
Proposal for Low Power FM Radio (LPFM)  
MM Docket # 99-25 RM 9208 RM 9242



Dear Commissioners and FCC Staff:

**Summary:** The existing technical rules permit additional applicants to build new FM stations in virtually any location in the United States, either as a non-commercial/educational FM or a commercial FM. No changes in the technical FM rules should be permitted to further degrade the superior broadcast service that the United States now has. The number of FM facilities should be maximized within the existing technical rules. **This will maintain the technical integrity of the existing system and grant opportunity for many new applicants, including minorities and community groups**

**Background:** I personally have built from scratch (ie: new FCC construction permit <CP>) ten new radio stations, plus three translator facilities. Nine of those are FM stations (plus the three translators) that have been built in the last ten years. Some were CPs bought when the original recipient decided not to build. The first station (an AM) was built as an "AM daytime only station" in 1972 after a three year hearing. In addition to the new station CPs, I have personally applied for and received FCC CP's for nine other FM facilities to up-grade to higher power. I also filed the original FCC Rulemaking that led to the establishment of Class C-3 FM stations. There are many opportunities to continue to apply for and build new stations throughout the country

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under the existing rules. It is much easier to do today than it was when I made my first application thirty years ago (1969).

**How Can This Be Done?:** The existing non-commercial FM rules permit non-profit organizations (ie: special interest groups) to own/operate radio stations in the non-commercial band at virtually any power. In the past, FCC rules permitted stations at powers as low as ten watts (I started on a ten watt non-commercial college station at DePauw University). The FCC could accommodate many new applicants (Some in large cities and many in virtually every smaller community) by authorizing 1, 3, 5 or 10 watt non-commercial stations on the non-commercial band. No auctions are required and special interest groups can be easily accommodated. Grants would be given to the “lowest power application that serves the most people”. On the commercial band, existing technical rules can be maintained and new entrants can apply and compete for new CPs through the auction process. New owners (non-owners currently) receive a 35% bidding preference over existing owners in the auction process. This is a significant financial incentive that gives new non-owner applicants a significant advantage in any application process. Should the FCC deem it necessary, a new 1,000 watt FM Class can be established, but that Class should be required to maintain current FCC technical and interference specifications and all rules applicable to a commercial broadcast station.

**Discussion:** The above outline meets all of the FCC’s stated objectives in the LPFM proposal. Churches, special interest, minority, and neighborhood groups can be accommodated with FM facilities on the non-commercial band. Those non-owner

broadcast applicants who want to be commercial broadcasters can apply under the existing rules for the many technical facilities still available in various parts of the U.S. (as 100, 50, 25 or 6KW FMs, or a new 1KW FM class) and receive a 35% bidding credit in the process. The above also insures the technical integrity of the commercial FM spectrum and its service to the United States, plus improvements such as in-band/on channel (IBOC) digital that will come in the future.

**Comment:** As an existing broadcaster who has grown through FCC applications, I support the following:

- 1) The right of any U.S. citizen to apply for and receive an FM license consistent with the integrity of the existing technical rules and interference protections.
- 2) That the non-commercial FM band and rules were originally established to provide for the exact purposes that the FCC proposes for LPFM
- 3) That non-commercial stations should be required to be non-commercial and it should be enforced.
- 4) That FM digital (IBOC) should be encouraged and that no technical changes in FCC rules should be made that could possibly hinder that service..

**One Caveat:** Non-commercial FM stations are currently permitted to build translators without regard to their local coverage area. Thus a non-commercial FM in California can legally build a translator in New Jersey and feed it by satellite. This should not be permitted for any new non-commercial stations...and especially those in the low-power status. Commercial stations have different rules and can not own translators outside their local coverage area.

**Technical Comments:** The FCC proposes to reduce spacing requirements between 2<sup>nd</sup> and 3<sup>rd</sup> adjacent channel facilities and to reduce protections between facilities.

This is disaster to the FM system. I have experience with translators just outside our protected coverage area that have eliminated our ability to keep listeners in the translator's small coverage area. I have further experience with two 2<sup>nd</sup> adjacent channel 100,000 watt FMs canceling each other in a variety of locations on small table model radios (and some car radios) with ensuing complaints from listeners. Such table model radios are the norm in the U.S. and will not go away. (Note: A recent article in USA Today told of the poor reception on this type radio and said that the hotel industry will not do away with these radios as they are considered a clock). **Changes as proposed in the LPFM Proposal would create huge pockets of interference and the public in the end will be in an up-roar. Local radio/regional radio coverage will be destroyed and the public will be facing on FM in 20 years what has occurred to AM in the last 30 years. It will be a tragedy for the FCC to repeat on FM what has been permitted on AM. FM on the commercial band could begin to sound like the CB Band if interference protections are not maintained.**

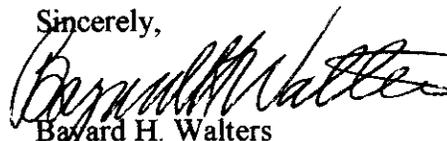
**Upsides/Downsides to My Thoughts.** The non-commercial band will become more crowded as it is used for exactly the purpose for which it was created. Low-power was contemplated for the non-commercial band when the rules were originally established. For the commercial band, if a 1,000 watt class is established we can expect a cycle like occurred in the early 80s through early 90s when the FCC established and implemented the **80 – 90 ruling**. Many stations were established. Some operators did

not build and sold. Others failed and the economics of the industry and community service were damaged, thus encouraging a consolidation like we are now experiencing. This will come ten to fifteen years down the road. The early up-side on the commercial band will be more stations (and assumed more diversity) in smaller communities around the country and possibly around and in some urban areas.

**Summary:** The FCC can accomplish what it proposes by using existing FCC rules and without changing its technical spacing protections. New power levels for stations in the non-commercial band can be approved (ie: 1, 3, 5 10, watt). In so doing the integrity of the FM spectrum will be maintained and there will be additional opportunity for diversity for churches, community groups, colleges, and others. If a 1,000 watt class of FMs is established in the commercial band (I do not believe it should be), there will be additional opportunity for non-owner applicants (ie: 35% bidding preference) to enter the business, but great financial risk to those who succeed in the bidding and can not operate a successful business. The desired objective of greater ownership diversity will not be obtained for the long run ( just as it was not obtained from 80 – 90 with the same stated objective).

If you have any questions, please call.

Sincerely,



Bayard H. Walters  
President