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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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

To: The Commission

COMMENTS OF ATHENS BROADCASTING CO. INC.

Athens Broadcasting Co. Inc. ("Athens Broadcasting"), by its attorneys and pursuant to §1.415 of the Rules and Regulation of the Federal Communications Commission ("FCC" or "Commission"), hereby submits its comments in response to the FCC's *Notice of Proposed Rule Making* ("*Notice*") issued in the above-referenced docket.[1] The *Notice* seeks comment on the FCC's proposal to adopt rules authorizing the creation of a new low-power FM ("LPFM") radio service. For the reasons discussed in greater detail herein, Athens Broadcasting is opposed to the creation of an LPFM service and urges the Commission not to authorize such a service.

I. PRELIMINARY STATEMENT

Three generations of the Dunnavant family over a time period of fifty (50) years have through Athens Broadcasting provided locally oriented programming to Athens, Alabama and nearby communities.[2] Grounded in this experience, Athens Broadcasting is intimately familiar with the needs of Athens, and the northern region of Alabama, and southern Tennessee and, in particular,

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[1] *Creation of a Low Power Radio Service*, 14 FCC Rcd 2471 (1999).

[2] Athens Broadcasting has been the licensee of WVNN(AM), Athens, AL, since 1948. Later in 1958, it became licensee of WZYP(FM), Athens, AL and, in the last decade, became licensee of WUMP(AM), Madison, AL and WPZM(FM), Tullahoma, TN.

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with the important role played by local radio broadcasters in addressing such needs. Athens Broadcasting files these comments because the creation of an LPFM service will have a debilitating effect on the ability and success of Athens Broadcasting's full-power broadcast stations to remain a strong, effective force in meeting community needs and in achieving the Commission's goal of localism in broadcasting.

II. DISCUSSION

A. Existing Technical Standards Must Be Maintained

As set forth, the LPFM service proposal is premised upon the elimination or alteration of existing FM interference protection standards. Indeed, the Commission's LPFM proposal is based on the premise that without relaxed standards, i.e., removal of second and third adjacent channel protection, sufficient LPFM channels may not be available. In the final analysis, the LPFM proposal pits protection of existing full-power station service against development of the new LPFM service. Such a result will disrupt the existing FM band and affect reception of FM service by the public.

Athens Broadcasting submits that the existing FM interference criteria, adopted over the past decades for the purpose of protecting the integrity of the FM spectrum and insuring reliable service to the public, are no less important today than when adopted. Additionally, even with existing criteria, Athens Broadcasting has experienced interference to its FM stations from time to time from other FM stations or FM translators. To insert a new class of low-power broadcasters into an already crowded FM spectrum occupied by a mature industry will create a multitude of new interference problems and impair service that the public has learned to rely upon, appreciate and expect. The public interest benefits of new full power FM allotments, along

with modification or improvement of Athens Broadcasting's stations and other existing stations, would be precluded or severely limited as well.

Athens Broadcasting finds it disturbing that the Commission's tentative conclusion that it should drop well-established adjacent channel separation interference protections is driven by the recognition that there would be few if any LPFM licenses available in major markets unless adjacent channel protections are eliminated. *Notice*, ¶50. This approach effectively relegates interference concerns as secondary to maximizing the number of low power FM stations. Inevitable further erosions of FM technical quality are also inherent in the related suggestion that the Commission consider reduced station separations and contour protections in combination. Such suggestions should be rejected in favor of a secure protected FM band. *Notice*, ¶41.

The *Notice* in ¶49 acknowledges potential adverse impact of the Commission's LPFM proposal on in-band digital radio service ("IBOC"). IBOC technology and FM digital development will be important to the survival of Athens Broadcasting's stations. The television industry is already well underway to digital transformation. Terrestrial radio must follow to remain competitive in the digital world. Internet radio, emerging satellite radio services (which propose hundreds of channels), and advances in multiple delivery systems mandate that terrestrial radio keep pace. Timely and effective digital transition of full-power radio stations should be the Commission's primary goal.

B. Existing Full-Power Radio Must Be Preserved

The broadcast stations operated by Athens Broadcasting provide an essential local service to their communities and surrounding service areas. Residents in each station's service area depend upon the Athens Broadcasting's full-power radio stations for local and regional news, for messages from community leaders, for school information, as well as to keep up with

events and day-to-day happenings in their communities. Emergency weather reports and information related to emergencies are given priority by the Athens Broadcasting's stations. Lives are saved and injuries averted by such broadcasts. The stations' service area experiences severe weather, floods and tornadoes on a regular basis which highlights the importance of interference-free reception of local radio stations. Support to communities provided by these local full-power radio stations through local public service announcements, charitable promotions, charitable fund raising[3] cannot be overemphasized. Local and area community groups depend upon and look to the Athens Broadcasting's radio stations for support and a means to communicate their message to area residents on a regular basis.

Impairment of local FM radio station service would clearly be contrary to the public interest and must be given primary consideration by the Commission. In addition to the interference concerns discussed in the *Notice*, the Commission should consider the extent to which local programming service of existing full-power radio stations would be adversely affected by a proliferation of low-power FM stations. The *Notice* states in Appendix D, for example, that nine LP1000 stations and as many as twenty-four LP100 stations would be possible in Montgomery, Alabama, by dropping second and third adjacent channel interference protections. The city of Mobile could accommodate ten LP1000 and some thirty-three LP100 stations. Smaller markets with less frequency congestion, such as those in the Athens Broadcasting's stations service area, presumably could accommodate even greater numbers of LP1000 and LP100 stations, not to mention many, many more microradio stations.

[3] Athens Broadcasting's stations have raised millions of dollars for local charities and public service groups.

The influx of great numbers of new stations will further exacerbate the radio industry's economic problems. As the Commission is well aware, many local radio stations have been under economic stress for years. The adverse experience of the allocation of hundreds of stations through Docket 80-90 in the 1980s is well within memory. The Commission should not assume that the existing Athens Broadcasting's stations and other local radio stations in Alabama or elsewhere can continue to provide quality local news, local area emergency, and other local programming in the face of diminished audience and revenues due to interference and market fragmentation from multiple LPFM stations entering their service areas.

Athens Broadcasting also respectfully disagrees with the Commission's basic underlying assumption in the *Notice* that significant public interest benefits will follow from authorizing the proposed new low power FM service. Rather than new benefits, the result will be degradation and lessening of existing radio service. The *Notice* essentially posits a need for greater diversity, rather than looking to the record of the diversity of existing full-power radio service and probable loss of such service if LPFM is adopted. Athens Broadcasting has found that it must direct its attention to local needs and interests to remain viable. Athens Broadcasting and other radio stations can point to an established history of dedication and commitment to local community needs and an excellent track record of service in meeting those needs. Such service should be enhanced not diminished.

C. The Proposed LPFM Service Will Not Accomplish The Stated Goals of the *Notice*

The Commission's stated goals for the new low-power FM service assumes new diverse voices will appear to use the service and that such uses will provide unheard viewpoints and programming to meet needs not currently addressed. Athens Broadcasting questions whether the

Commission can adopt any standards which will withstand court challenge to dictate who shall obtain the new licenses or how they shall use or program the stations. Athens Broadcasting submits that such LPFM stations, if allowed to exist, will be unbridled and the result will be a proliferation of stations without the lofty benefits sought by the Commission.

The stated goal of new service to specific urban areas and neighborhoods is likewise subject to doubt, as docket comments suggest only limited LPFM operations would be possible in many urban areas. Appendix D to the *Notice* shows that New York City, for example, would get not a single LP1000 or LP100 station, while Los Angeles and Chicago would accommodate only one LP1000 station apiece. The result of proceeding with the Commission's proposal would, however, severely affect markets such as those where Athens Broadcasting's stations are located, as well as rural areas. Further, as a low power service, LPFM is ill suited for rural populations disbursed over wide areas and, by definition, not concentrated.

The unfulfilled goals of Docket 80-90 in the 1980s again come to mind. A stated goal in the Docket 80-90 proceeding was to increase ownership by women and minorities. Hindsight reflects little or no success from that experiment. Moreover, low-power FM stations have little hope of economic viability. Service areas will be limited (in the case of microradio, to perhaps a mile or less) and advertising and commercial support will be correspondingly difficult to obtain. Athens Broadcasting is well aware of the challenges of operating stations day-in and day-out. This experience suggests that the viability of low-power FM stations is doubtful at best.

It should not be expected, therefore, that the Commission's proposal will accomplish the basic goals stated in the *Notice*. Given the havoc likely to occur from adoption of a low-power FM service, and the speculative, contrary-to-experience assumptions that such a service will

accomplish the goals set forth in the *Notice*, use of spectrum in the manner suggested would be inefficient and contrary to the public interest.

III. CONCLUSION

Implementation of a low-power FM radio service, as outlined in the *Notice*, would constitute a real threat to continuation of service by existing full-power FM stations. Athens Broadcasting respectfully urges the Commission, for the reasons set forth above, to decline establishment of the low-power FM radio service.

Respectfully submitted,

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