Friday, 30 July, 1999

Secretary

Federal Communications Commission

The Portals

455 Twelfth Street SW

Washington DC 20554

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FCC MAIL ROOM

Re: FCC Docket MM 99-25 (aka RM-9208 & RM-9642)

(Creation of a Low-Power Radio Service)

To Whom it May Conern:

I am Regional Coordinator for New England and Vicinity for the Amherst Alliance, as well as an experienced veteran of (mostly) noncommercial/educational radio, and a citizen concerned with the history, current status, and future of radio in America.

In the following pages are detailed my Written Comments regarding the above-named Matter before the FCC concerning the implementation of a Low-Power Radio Service. These comments are submitted both in this hard copy, with fifteen copies to follow, and also filed electronically using the FCC's Electronic Comments Filing System (ECFS).

Please note that although I am a Regional Coordinator of the Amherst Alliance, these comments are entirely my own, and do not necessarily reflect the opinions of Amherst or any of its Members, or anyone else in the low-power radio movement. While my opinions

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are not surprisingly similar to those of Amherst and other microradio advocates, they also differ in some respects according to my own views and biases. This should in no way be interpreted to disavow or dilute those opinions expressed in other documents which bear my name or otherwise carry my assent, including the Written Comments and Additional Comments of the Amherst Alliance in re MM 99-25, and the Joint Statement of Amherst Alliance and other microradio advocacy organisations and individuals.

I thank the Commission for its time and consideration in the matter of low-power radio, and in these Comments.

Sincerely,

Wesle AnneMarie Dymoke

POB 2346

Providence RI 02906-2346

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UNITED STATES OF AMERICA

Before the

Federal Communications Commission

The Portals

445 Twelfth Street SW

Washington DC 20554

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AUG 02 1999

FCC MAIL ROOM

(In the Matter of MM 99-25

(Creation of a Low-Power

(Radio Service

(RM-9208 & RM-9242

Written Comments of Wesle AnneMarie Dymoke of Rhode Island

Responding to the 28 January 1999 issuance by the FCC of its Notice of Proposed Rulemaking (NPRM) in FCC Docket No. MM 99-25 (aka RM-9208 & RM-9242), Creation of a Low-Power Radio Service (LPRS).

I, Wesle AnneMarie Dymoke, do hereby submit the following Written Comments on the Commission's Proposed Rule to establish and implement a Low-Power Radio Service.

In so doing, I urge the Commissioners to proceed with this establishment and implementation, with the consideration of these and all Written Comments on this Matter, and I thank the FCC for its initiative in proposing a low-power radio service.

Enclosed is an original, signed, copy, with fifteen copies to follow. This document is also being filed Electronically by means of the FCC's Electronic Comments Filing System (ECFS). As much as possible, I have employed basic text and avoided unusual fonts and special formatting, to effect ease of transcription.

Sincerely,

Wesle AnneMarie Dymoke

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Providence RI 02906-2346

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Regional Coordinator for New England and Vicinity, the Amherst Alliance

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Written Comments of Wesle AnneMarie Dymoke of Rhode Island

## I. Introduction

### A. Commendation of FCC

I wish to first commend the Federal Communications Commission for its consideration of a Low-Power Radio Service (LPRS). Many of us have yearned for an opportunity to see community-level broadcast media in our lifetimes, and are very excited at the prospects revealed in this Proposal. It is my hope that LPRS will fill the role that conventional radio has abdicated, that of presenting a widely-available, inexpensive source of vital news and information for common American citizens. I heartily applaud the FCC for taking the first step in making this happen.

### B. Personal Background

I began my relationship with radio the same way most Americans do, by listening at a very young age and becoming acquainted with radio as an entertainment medium. In college, I became involved in campus radio, originally at an 18-Watt Carrier Current station which broadcast from seven AM microtransmitters within selected campus buildings. From this, I learned the frustration of broadcasting local radio that comparatively few people could receive, and desired a greater range, as well as greater community involvement. Later, I became involved with WHUS-FM 91.7 Storrs, Connecticut, the broadcast facility of the University of Connecticut at Storrs, a 5000-Watt

FM Primary Service station with most of the features of a Class-A facility, a large staff of students, community members, and employees, and an enormous and rich variety of music, information, activities, and involvement. After several years with WHUS, and with some association and participation with other noncommercial broadcasters, including WPKN-FM 89.5 Bridgeport, Conn. (independent, Harry Minot, GM), WWUH-FM 91.3 West Hartford, Conn. (University of Hartford), and others, I developed my current views and concerns about the state of broadcasting in America.

C. General Support of Amherst Alliance statements and Joint Statement

As Regional Coordinator for New England and Vicinity of the Amherst Alliance, my sensibilities are obviously very closely linked with those of the Amherst Alliance and its Members, including founder Don Schellhardt, and others in what we perceive to be the moderate zone of the microradio movement. Therefore, I do indeed support the statements of the Amherst Alliance in all of its documents, whether or not those documents bear my name; they had to pass my personal review and gain at least my passing assent. So also do I support the statements presented in documents which the Amherst Alliance has endorsed, including the Joint Statement of the Amherst Alliance and other organisations and individuals in the microradio movement; in fact, I have endorsed the Joint Statement twice, both as a Member of the Amherst Alliance and personally and individually. And in general, I favour the implementation of LPRS along with the rest of the movement; which is to say, all other considerations and specific differences aside, I stand with those in the microradio movement.

That said, I nevertheless have views and biases of my own, and these are reflected in these Comments, which I have elected to compose as a complete proposal, rather than offer support for existing proposals and add my own special considerations. Since I learned radio from the ground up, and have formulated my views similarly, I felt it

most appropriate to present a full and complete proposal to be compared to others and considered alongside them.

Nevertheless, none of the Comments and views contained herein should in any way be construed to disavow or dilute statements which I have separately supported in other documents. While some specific statements may vary, all reflect varying degrees of conviction I have in many different alternatives in dealing with the many issues in this very complex discussion.

D. Need for LPRS

Conventional radio now exists at such a high level, both in terms of corporate insulation from communities and individuals and in terms of sheer capital wealth, that it no longer serves the interests and needs of ordinary citizens. Where once radio actually reflected to some degree its own listeners, today it has virtually no connection to them whatsoever. The concentration of media of all forms in the hands of fewer and wealthier entities bespeaks a media estate which no longer need respond to the needs and wants of its consumers, so great is its power that it need listen to no one but the law itself, and then only to the extent which it has failed to use monied lobbying to effect changes which particularly suit its own desire for greater wealth and less restrictions on gains.

With the passage of the Telecommunications Act of 1996, the concentration of media has accelerated at a very alarming rate, so that a single consumer now may effectively have fewer than three different corporate enterprises supplying all of her vital news and information, and these themselves being subject to the concerns of their sponsors, so that in effect, fewer and bigger corporate entities now control the means by which ordinary citizens inform themselves necessarily to execute their democratic powers. While there are many different media now available to many citizens, including newspapers, magazines, cable television, satellite television, and internet, common

radio is special and unique, and more valuable, in that it is the most readily and widely available medium in America, the most ubiquitous, and in that respect the most cost-effective means of informing the largest number of citizens. With radio in the hands of so few, and having little or no interest in its own listeners, the vast majority of Americans are more and more deprived of meaningful and useful information.

This situation is anathema to a democratic republic relying on individual media sources to inform its enfranchised citizenry, and is one of a number of factors eroding away the democratic fabric of the United States, and the faith of its citizens in their power to effect positive change without access to the enormous monies and power of much greater entities such as giant corporations. Until and unless a community-oriented system of electronic media is implemented nationwide, or other dramatic and sweeping reforms act to break giant corporate America's stranglehold on the channels of information, this situation will only continue to deteriorate.

Dramatic reform of the existing media structures is highly unlikely at this time or for the foreseeable future, for many reasons, including but not limited to the ability of the large corporations which currently own and control the vast majority of major media to protect themselves against incursion and restriction, even by government agencies, by means of powerful and wealthy lobbies to influence Congress and other bodies.

Ordinary citizens and community groups, by comparison, command far less power and therefore have much less chance of effecting changes which benefit them. While everyone can't always have what they want, it should be noted that the group of persons with the least amount of influence over their vital channels of information are the greatest majority of American citizens. Ostensibly, we the people own and control the media airwaves; but our power has been usurped by interests who are now so large and powerful that only the federal government retains any power over them at all, and then only to a decreasing extent, as evidenced by the Telecommunications Act of 1996,

which incorporates language that was written directly by representatives of giant media interests. How are we to gain a foothold in an area where the corporations are writing the laws which govern our control over them?

At this time, and perhaps ever, the most practical solution is the establishment and implementation of a radio service that fills the gaps in the system not filled by larger entities. Small radio stations, by their very nature, must respond to the interests and needs of their communities, and in so doing serve the needs of an informed populace towards effecting meaningful democracy among a wide base of the citizenry. We have at this time a wonderful and rare opportunity to create something of inestimable value to a very large number of Americans, an opportunity which particularly serves most the needs of those Americans which up till now have enjoyed the least participation. With this in mind, implementation of LPRS must be seen as vital and urgent.

A further consideration is that because of the value of radio as a means of informing large populations, and given that right now radio largely no longer serves this need, and considering the many advances in technology and the ability to trade technical information, some form of LPRS will almost certainly emerge, with or without legal support, and grow beyond our means to govern its use; to some extent, this is already beginning to happen. If we the people do not now take the initiative in implementing a sane and effective LPRS, we may just a few years now, perhaps even less, be witness to an explosion of unregulated broadcasting, some of which may inhibit or even imperil us. By establishing a regulated service now, we avoid much chaos.

In its NPRM, MM 99-25, the FCC proposes LPRS, based in large part upon formal petitions in RM-9208 and RM-9242. In reviewing this proposal, I find myself pleased at the overall plan, but consider that it needs a great deal of fine-tuning to more closely reflect the needs and wants of those most likely to participate in such a service, and in the needs of the communities which will be served by the new service. The

following Comments, while in many cases reiterating or supporting elements of MM 99-25, also in many cases offer slightly or very different alternatives to these.

In preparing these Comments, I have arrived at my conclusions by several avenues, all of which have a fairly equal influence in these finished remarks. I first reviewed and indexed the NPRM MM 99-25 several times, to gain as clear a view as possible of the vision the FCC is starting with, realising that any alternative or dissenting views must first address those already presented. Then, I followed closely the process of our own Comments and Additional Comments in the Amherst Alliance, and the Joint Statement which followed, and incorporated many of the structural elements of those documents into my own, feeling they helped to organise and clarify a very complex discussion comprising many issues.

I prepared several different versions of my draft comments, trying different arrangements and formats and styles, including a rather remarkably colourful and passionate essay-style paper, among others. Expecting to submit my Comments much earlier, in early June, I began instead to consider changes, based upon my reading Comments submitted by other persons and parties. Each time I read someone's newly-filed Comments, I found my own wanting, and went back to revise them. Eventually, I elected to withhold my submission until the last possible moment, to incorporate as much consideration as possible of as many other persons' viewpoints as I could reasonably review in time to complete polishing of my own. I am particularly grateful to Adrian Kohn, whose detailed and well-thought-out technical comments most strongly influenced my own, which I originally based upon my own more limited familiarity with the technology from an operational standpoint; Kohn's remarks helped me to consider alternatives to my original views, and I have come to side with him in most respects.

For this I am now glad, for the statements I now present are very different indeed from those I considered "complete" only two months ago. Also, as a fluke, I've been able

to incorporate some late-coming information which is quite vital to these Comments. These Comments, then, reflect at least six drafts and many countless minute revisions over some six months, and incorporate the views of many persons in our movement.

## II. Proposed Services

### A. Tiers

Below are proposed service tiers by effective broadcast power ceilings, as described. While several different tiers are proposed, ranging up to 1000 Watts, extensive study of the needs demanding LPRS, as well as my own direct observation and experience, indicate to me that the two most vital tiers are LP-100 and LP-10; the first serves large communities, the latter very small ones. Between them, they can in most cases serve to fill in the gaps in broadcast service not covered by any current services. LP-1000 is offered only for very large, sparsely-populated areas where several smaller stations may not be feasible, and intermediate and transitional tiers are offered only to fill gaps too small for higher tiers and too large for a single station of a lower tier to fill. More on this is discussed later in regards to placement and restrictions on higher tiers.

#### 1. LP-1000

The FCC and several other commentors have proposed a top LPRS tier of stations yielding a maximum of one thousand Watts of broadcast power. LP-1000's would serve large areas the size of most American cities; greater, in fact, in most cases, barring considerations of tower height and ground interference. Details of the estimated range of LP-1000's are found in MM 99-25. LP-1000's would fill the space between lower-tiered LPRS stations and the current floor of 5000-Watt full-power broadcasters.

I propose that if LP-1000's are implemented, certain restrictions on their placement and service be enforced, detailed below. I further urge the Commission to very strongly consider intermediary service tiers, of LP-500 and LP-250, again for reasons given in detail below.

2. LP-100

With almost no exceptions, the very great majority of microcradio advocates propose a 100-Watt service tier. Many advocates consider this the maximum power which should be considered, fearing that LP-1000's would eliminate the chance to place numerous smaller stations in areas where one large one displaces them. I, too, have great concerns along these lines, but find myself unable to entirely dismiss LP-1000, reason again for suggesting intermediate tiers between LP-100 and LP-1000.

LP-100 would serve as the backbone of LPRS. These stations are large enough to support themselves, given reasonable opportunity to do so, and large enough to provide most of the informational services of full-power stations (which actually invest comparatively very little resources in informational services, for the most part). Such stations are well-suited to serve sizable local areas effectively and reliably, while also being small enough to reflect the communities they serve, and provide services which they particularly desire and require. Details of estimated range of LP-100's is found in MM 99-25, and described separately in other documents before the FCC.

In view of the same concerns expressed about LP-1000, I also ask the Commission to consider a transitional tier of LP-50. This intermediary tier would provide stations large enough to provide most of the services and features of LP-100's, but at a reduced cost and range. Such stations would effectively fill the gap between LP-100's and much smaller LP-10's, described below. While in many cases LP-100's and LP-10's can and should together fill most voids in community broadcasting, there will almost

certainly emerge special cases in which a moderate-to-low-power station would better serve the needs of a community and local restrictions within the spectrum.

### 3. LP-10

Many advocates of microradio, and especially most early advocates, strongly urge the implementation of these very small stations, designed to most effectively and directly serve the needs of local communities. With their small ranges, they can effectively serve only the most immediate community, and in that allow for the most direct participation in meaningful and useful broadcast by ordinary citizens. The existence of numerous unlicensed broadcast operations in the range of LP-10's is evidence of their demand, and reason for their implementation.

LP-10's fill the gap between LP-100's (or LP-50's) and Part 15 operations (which have only a very close useful range), as well as fill gaps in the spectrum too small for higher tiers. Most importantly, they serve individual neighbourhoods and local regions in a way that higher tiers simply cannot. To this end, LP-10's may prove the vital complement to LP-100's. If no other tiers are implemented, LP-100 and LP-10 are those most likely to serve the needs demanded by LPRS; and if only one tier is implemented, LP-10 would most effectively by itself serve those needs.

## B. Service Status

There has been extensive debate in the microradio community over specific service status of stations at different tiers, particularly concerning the issue of bumping (below). Amherst proposes a two-way protected Primary Service for LP-1000 and LP-100, making them Primary broadcasters in respect to other broadcasters at all levels, and secondary status for lower tiers. Adrian Kohn and some others propose standard

Primary status only for LP-1000, and secondary status for LP-100; LP-10 would have tertiary status in these schemes.

The greatest concern for most persons specifically offering comments on service status is bumping of like-sized and smaller stations, given the intent of LPRS to provide many more, not just a few more, voices to the air. I share these concerns, and have spent a great deal of time weighing them in respect to my own vision of LPRS.

I propose standard Primary Service status for LP-1000, with the provision of my proposed restrictions on placement of higher-tiered stations, detailed below. If LP-1000 is limited in placement only to areas where several smaller stations are not feasible, then Primary Service status will not endanger those stations, barring dramatic and unforeseen growth in population density in the affected coverage area. Even so, there should, in many or most cases, remain some unallocated spectrum for one or more LPRS stations; although the Primary Status of an LP-1000 may inhibit the later placement of one or more LP-100's in the same area, there should still be room for one or several LP-10's in the same area, assuming the spectrum is not filled. I further propose that intermediate tiers LP-500 and LP-250, if implemented, be treated the same as LP-1000's for purposes of service status, given that the primary (indeed only) purpose of these stations is to fill gaps too small for LP-1000 but where a lower tier would be unfeasible; in this respect, they replace the LP-1000 as the top tier in their area, and so should enjoy the same Primary status.

I propose for LP-100 a variable service status, to be determined by the FCC upon authorisation on a case-by-case basis, as described: Where an LP-100 application represents the highest-tiered LPRS in a defined coverage area, market, or demographic region, it should be considered for standard Primary Service status, in order to protect it from larger stations in the same area. The concern that this would endanger placement of smaller and like-sized stations in the same area is very real and valid, which is why

Primary service should be discretionary and not automatic. In cases where the LP-100 is not the dominant LPRS station in the area, it should be considered for Secondary Service status, required to protect Primary stations in the area. Some mitigation of this lower status should be provided, as described below. I further propose that the transitional tier LP-50 be treated the same as LP-100 for purposes of service status, in that this tier exists to take the place where LP-100 is unable to serve.

I propose for LP-10 tertiary service, as described by Adrian Kohn in his Comments, and as generally envisioned by most LPRS advocates. Given their very low power and range, LP-10's cannot be expected to meet the requirements of higher service status, nor are they largely affected directly by larger stations, as they are geared mostly to fill the gaps between and beneath them.

C. Bumping

Of very great concern to most of us is the issue of bumping, mostly as implied by service status. To amend my proposals regarding service status above, I refer to my placement proposals below, which I believe will go a long way towards mitigation of these concerns. I think that bumping, to a large extent, is very difficult to mitigate in an environment in which there will inevitably be many more applicants than available slots. The only workable solution I have determined is to carefully consider initial placement of first-generation LPRS stations, in anticipation of later growth and proliferation, in order to mitigate bumping by preventing it, this by reducing the potential by reducing the number of higher-tiered stations in dense areas most likely to witness proliferation.

D. Restriction of higher tiers based upon population density

In view of the above-described and very serious concerns about bumping of smaller stations by larger ones, I believe that the problem can be in part avoided by simply not

placing those larger stations in tight areas to begin with. This also serves another vital interest of lower tiers, and in that serves the greater purpose of LPRS overall.

Most densely-populated areas are already at this time served by large stations, often quite a few, but are not served at all by smaller ones. These same areas have a tendency to be organised socially, and often culturally, linguistically, economically, and by other criteria, into comparatively very small areas, such as villages and neighbourhoods. This is particularly true of older cities, which have grown and developed over a long period of time, the bulk of it before modern transportation and communications technology, resulting in compact, distinct subsections, often referred to by very old and quaint appellations which witness their special character even today.

In these areas, only the smallest radio stations can most effectively serve these very small communities, and so every effort must be made to allow many small stations in place of large ones. Further, given that the wide range of even a smallish LP-1000 station, such a station would not be offering a service not already provided, as other stations in urban areas will already provide citywide service.

Therefore, I very earnestly urge the Commission to restrict LP-1000's from denser urban areas already served by numerous citywide broadcasters, where LP-1000 would not provide any distinctly new or more valuable service; this to ensure the ample availability of slots for smaller stations which can more effectively serve the special needs of very small urban communities within larger cities and metropolitan areas.

To the same end, I urge some lesser restriction on placement of LP-100's in the most densely populated cities, where even LP-100 would cover a comparatively large community and serve as many listeners as a much larger station would elsewhere, this to ensure availability of slots for LP-10's to serve the needs of small communities within those urban areas.

Specific criteria for such limitation is described in the Written Comments of the Amherst Alliance and others, along with various different descriptions of the same idea. But the basic intent is the same: to preserve space in dense urban areas for many smaller stations, in place of fewer large ones. The special needs of individual subcommunities in very large and densely populated cities cannot be effectively met by any but the smallest stations.

Moreover, large stations which cover so many people, even in a geographically small area, provide the same service already provided by existing full-power broadcasters in those same areas, and do not significantly add to the local broadcast choices, even given that LPRS stations are bound to provide different services and programming from conventional radio. Simply put, many small stations, where feasible, serve a greater range of diversity, culture, and opinion than fewer large ones can. While we would all like to see multiple tiers in all areas, we want more for smaller tiers to be ensured their rightful and most meaningful purpose, to serve small communities.

I feel very strongly that restriction of higher tiers in densely-populated areas is a vital part of LPRS implementation, but will for purposes of proposing specific criteria defer to the recommendations of the Amherst Alliance in its Comments.

## E. Technical Considerations

### 1. Adjacency restrictions

I propose that adjacency restrictions be lifted entirely for all LPRS tiers, and even for the smallest full-power broadcasters, as deemed workable. While adjacency restrictions once served a very valuable (if not entirely vital) purpose in protecting stations from each other, the technology of both transmission and receiving equipment has long since passed the point where such considerations are necessary, and should be abolished for

all but the more powerful full-power broadcasters, where their sideband bleed really is of such levels as to render those immediately adjacent bands unusable.

2. Part 73 Requirements

As proposed by Adrian Kohn in his Comments, Part 73 Requirements should be relaxed for LPRS, particularly for tiers below LP-1000. This will, as Kohn notes, partly mitigate other considerations of LPRS, such as less-than-Primary service status.

I note that the FCC has already relaxed many operational requirements for all radio broadcasters, so it should present no concern or risk to reduce the burden on smaller stations, particularly in the hopes of reducing costs for those stations. This will also provide a partial tradeoff for interference which may result from such status and the removal of adjacency restrictions.

3. Emissions and bandwidth restrictions

Also deferring to Mr. Kohn, I recognise that emission and bandwidth restrictions are not necessary for low-power emitters, as they do not significantly affect other transmissions beyond their immediate radiating point, and not noticeably within most of their coverage area.

4. Studio-transmitter links (STLs)

I had not originally considered that STLs may be desired for LPRS, nor that they might be restricted. In anticipation of both need and restriction, I urge allowance of low-power, high-band STLs to suit the needs of LPRS, within reasonably short ranges. That is, the orginal transmission of the Program signal should obviously be from within the coverage area of the transmitter and not from outside of it. Further, no STL should itself ever be

considered or used for LPRS broadcast in its own right, even if using unregulated bands, nor for transmission outside the coverage area of its station.

5. Questions of Interference

One of the strongest and most effective arguments used so far in opposition to the proposal for LPRS is the nebulous fear of interference caused by LPRS, or of interference rendering LPRS unusable for clear transmission. Here I address those concerns as vastly overstated, unwarranted, and, very recently, debunked.

a. FCC Docket No. MM 96-120

The named document, titled Report and Order in the Matter of Grandfathered Short-Spaced FM Stations, addresses the concerns of interference caused by less-than-optimal adjacent stations (in this case, incumbant tenants prior to optimisation of channel spacing, but not at all unlike proposed adjacency-blind LPRS allocations). The document is cited in the Written Comments of Adrian Kohn, from which I cite them here.

Kohn states that paragraph 35 of MM 96-120 confirms on record that "Full power FM stations (which are much more powerful than proposed LPFM stations) broadcasting on third-adjacent and second-adjacent channels from other full power FM stations have caused no interference [to adjacent stations]" and therefore, pose no threat of interference to either other full-power stations or LPRS stations.

I therefore urge the FCC to eliminate emission attenuation requirements and reduced bandwidth restrictions for LPRS. The gain would be that tighter spacing will allow more stations, a priority in LPRS implementation and a very worthy goal.

b. Interference Study

It also gives me enormous pleasure to note the just-released study by Broadcast Signal Lab, LLP, filed on behalf of the National Lawyers Guild, and commissioned by a coalition of LPFM advocates including the National Lawyers Guild Committee on Democratic Communications, the Media Access Project, Microradio Empowerment Coalition, the Prometheus Radio Project, Minority Media and Telecommunications Council, and others, specifically to address concerns raised by the FCC in MM 99-25 and also raised by many opponents of LPRS.

The study states in its conclusions that LPFM signals were shown to create only minimal interference within several hundred feet of the transmitters with many receivers showing no interference even within that small radius. In view of this, we may finally lay to rest, once and for all, one of the most damaging arguments made against the push for LPRS, and move forward with implementation, unafraid of these unwarranted interference concerns.

c. Some interference acceptable

Again in respect to technical comments by Adrian Kohn, I heartily support his assertion that some interference should be accepted by LPRS stations in exchange for tighter channel spacing, allowing for more stations than would be considered under more conventional channel spacing requirements. In view of the above interference study regarding full-power stations placed closer than optimal spacing, we may be confident that closely-spaced LPRS stations will not experience significant interference. Even if they should experience some interference, however, this should be accepted in trade for allowing more applications and stations.

6. AM

The Commission should consider implementing LPRS on at least a limited trial basis in the AM band, utilising at the outset only LP-10/AM broadcast stations licensed on a test basis to determine the workability and feasibility of LPRS/AM.

A test model of LPRS/AM could involve a small number of stations with a limited test license (no guarantee of renewability), and broadcasting at a maximum ceiling of 10 Watts, and only in the daytime. This will prevent undesirable daytime propagation due to excess power radiating from a perhaps less-than-optimal radiating element or tower which may be less specific than that of larger stations. This will also prevent long-distance skipping of skywaves during nighttime propagation, a well-known risk of AM transmission. Lastly, LPRS/AM licenses should be available during a test period only to applicants specifically familiar with the special considerations of AM propagation.

LPRS/AM may not prove workable, and the FCC has noted in MM 99-25 that it does not intend to consider a low-power AM service at this time, but it should be considered on at least a test basis, and I urge the Commission to weigh this very good opportunity to explore the chance of placing some LPRS stations in the AM band with the limited risk provisions described above.

7. Digital services

Many commenters have discussed the considerations and concerns presented by the anticipated future implementation of one (or more) digital radio services, including Eureka-147 and the more favoured candidate, In-Band/On-Channel (IBOC) masking. Whichever service is eventually chosen, it should be implemented with the utmost consideration not only to incumbent full-power tenants, but also to newer tenants, including LPRS. While digital service represents significant and highly desirable advances in existing radio, it does not in and of itself represent a meaningful advance,

change, or addition in terms of radio service specifically oriented to listeners and communities in the way that LPRS is specifically intended to accomplish.

For this reason, digital services representing new or converted versions of current radio should be considered at most an equal contender for bandwidth as LPRS stations. Especially given the IBOC model, which promises to create effective service within current band masks, as well as IBOC's developers' own opinion that nearby LPRS broadcasters do not represent any impediment to their service, and also considering the recently-released interference study described above, there is no reason to restrict LPRS placement or implementation for special purposes of digital services, no more than would be a reasonable consideration for any other incumbent service.

There must also be retained provision for the future development and implementation of digital LPRS, an inevitable innovation should LPRS be enacted. It may even be advantageous to consider LPRS exempt from standards applied to full-service stations, as LPRS may not represent the same transmission considerations presented by much larger broadcasters. Lastly, future broadcast technologies should also consider LPRS according to the same criteria.

8. Spectrum allocation

a. FCC proposal in MM 99-25 (20/80 split)

The FCC proposes two important guidelines in its proposals in MM 99-25 specifically regarding spectrum allocation. The first states that LPRS is considered only within the existing FM bands, Channels 201-300 (88.1MHz—107.9MHz). The second states that their proposed LPRS would be allocated in consideration of commercial status according to the current 20/80 split; i.e., noncommercial on Channels 201-220 (88.1MHz—

91.9MHz), and open (commercial or noncommercial) above that, on Channels 202-200 (92.1MHz—107.9MHz).

While this is certainly very convenient, for all persons involved in this discussion, it perhaps does not create a realistic portrait of the full potential and/or intent of LPRS, and may, depending upon specific implementation, defeat many of the goals of LPRS. One particular fear of mine is the accidental creation of a microcosm of current radio, in which LPRS stations in large part function very much the same way as current radio, offering no special advances in community service or programming, and by that invalidating and failing to justify the very implementation itself.

Many in the microradio movement very earnestly promote an exclusively noncommercial LPRS; this, too, may be unrealistic and/or unworkable, and may also present partial failure of this very bold initiative, which would be a grave disappointment to all involved. Likewise, any significant implementation of commercial service may present for those opposed a betrayal of their petitions and lobbying for LPRS.

I have spent literally months trying to resolve this in my own mind, and have so far arrived at no definitive or obviously favourable models, and, therefore, no solutions. Instead, I have devised several different models of equal validity for consideration, and explanations of the positive and negative potential thereby presented.

The FCC's proposal of a 20/80 model serves the advantage of being easy for everyone to adopt and implement, and creates less opportunity for bickering and confusion by applicants and listeners alike. It also effectively prevents heated debate over this issue by essentially avoiding completely, refusing to consider other options. The greatest problem presented by this model is that it may fail to result in the creation of an LPRS with a meaningful and lasting difference from current radio, and may also greatly anger many in the movement who specifically oppose commercial service but would tolerate it on a much more limited basis. There are alternatives worth considering.

b. 50/50 split (Amherst and others)

Amherst and others have mentioned a 50/50 model as a workable compromise, and some on both extremes of the movement have grudgingly affirmed that they could accept this, as it splits the pie evenly between both camps. Although a majority on both sides may not get what they want, no one can claim the other has more. Even though very disappointing to many, it presents a balanced model, and, therefore, a stable one.

c. 80/20 split (mirror of current allocation)

At the other end, we may consider a mirror of the FCC proposal, an 80/20 split, in which the great majority of LPRS spectrum allocations would be within noncommercial space, and only a minority available to commercial applicants. This would mollify most of the more enthusiastic noncomm advocates, while also leaving something reasonable for the commercial advocates. It's not perfect, but it represents an LPRS clearly geared more towards community needs than commercial ones. As it has been unmitigated thirst for money which helped most to give us the shameful current status of radio, in which giant corporations control the vast majority of all media, it may be unwise to jump too quickly to create a profit-minded LPRS, and may serve to greatly dilute its goals.

Don Schellhardt notes in his Comments that most of those wishing to build and operate commercial LPRS stations do not have profit as a lead motive, especially considering the inherent limits on the potential income of such stations. I believe that Schellhardt is correct in this assessment, and I mention it specifically to balance my own stated concerns about commercial service. As concerned as I and others are, Schellhardt is, in my estimation, more likely than not correct in his expectations, that even if widely implemented, commercial LPRS would not be operated primarily on a profit motive. Still, I would ask the Commission to weigh carefully the implementation of

commercial LPRS on a wide scale, and perhaps incorporate initial safeguards to rein in commercial LPRS if it appears to contradict the anticipated goals of LPRS.

d. Noncommercial only (left-end majority, traditional microradio, others)

Another obvious and often-voiced model is entirely noncommercial, and this, while satisfying the demands of a large percentage of LPRS advocates, particularly in the oldest wing, the more liberal wing, which was first in pushing for this and perhaps most steadily earnest in pushing for it, this model would defeat many of the desires and visions in newer, but no less valid nor earnest, elements of the movement. Moderates and others right of the left end have repeatedly requested—even demanded—some sort of commercial service in LPRS, and it may be very unreasonable to deny it, in the absence of clear reasons not too. If implemented, fully noncommercial LPRS should include provisions for later amendment and reallocation, should it appear warranted.

e. Declining tier-scaled allocation, fully incremented

I tentatively propose a tier-scaled allocation model, in which comm/noncomm spectrum allocation is varied along a scale according to service tier, and reflecting an anticipated difference in the purpose and function of each successively lower tier in the LPRS scheme. This will present a different allocation split at each tier, providing for the most likely needs and desires of applicants within each tier, based upon both historical and proposed use of LPRS at different service power levels.

My proposal would give the LP-1000 tier a 40/60 allocation split, increasing the proportion of protected noncommercial allocation space in comparison to current radio, but leaving a majority of commercial/mixed allocation bandspace. FM Channels 201-240 would be reserved for noncommercial LPRS service; Channels 241-300 would be open for any service, comm or noncomm. Per my previous proposals regarding the

intermediate tiers LP-500 and LP250, if implemented, should be treated the same as LP-1000 for purposes of spectrum allocation, even in the unlikely and uncommon case where they may serve in the same area as an LP-1000.

Continuing in this scale, LP-100 would have a 60/40 split, so that the majority of the bandspace is reserved for noncommercial use. FM Channels 201-260 would be entirely noncommercial, and Channels 261-300 would be available for both commercial and noncommercial applicants. As LP-100 is expected by many advocates to serve as the strongest upper tier of the LPRS structure, it is appropriate that it reflect a similar balance of commercial vs. noncommercial use as that of the movement itself. While this would not satisfy or mollify all advocates, it represents a reasonable balance of interests, both between camps within the LPRS movement, and between LPRS and full-power radio. I further propose that if a tier-scaled allocation scheme is implemented, that the transitional tier LP-50 be treated the same as LP-100 for purposes of spectrum allocation.

At the bottom of my suggested scheme, LP-10 would incorporate a mirror of full-power radio, an 80/20 split. FM Channels 201-280 would be reserved for noncommercial use, and Channels 281-300 would be available for either use. This most closely reflects the desires and distribution of opinions of those most interested in implementation of the microradio tier, while reserving space for those who would wish to apply for commercial microradio.

One particular advantage of this entire scheme, as well as that of pretty much every other scheme proposed which incorporates any degree of commercial allocation, is that they all reserve the top end of the FM spectrum for mixed use, ensuring that the portion of the spectrum closest to air traffic bands would be more likely controlled by commercial interests who are less likely to experience high-band interference which may inhibit or imperil vital aircraft communications. While this notion undoubtably offends the

pride and sensibility of many within the noncommercial end of the movement, it is nevertheless historically typical for commercial broadcasters to maintain more stringent controls over their operations and equipment, and experience less operational aberrations overall in comparison to the smallest noncommercial stations. Given that the largest LPRS stations will be smaller than the smallest current radio, it makes a small degree of sense to hedge our bets by placing commercial servers at the top of the dial.

f. Tier-scaled allocation, median-incremented

I also present a modified tier-scaled allocation model, one with less gradation, but possibly easier to implement and administer, as well as perhaps more acceptable to a large number of advocates in the movement. In this scheme, LP-1000 (including LP-500 and LP-250) retain the same 20/80 split as current FM radio. LP-100, meanwhile enjoys the 50/50 split generally agreed the most workable compromise between extremes in the movement. Given that LP-100 is expected to be the most vital component of LPRS, it is fitting that it evenly split these extremes. Finally, LP-10 would be reserved entirely for noncommercial use, befitting the majority of advocates most interested in this service tier.

g. Random allocations

The only other options available are: 1) random allocation with no consideration of spectrum placement or balance; and 2) random allocation with consideration of various schemes for balance between commercial and noncommercial use, either within the tier or within the entire combined service area of all tiers in a defined coverage area. All of these schemes are fairly self-explanatory and so should require no more detailed description. The main problem with all of them is that none are widely supported within the movement by any but the most remote advocates.

None of these allocation schemes will satisfy everyone, and all of them are guaranteed to anger many advocates. Unfortunately, this is one of those situations in which not everyone can have what they want. Nevertheless, I have presented, to my knowledge, more numerous and innovative proposals than I have seen in any comments I have reviewed, and I hope that at the least, I have presented room for a wider range of debate and discussion of this particularly controversial matter.

## F. Operations

### 1. Emergency Alert System (EAS)

As proposed by nearly all advocates, I support reducing or removing EAS requirements for all but the highest implemented LPRS tiers. At the least, even these highest tiers should be permitted to implement a more limited, less complicated and costly version of EAS. I make this recommendation based upon my own ample direct experience with the last generation of EAS equipment and service (known more commonly as EBS/EAN), and have a good understanding of its complexity and cost; the newer generation, while the actual operation has been streamlined and simplified, is still quite complicated from a technical standpoint, and the cost is considerably higher than previous versions, high enough to pose a significant burden to even the highest LPRS tiers, and oppressive to lower tiers.

If EAS is considered for LPRS at all, it should only be required for those LPRS stations which enjoy Primary Service status, thus obliging them to participate in EAS and so requiring their continuous maintenance and operation of the equipment needed, and participation in drills, tests, and alerts. Any stations or tiers not eligible for or not receiving Primary status should be absolved of EAS requirements. If any LPRS below Primary status is required to implement any degree of EAS, let Secondary stations be

required to participate only in a passive role, i.e., monitoring EAS transmissions and observing radio silence during actual alerts, but requiring no other action. The monitoring equipment needed for this kind of participation is much simpler and cheaper than that required for active participation.

2. Time-sharing and Part-time Services

Given the burden of full-time operation of LPRS stations, especially smaller ones, there should be provided means to apply for two or more applicants to share the same band, through time-sharing and/or part-time service. This may be implemented in many different ways that would be tedious and unnecessary to detail, so I will mention only that it can be implemented primarily through the application process, which would fix stations in their time slots, or primarily by mutual agreement between stations and notification and authorisation by the FCC, thus providing a much more flexible framework for modification by stations, and burdening the FCC less that an application-based process. Time-sharing may also serve in some cases to allow multiple tiers in areas where they would not ordinarily be able to serve together.

3. Logs and Towers

Previously mentioned are proposals to reduce the administrative and technical burdens on LPRS stations, particularly lower-tier stations. While this would automatically imply such mundane requirements as regular logs, some special mention is worthwhile.

Logs which directly serve the public interest should be required of all tiers, and should be identically implemented. I am considering here primarily Station Logs and Transmitter Logs; I would reduce or omit entirely Program Logs.

Towers of any substantial height should entail requirements identical to those owned by any broadcast station, as they affect air traffic equally and present the same

risk as towers by any service at such heights. I propose that tower requirements be identical for all radio services at all levels, including that towers below considerable height be exempted from most considerations, and with a special partial exemption for very small towers, particularly those owned by the lower tiers, as such requirements, when not safety-based, may unnecessarily burden them.

## III. Commercialism in LPRS

Without a doubt, this has been the most heated debate within the LPRS movement, and one about which not enough can seem to be written, by anyone. I will try to summarise some of the more common positions.

A very great number of advocates, particularly the more proactive and liberal groups, who tend also to represent the oldest and most long-lived end of the movement, and perhaps the most idealistic, generally universally and earnestly desire that LPRS be entirely noncommercial, with no provisions whatsoever for any commercial service, now or in the future.

One of the greatest advantages of this plan is that it virtually guarantees that LPRS will never fall into the hands of entities interested in LPRS primarily or exclusively for financial gain, thus preserving LPRS for clearly community interests, the most immediate and highest goal of LPRS implementation.

One of the greatest disadvantages of this plan is that it fails to provide fully for the financial maintenance of LPRS, particularly costlier stations in the higher tiers. While there are many income avenues available to radio, commercials provide greater and more direct income. However, they also reduce airtime used for other purposes, and disrupt the flow of programming. Also, advertisers may wish to use their financial largess to influence programming. In regards to this latter concern, it should be noted that

sponsors and benefactors of noncommercial radio may do quite the same, and, indeed, have been known to do so.

A large proportion of advocates also earnestly desire—demand, in fact—some provision for commercial broadcasting within LPRS. The greatest advantage of this plan is that it provides a direct means of support for those stations, one which has historically been shown to result in greater, more direct, and more stable income, which is very desirable. The greatest disadvantage of this plan is that it may detract from the goals of LPRS to first and foremost serve the needs of communities; commercials present an extra and significant priority for stations, one which may distract them from more meaningful service. Indeed, current commercial radio has come to represent almost nothing beyond consumer solicitation, a very sad state of affairs.

Those advocating full and exclusive noncommercial service have many very important reasons for doing so, which can generally be summed up in the statement that noncommercial service most closely meets the direct intent of LPRS and most directly preserves it against degradation; commercials detract from a station's primary goal of providing meaningful programming, and present an opportunity for outside influence by advertisers, as evidenced by recent television battles between programmers and producers, advertisers, and viewers. Further, they present an incentive for the station owner to be more concerned with advertising income than program content.

Those proposing mixed use also have many valid points, most notably that commercials may be the only way that many small stations can meet their financial obligations. They also rightfully point out that noncommercial stations also typically spend a great deal of time on the air in the interests of bringing in income, to the loss of programming, and that some noncommercial stations are so starved for income that it has become among their highest priorities. Further, they also rightfully note that whatever the source of a station's income, that source may wish to influence them.

In very great and difficult consideration of these views, I find myself dissatisfied with the 20/80 split proposed for spectrum allocation. I also find myself lured greatly by the notion of an entirely noncommercial radio service. However, in reviewing both options exhaustively and very carefully, and also through investigation and visitation of both noncommercial and commercial stations, I find no dramatically significant advantage to fully noncommercial service. This would not be enough to convince me, were it not for Don Schellhardt's remarks that LPRS is not capable of great income, with or without commercials, and so would not be subject to the same sort of corporate seizure and commercial concentration and prostitution seen in full-power radio. He also notes that those desiring to operate commercial LPRS service, by these facts, are not the sort of persons interested in radio as a means of financial gain, as there simply will not be any significant financial opportunity available through LPRS. Lastly, Schellhardt and others have advocated a "commercial-but-non-profit" proposal, allowing stations to air commercials as a source of income, but not profit by it.

In view of these concerns and proposals, I support either a mixed use of LPRS, along the lines of any of the spectrum allocation schemes I have proposed above, or a three-fold use structure of noncommercial, commercial, and comm/nonprofit permits. I also support the consideration of conversion of permits upon renewal, within constraints applied by other regulations pertaining to LPRS.

## IV. Ownership, Application, and Licensing

### A. Ownership restrictions

#### 1. No full-power affiliation

Prohibit ownership by any person or entity with any substantial affiliation with any full-power station or service. LPRS must be a service of individual entities interested in community-level broadcasting; it must not be appended to any higher services. Extend this to include any entity which controls any other major media, to be interpreted as any profit-bearing media whatsoever, no matter how small. While there are many in the LPRS who would like to run both a small station and a small paper, there will be far more applicants than available slots, and the fact is that anyone can put together a paper, but only a few will be able to broadcast; there will have to be more participants, and this will necessitate prohibiting even minor multiple-media entities.

2. No translators or boosters.

LPRS must be for individual entities, not an extension of existing services. Period.

3. Individual ownership

LPRS, in order to put as many different voices as possible on the air, must restrict ownership to one single station per owner, period. No other provision is acceptable.

4. Residency

While most of us agree that there should be some sort of residency requirement, actual agreement on this is elusive. After a great deal of consideration, I have decided to go with the more restrictive proposals of the left wing advocates, that owners must reside or maintain their primary residence within the broadcast contour of the station. While this will necessarily invalidate many otherwise eligible and very suitable applicants, it is necessary to ensure the community focus of LPRS, and there are certainly enough persons in any one community that at least one of them would be willing and able to effectively build and operate a small radio station.

5. Size and income requirements

Many proposals have also been presented which would limit eligibility of ownership to defined ceilings of size and income, so that large NPOs and very wealthy persons could not own an LPRS station. While I find these ideas comforting, I find myself unable to define specific criteria which would satisfy both my estimation of what would be reasonable to apply, and also satisfy my sense of fairness for all prospective owners. In the end, while I support the general idea of such limitations, I am unable to fully support any specific criteria or ceilings so far; therefore, I urge the Commission to consider such restrictions, but to do so very carefully and with very great consideration.

6. Individuals vs. Groups

Here, again, while I recognise the validity of the arguments on both sides, I find myself unable to side completely with anyone on this. I would say, given that restrictions are implemented which would prevent anyone too large, wealthy, or powerful from ownership, that there is no need to debate the value of groups over individuals. While no one individual likely represents even a majority of her listeners, neither does any one group, no matter how large and well-liked. I cannot at this time support such criteria.

B. Applications

1. Auctions

There must be absolutely no auctions of LPRS. The very idea directly contradicts the most fundamental reasons for implementation of LPRS, and would be anathema to any meaningful LPRS service, thus invalidating the entire enterprise of this and all related petitions. Furthermore, all LPRS advocates are universally opposed to this practice.

I again thank Adrian Kohn for pointing out for everyone that contrary to popular opinion, the auctioning of LPRS is not in fact legally required, as it is assumed to be for full-power services. The reason LPRS is absolved is that the legal basis for auctions, the Balanced Budget Act of 1997, contains no provisions for LPRS whatsoever, and, in fact, does not anticipate it at all. Furthermore, the Act is intended to resolve mutually exclusive applications between predominantly large corporate applicants, not the kind of small applicants who will take on the challenge of LPRS. Therefore, LPRS is entirely outside of the provisions and requirements of this Act, thus absolving the FCC of the obligation of auctioning LPRS.

2. Unlicensed broadcasts and retroactive amnesty

I personally endorse the full amnesty of unlicensed broadcasters who have no record serious flagrancy or serious interference problems—here I mean interference which inhibits and/or imperils air traffic communications, predominantly—if those operators have ceased operations on or before 23 February 1999 and have not resumed operations. Such operators should be considered of good character in consideration of application. Those who do not or have not met these criteria, I will neither defend nor condemn, but will not endorse their amnesty or future eligibility for application.

3. Grandfathering of incumbent Class-D Permits

I fully support the inclusion of extant Class-D stations within the structure of LPRS, as if they were newly-approved LPRS stations.

C. Licenses

1. Renewability

Licenses must be renewable as per conventional radio licenses. No one should have to invest a large sum of capital only to have it all be for naught in only seven years, and LPRS, while cheaper than conventional radio, is nonetheless quite costly to build and operate, even at the lower tiers proposed, and so must not be of limited duration.

2. Strong local/community review powers

The local community served by LPRS is the single greatest mitigating factor in maintaining LPRS for the benefit of communities. Besides the conventional complaint and review process for renewal of licenses, LPRS should also be subject to special review by its served communities, to ensure their service by the stations. This may be implemented as simply as requiring the station to broadcast instructions on how to file with the FCC, in a reasonable but not too great period immediately prior to review.

## V. Content

Not a few advocates have proposed various restrictions on content. I have considered these with great concern, as the very idea tends to offend my own sensibilities about freedom of expression and outside control of programming content. In the end, I find that in general, I cannot support any specific restrictions on content whatsoever, beyond the most limited consideration that no more than fifty percent (50%) of a station's entire programming schedule may be devoted to non-locally-orginating content. Beyond this small concession to maintaining and ensuring community-oriented programming, I cannot support any other content requirements or restrictions.

## VI. Oversight

Besides FCC oversight, there has been proposed a regional organisation of LPRS broadcasters and perhaps others who together would act as a regional review and

advisory body for LPRS stations within their group. While I strongly support the organisation and activity of such bodies, I must stress that they must have no genuine powers over their members. Besides usurping the rightful and legal authority of the FCC (barring specially defined exceptions by the FCC or other entitled body), this places individual stations at the mercy of small groups of small stations, making them vulnerable to actions which may or may not be appropriate and warranted. In view of this, such groups should exist, but only in an advisory capacity.

Beyond that, community oversight via the existing (and perhaps strengthened) provisions for complaint through the FCC should be ample to ensure that LPRS serves first the desires and needs of its communities. Between communities and the FCC, and, perhaps, the advice and review of an LPRS group at a higher level, we may see that LPRS comprises a sharing of ideas and values of all its participants, at all levels.

## VII. Conclusions

I hereby urge the FCC to establish and implement a low-power radio service and to do so with consideration of the statements and proposals contained herein, as well as those of all other persons and entities submitting Comments in this Matter.

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