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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

TO: THE COMMISSION

COMMENTS OF FAITH SOUND, INC.

FAITH SOUND, INC. ("FSI") hereby submits its Comments in the above-referenced rulemaking proceeding to establish a Low Power FM ("LPFM") broadcast service^{1/}. For the reasons set forth below, FSI opposes the proposal to create a new LPFM service.

1. Statement of Interest. FSI is the licensee of non-commercial educational ("NCE") FM station KFSI, 92.9 MHz, Rochester, MN^{2/}, and NCE FM translators K203BR, Winona, MN, K223AH, Peterson, MN, K268AF, Decorah, IA, and K220EP, LaCrescent, MN, which rebroadcast KFSI.

2. As discussed below, FSI's existing service would be adversely effected should low power FM facilities be wedged into

^{1/}The Commission released its Notice of Proposed Rule Making in this proceeding on February 3, 1999 (FCC 99-6) ("NPRM"). Subsequently the Commission extended the comment filing period to August 2, 1999. Order, FCC 99-112 (May 20, 1999). Therefore, these comments are timely filed.

^{2/}Although Channel 225 (92.9 MHz) is in the non-reserved portion of the FM band, it was reserved for non-commercial use at Rochester, MN, to resolve Channel 6 interference problems. Rochester, MN, Clear Lake, Osage & St. Ansgar, IA, 7 FCC Rcd 6506 (Chief, Alloc. Br., 1992).

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spectrum where KFSI and/or its translators are presently received by the public. Accordingly, FSI is interested in this matter.

3. LPFM stations must be required to comply with current separation requirements. Section 73.207 of the Commission's rules sets forth the required minimum distance separations between co-channel and first-, second- and third-adjacent channels in the commercial FM. The separation distances were adopted to establish an interference-free zone within the protected service contour of full-power FM stations in the non-reserved portion of the FM band^{3/}.

The NPRM proposes to exempt LPFM stations from the minimum distance separations required to protect second- and third- adjacent channel stations from interference, based on its concern that strict compliance with the adjacent-channel rules might limit LPFM opportunities in some areas.^{4/} The Commission nevertheless acknowledges that interference may result^{5/}. The Commission therefore asks the public "to assess the level of risk of increased interference to stations in existing FM services" resulting from an exemption from the separation standards "against the additional service to the public that could result" from the introduction of the LPFM service.^{6/}

^{3/}As noted above, although KFSI is an NCE FM station, it operates on a channel in the non-reserved portion of the FM band.

^{4/}NPRM at ¶¶42, 50.

^{5/}NPRM, ¶¶42-50.

^{6/}NPRM at ¶46.

We respectfully submit that the proposal to exempt LPFM stations from the second- and third-adjacent channel separation requirements cannot be reconciled with Section 303(f) of the Communications Act of 1934, as amended ("the Act"). Section 303(f) directs the Commission to adopt regulations required to "prevent interference between stations." The Commission has no statutory authority to exempt LPFM from the controlling interference protection standards.

In any event, the public has a "legitimate expectation that existing service will continue" Memorandum Opinion and Order, "Modification of FM and TV Authorizations to Specify a New Community of License, MM Docket No. 88-526, 5 FCC Rcd 7094, 7097 (1990). Curtailment of service is contrary to the public interest. Hall v FCC, 237 F.2d 567, 572 (1956). See also Television Corp. of Michigan, Inc. v. FCC, 294 F.2d 730 (D.C. Cir. 1961). The public should not be deprived of service presently available, merely to facilitate introduction of a new service of unknown substantive and technical quality or public interest.

4. Displacement of existing translator service by LPFM service would be contrary to the public interest. The Commission proposes to treat LP1000 stations as "primary,"²⁷ thus according LP1000 stations protection from interference by other stations. On the other hand, as the rules currently consider FM translators to be "secondary." FM translators can be required to terminate operation in the event of any interference to "primary"

²⁷NPRM at ¶¶ 23-29.

stations. The proposal to treat LP1000 stations as "primary" therefore could cause displacement of "secondary" FM translators of long standing. Where no alternate channel is available for the displaced FM translator, listeners in that area will lose the existing translator service.

The Commission should not accord LPFM stations primary status vis-a-vis existing FM translators. The Commission has recognized the public interest benefits of FM translators, particularly where direct reception of the primary station would be unsatisfactory due to distance or terrain barriers.^{8/} In such circumstances, members of the listening public have come to depend on translators for adequate reception. Notwithstanding the secondary status of FM translators to full-power FM stations, existing translators should not be deemed "secondary" to LPFM newcomers. Existing translators should be accorded "grandfathered" status and protected from interference by LPFM stations.

5. All signal delivery methods allowed for use with LPFM stations should be permissible for existing translator stations. The present rules require non-"fill-in" translators in the non-reserved band to receive the signals to be rebroadcast directly off-the-air. Such stations are barred from using microwave links or other signal delivery methods that could otherwise improve the quality of the signal ultimately received by the listening pub-

^{8/}Report and Order, "Amendment of Part 74 Concerning FM Translator Stations," MM Docket No. 88-140, 5 FCC 7212 (1990).

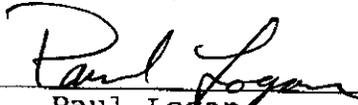
lic. The NPRM seeks comment on whether LPFM stations should be permitted to use radio broadcast auxiliary frequencies for signal delivery.^{2/}

We respectfully submit that if LPFM services are permitted to employ auxiliary frequencies for signal delivery, such rights should likewise be extended to FM translators. There is no rational basis for disparate treatment.

Respectfully submitted,

FAITH SOUND, INC.

By


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^{2/}NPRM at ¶29.