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July 29, 1999

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Office of the Secretary
TW - A306
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

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Enclosed are the Original plus 11 copies of the Formal Comments of Barry Broadcasting Company regarding MM Docket No. 99-25, RM-9208 & RM-9242.

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Before the

Federal Communications Commission

Washington D.C. 20554

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

Comments of Barry Broadcasting Company from the Perspective of a 3kW Class-A Broadcaster In Opposition to the Creation of a Low Power FM Radio Service

Barry Broadcasting Co. is licensee of WBCH-AM and WBCH-FM in Hastings, Michigan and is an independent family owned corporation. WBCH-FM is a Class-A station licensed for 3kW ERP / 100m HAAT on channel 261 and due to a short-spacing of 4.51 kilometers to a 3rd-adjacent Class-B station, is unable under the rules to improve to full 6kW facilities. WBCH's short-spacing also prevents another co-channel 3kW Class-A facility from obtaining a mutual power increase from 3kW to 6kW. WBCH-FM was authorized in 1968 and is the only local FM service in the small community of Hastings and the mostly rural County of Barry. For 31 years WBCH-FM has operated according to the rules and has faithfully provided programming that serves the public interest and need.

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Barry Broadcasting is strongly opposed to the creation of an LPFM service as proposed in the NPRM. If implemented the plan would threaten WBCH's ability to provide service to our broadcast area. 3kW Class-A stations are currently the "low power" facilities on the FM band, but they are not acknowledged in the NPRM. Many 3kW stations exist in small, rural communities where the greatest number of LPFM stations could be created. The NPRM fails to address the economic impact and interference issues with regard to existing 3kW stations (only 6kW reference Class-A facilities and other classes are mentioned). There is a large economic disparity between market sizes and the viability of current and proposed stations is affected to a different extent from the largest to smallest markets and should be considered.

LPFM service is not necessary to assure freedom of speech or other constitutional freedoms as some of its' supporters suggest. Individuals wishing to express their views or "have a voice" already have opportunities to broadcast to the public through public access cable, streaming audio on the internet, or by applying for a broadcast station license under the existing rules. Likewise, community groups, schools, churches and other organizations can apply for broadcast facilities in the reserved non-commercial band. While the proposed rulemaking relies on the many requests the Commission has received for establishment of an LPFM service, the NPRM does not establish a clear need for the service. Need should not be confused with convenience, and it is not the FCC's responsibility to guarantee that every American who wants one can have a commercial or non-commercial broadcast station -- only that they have equal opportunity to apply for or obtain one under the rules.

In regard to the issue of 3rd-adjacent and 2nd-adjacent channel interference, the Commission should apply the most technically sound criteria uniformly to all classes of FM broadcast facilities. It would be discriminatory to set forth a new, separate policy that disregards 3rd-adjacent or 2nd-adjacent channel interference caused by new LPFM's while still retaining the current standards for existing stations.

In 1989 the maximum power of Class-A's was increased from 3kW to 6kW but a blanket power increase for existing Class-A's was denied. The Commission decided not to impose involuntary loss of service area to other existing stations and the separation requirements were revised to maintain the previous level of protection. Furthermore, the 1996 Report and Order, MM Docket No. 96-120 allowed Pre-1964 Grandfathered Short-Spaced FM stations to modify their operating facilities without regard to 2nd and 3rd-adjacent channel spacing, but no relief was given to short-spaced stations authorized between 1964 and 1989.

3kW Class-A stations stand to receive new interference over the largest percentage of their currently served population and area. We question why the Commission would be so inconsistent with policy regarding 3rd and 2nd-adjacent channel interference. How can it possibly be in the public interest to implement LPFM without 2nd or 3rd-channel spacings and create interference where it does not now exist, but not be in the public interest to allow existing Class-A stations with long-standing short-spacings the opportunity of improving to full 6kW Class-A facilities? We respectfully request that the Commission very carefully examine past and present policy regarding Class-A facilities.

Barry Broadcasting is concerned that with recent developments in DBS and the impending creation of hundreds of digital subscription broadcast channels that the ability of

existing terrestrial broadcasters to implement IBOC digital transmission could be harmed if LPFM service is created at this time. We urge the Commission not to take any action that could jeopardize the advancement of IBOC digital technologies.

Finally, Barry Broadcasting is opposed to the creation of any broadcast service in which EAS participation is not required, that is not subject to the same public file and technical requirements as existing broadcasters, which is not required to pay its' fair share of spectrum, regulatory, license, processing or other fees, or is not subject to the same inspection availability or forfeiture amounts for violations that existing broadcasters pay. The FCC does not have the manpower to handle the administrative or enforcement burden that LPFM will create and existing broadcasters should not have the additional costs of that burden shifted to them.

Respectfully Submitted,

Steven K. Radant

Steven Radant

Vice President, Barry Broadcasting Co.