

Before the  
**Federal Communications Commission**  
Washington, D.C.

In the Matter of	)	
	)	
Revitalization of the AM Radio Service	)	MB Docket No. 13-249
	)	
Second Further Notice of Proposed	)	
Rulemaking	)	

**COMMENT BY ROMAR COMMUNICATIONS INC.**

Romar Communications Inc. (“Romar”), of 175 Gray Road, Ithaca, NY, through its President, Robert A. Lynch, hereby submits the following Comment in the above-referenced proceeding, addressing those Commission proposals advanced in the agency’s 2015 *Further Notice of Proposed Rule Making* (“*FNPRM*”)<sup>1</sup>, and subsequently modified, in part, by this *Second Further Notice of Proposed Rule Making* (“*SFNPRM*”).<sup>2</sup> For the reasons to be explained herein, Romar believes the Public Interest demands prompt Commission action.

**Introduction:**

To argue that AM Broadcasting in 2019 faces challenges is to understate the obvious. In many markets, including Romar’s own, AM Radio hangs by its fingernails, clinging to life amidst increased competition from terrestrial-, Internet- and satellite-based competitors. For the smaller, independent operator, three decades of FCC-sanctioned ownership consolidation has endangered *mom-and-pop radio* to the point of its near extinction. Big-box retailing has diminished local broadcasters’ Main Street advertising revenue. And as the result of poorer receivers, generational preferences, and consumers’ ever-more discerning ears, the never-ending 40-year exodus of AM listenership to the FM band continues unabated.

Time and circumstances have continually relegated AM Radio to the margins of antiquity. One does not exaggerate to posit that unless significant regulatory changes are made

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<sup>1</sup> *Revitalization of the AM Radio Service*, First Report and Order, Further Notice of Proposed Rule Making, and Notice of Inquiry, 30 FCC Rcd 12145 (2015).

<sup>2</sup> MB Docket No. 13-249, Second Further Notice of Proposed Rulemaking. FCC 18-139 (Oct. 5, 2018).

and made quickly, AM broadcasting will cease to exist two decades from now. Indeed, some one-time market mainstays have already begun to turn in their licenses, waving the white flag of surrender.<sup>3</sup> Market-based local service; with its news, public service, and community involvement, has stood over time as the signature hallmark of AM radio. Commission regulation should foster AM's preservation and its enhancement. Should AM stations become fewer, the public will suffer.

Of course, the Commission's adoption of this *SFNPRM* will not cure all of AM Radio's ills, nor remove all of its challenges. But quick action in this proceeding will help remedy one of AM Radio's primary handicaps, namely that of poor reception in the face of increased man-made non-broadcast interference and diminished receiver quality. Local AM broadcasters need increased signal strength, relaxed directionalization of their signals, and the ability to *punch through the noise* to reach the listener at home, at work, and perhaps most importantly, in the car. Common-sense reexamination of the AM technical rules is imperative. Implementation of those revisions cannot wait.

**Standing:**

Aside from its principals' role as members of the radio listening public, Romar Communications Inc. holds a unique perspective to address this proceeding. For now more than 30 years, since 1987, Romar has sought a Commission license to operate its first-ever AM Broadcast Station in the Ithaca, New York market. Currently, Romar holds an FCC Construction Permit for a new Class B AM station, call letters WTRS, to serve Lansing, NY, a village adjacent to the City of Ithaca.<sup>4</sup> Romar's owners and Directors are a brother-sister team with local roots. Commission award of their company's outstanding construction permit for 750 kHz. required their long and complicated navigation of an agency-constructed labyrinth of auction procedures and technical objections. A thick Commission record documents the path the company's multiple proposals journeyed.<sup>5</sup>

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<sup>3</sup> Notice is taken of the remarks of Kevin Tekel, one commenter to this proceeding. Though Mr. Tekel's opinion differs from that of Romar's, Tekel notes that even WDCD, Albany, NY, has gone dark and surrendered its license.

<sup>4</sup> BNP-20020522AAM; Facility ID No. 136961; Granted: April 29, 2016.

<sup>5</sup> See Construction Permit Applications BP-19870331AH; ARN-900405BX; BNP-19971126AAH.

But over those decades of uncertainty, revision, and regulatory delay, the economic and technical challenges facing AM Radio changed greatly. AM Radio's financial rewards are now fewer; impediments greater. Romar's principals must confront a 21<sup>st</sup> Century broadcast marketplace that is far more consolidated.<sup>6</sup> Therefore, a strong, viable signal, with reception that the listener need not *struggle to hear*, has become increasingly essential.

To avoid its application's dismissal in 2015, Romar was forced to accept a Commission-demanded compromise which significantly reduced its proposed station's daytime power and effective coverage of the Ithaca, NY market.<sup>7</sup> Forced adherence to the Commission's existing outdated and impractical daytime co-channel interference protection standards,<sup>8</sup> those which undergirded the 2015 compromise, has seriously handicapped the WTRS authorization. In its permittee's opinion, WTRS could likely not long survive in the local marketplace with the compromised daytime facilities now authorized. Construction time is running out. As a result, Romar requires speedy and affirmative Commission action in this proceeding to make its new station worth building. Without a doubt, Romar holds standing to comment.

### **The Wisdom of Regulatory Severance:**

Examined carefully, this *SFNPRM*, and the *FNPRM* which it, in part, modifies, are in reality multiple technical revision proceedings rolled into one.<sup>9</sup> The combined proposals would affect both daytime and nighttime allocation standards, as well as those during critical hours.

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<sup>6</sup> The Ithaca, NY broadcast market in which Lansing is located, a market presently unrated by Nielsen, is home to eight licensed commercial stations, six of those eight under common ownership. Together with its HD channels, each HD channel rebroadcast in analog via an FM translator, the commonly-owned market cluster maintains ten distinct audio streams. WTRS(AM) would provide the market its ninth commercial station and its thirteenth commercial listening choice.

<sup>7</sup> See October 6, 2015 Minor Technical Amendment to BNP-20020522AAM. In said amendment, proposed daytime power was reduced from 2.5 kW. To 1.2 kW, with daytime directional facilities modified so as to direct the proposed daytime signal away from the community of license and also from the Ithaca Urbanized Area. The October 2015 amendment was submitted to address the Informal Objection of Holy Family Communications and its successor, JMJ Radio, Inc., license of co-channel station, WQOR, Olyphant, PA. See letter of Mar. 26, 2015 to Romar Communications Inc. from the Supervising Engineer of the Audio Division, Media Bureau. In said letter, Romar's requested waiver of Section 73.37 of the AM interference rules was denied.

<sup>8</sup> See 47 CFR §73.37(a).

<sup>9</sup> One can argue as many as *four* important and distinct technical matters are at issue in the instant proposal: 1) Nighttime skywave protection standards for Class A stations; 2) Critical Hours and Daytime groundwave protection standards for Class A stations; 3) Daytime groundwave protection standards for Class B, C, and D stations; and 4) Changes in the Nighttime RSS calculation methodology.

Their adoption, if authorized, would permanently alter the nature of secondary nighttime service accorded Class A clear channel stations. In Romar's opinion, the omnibus nature of this proposed rulemaking has become its own worst enemy. Resistance in one area has precluded action in any. Relatively noncontroversial, common-sense, technical reforms have been placed on perennial hold while the proposed rulemaking's more sweeping and contested provisions have undergone intense lobbying and received considerable industry opposition.

Well-financed and ably represented interests have argued against the more radical aspects of this initiative. Most notably, the *FNPRM* and *SFNPRM* would eliminate secondary skywave protection for Class A stations nationwide. The proposed rulemakings would end nearly a century of protective Commission regulation that accords vast regional nighttime coverage benefits to AM Radio's *biggest of the big*. One should not expect the likes of WABC, WCBS, KFI and WGN to willingly surrender this most valuable collective asset without a fight. They are not doing so. The text of the *SFNPRM* acknowledges the strenuous objections raised by the 17-member, 56-station AM Radio Preservation Alliance ("AMRPA").<sup>10</sup>

Elimination of protected nighttime skywave coverage for these AM powerhouses has become the most contested and publicized battleground in the instant AM Revitalization proceeding. Elimination of Class A nighttime skywave protection may warrant further study. Indeed, elimination of that nighttime skywave protection may be unwise. Arguments on both sides of the debate hold merit. But further debate should not postpone adoption of those regulatory revisions which have drawn little, if any, opposition.

In Romar's opinion, the most important change among these non-controversial reforms is the relaxation of co-channel and adjacent-channel daytime groundwave interference standards for Class B, C, and D stations. Amendment of these rules would only minimally impact the nighttime or critical hours coverage opportunities for Class A stations. Daytime Class A groundwave protection criteria would also be only minimally impacted.

It's time this regulatory revisionary train be uncoupled. In Romar's opinion, the Commission should sever the Class A protection revisions, whether daytime, critical hours, or

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<sup>10</sup> See Second Further Notice of Proposed Rule Making at para.5 and notes 9-12.

nighttime, from other elements of this proceeding. The Commission should revise the Class B, C, and D daytime interference protection standards immediately. The Commission could, and should, also change the RSS calculation methodology as outlined in the *SFNPRM*. Hold the Class A controversy at bay for the moment. Deal first with that which can be undertaken without a fight.

**Revision of Daytime Allocation Standards; Class B, C, and D Stations:**

Daytime groundwave protection standards for all classes of AM stations currently stand at ridiculously low levels.<sup>11</sup> Current Rules establish Class A co-channel groundwave protection at the 0.1 mV/m contour; that for all other classes at the 0.5 mV/m contour. In previous times, when there was less environmental noise and better quality receivers, the lower threshold for interference protection may have held merit. It no longer does. Twenty-first Century reality must acknowledge that today's AM broadcaster stands far less concerned about some faint, barely-perceptible interfering signal contaminating reception at the periphery of a station's service area than he or she does about one's own station's inability to produce a sufficiently dominant presence within or near its community of license. While effective regulation dictates that the Commission must contain groundwave interference at some *reasonable* level, practical reality demands standards far more relaxed than Section 73.37(a) currently requires.

Under present regulation Section 73.37(a) establishes a daytime groundwave signal strength contour of 0.5 mV/m as the standard for Class B, C, and D stations, the contour which is to be protected from daytime interference by any other proposed co-channel or first-adjacent channel station. A new or modified co-channel station cannot be authorized should it propose to overlap the protected 0.5 mV/m contour with more than a barely-audible 0.025 mV/m daytime groundwave interfering signal. A first-adjacent channel proposal has, since 1991, been limited to no more than 0.25 mV/m interference at that same domestic daytime protected contour.<sup>12</sup>

For second-adjacent channel stations, under present § 73.37(a) rules, authorized and

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<sup>11</sup> See 47 CFR §73.37(a).

<sup>12</sup> The 0.25 mV/m to 0.5 mV/m (protected or interfering) standard was established with the so-called "New AM Rules" in 1991. (See Report and Order, MM Docket No. 87-267, Review of the Technical Assignment Criteria for the AM Broadcast Service [1991]). Prior to that time, the first-adjacent daytime interference standard at the 0.5 mV/m contour was 1:1, with no more than a 0.5 mV/m interfering daytime groundwave signal strength permitted.

proposed 5 mV/m contours cannot cross. Third-adjacent channel stations cannot intersect each other's contours with greater and a 25 mV/m signal. The Rules draw no distinction between whether the protected or interfering contours were those of the proposed new or modified station or those of a co-channel or adjacent channel station to be accorded protection.<sup>13</sup>

The 2015 *FNPRM* proposed to relax the co-channel and adjacent channel protection standards considerably. The *FNPRM* would establish the much-stronger 2 mV/m daytime groundwave contour as the protected contour for Class B, C, and D stations.<sup>14</sup> At this newly-defined protected contour, revised § 73.37(a) rules proposed under the *FNPRM* would permit a co-channel interfering signal of no greater than 0.1 mV/m, still, again, much-stronger than under current rules. For first-adjacent channel stations or proposals, a 2 mV/m interfering signal would be permitted. Thus, were the protection standards revised as the 2015 *FNPRM* proposed, the protected contours of Class B, C, and D stations would be *four-times* as strong as at present; the co-channel interfering contours would also be *four times* as strong; and the interfering first-adjacent channel contours would be *eight times* as strong. For second-adjacent channel stations, protected and interfering 25 mV/m groundwave contours (rather than the weaker 5 mV/m contours) could not cross. Under the *FNPRM*, third-adjacent groundwave protection would be eliminated altogether.

As stated in the text of the 2015 *FNPRM*:

“[R]educing protection to all stations to the 2 mV/m contour allows AM broadcasters greater flexibility to make station modifications designed to increase signal strength to their primary service areas.”<sup>15</sup>

The instant *SFNPRM*, the proposed rulemaking offered for comment, has proposed *no change* in the *FNPRM*'s proposed revision of the Class B, C, and D daytime protection rules.<sup>16</sup> Romar applauds the Commission for remaining consistent in its intention to scale back the outdated and counter-productive AM interference standards now hamstringing broadcasters.

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<sup>13</sup> For Class C stations, certain presumptions have been and continue to be applied in the calculation of co-channel groundwave contour protection. However, those presumptions are not immediately relevant to this proceeding.

<sup>14</sup> See *FNPRM* at 12172-73, para. 64-65.

<sup>15</sup> *FNPRM* at para. 64.

<sup>16</sup> *SFNPRM* at para. 16.

Nonetheless, one party has already commented in this proceeding, and the Commission should heed its advice. The engineering firm of de Treil, Lundin & Rackley, Inc. (“dLR”),<sup>17</sup> supports *in concept* the Commission’s revised Daytime groundwave protection standards. However, dLR has advanced a slightly different, and more modest, co-channel interference protection modification. Like the Commission’s plan, the dLR modification would establish the 2.0 mV/m contour as that to be accorded any co-channel or adjacent channel daytime protection for Class B, C, or D stations. However, the dLR modification would permit *only a 0.05 mV/m co-channel interfering contour* at this newly-defined 2 mV/m protected contour. States author Ronald D. Rackley on behalf of his company:

“We believe that this plan represents a good compromise to limit station-to-station interference while improving the signal-to-noise ratio through increasing the protected contour level.”<sup>18</sup>

Romar agrees with the dLR Comment’s proposed modification. dLR’s lower level of permissible co-channel interference at the newly-defined protected daytime contour is still fully *double* the interference level currently permitted by § 73.37(a). Yet it is also a more cautious approach than what the Commission’s *FNPRM*, and now the *SFNPRM*, has suggested. Romar predicts that establishing dLR’s middle-ground of co-channel protection would expedite the Commission’s approval process toward regulatory revision. By so doing, the Commission would accomplish this proposed rulemaking’s most vital priority... that of speed. At bottom, the dLR modification constitutes a fair compromise.

In Romar’s own situation, the dLR modification would provide WTRS, Lansing much-needed relief. Romar’s prior technical dispute with co-channel WQOR, Olyphant, PA’s licensee(s)<sup>19</sup> involved not proposed interference *caused* to WQOR (of which, all parties agreed, there was none), but rather the calculated interference *received* by WTRS, Lansing *from* WQOR. Romar’s Commission-mandated rigorous adherence to the groundwave protection standards embodied in § 73.37(a) hurt only Romar’s own station, WTRS, nobody else.

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<sup>17</sup> See *Comments of de Treil, Lundin & Rackley, Inc. in MB Docket No. 13-249*, received and posted Jan. 2, 2019. (hereinafter the *dLR Comment*)

<sup>18</sup> *dLR Comment* at p. 6.

<sup>19</sup> See note 7, *supra*.

Relaxation of WTRS' own daytime protection to the 2.0 mV/m contour, and more importantly, the increase in the permissible WQOR interfering signal to anything less than 0.05 mV/m (the dLR modification) would provide the WTRS facility needed relief. Romar could modify the WTRS daytime power to its earlier-proposed 2.5 kW. Romar might seek even higher daytime power. More importantly, Romar could reengineer its daytime directional design so as to radiate a stronger, more competitive signal toward its community of license, and also to the Ithaca Urbanized Area of which Lansing is a part. The dLR modification would supply this commenter sufficient relief. Romar suspects other AM broadcasters would be similarly benefited. Romar recommends Commission adoption of the dLR modified proposal.

#### **Nighttime and Critical Hours Protection for Class A AM Stations:**

Romar anticipates most commenters in this *SFNPRM* will address the Commission's more controversial elements, namely the proposed elimination of nighttime skywave protection for Class A stations; and also, to a lesser extent, the Commission's proposed modification or elimination of critical hours protection for those same Class A licensees. Romar's principals choose not to address either of these more hot-button topics.

In both the area of nighttime skywave interference protection (for Class A protected groundwave coverage only) and critical hours protection, the Commission has advanced alternative options. Romar will leave it to other parties to weigh in on which of these alternatives are best. Romar expects that Class A licensees and the AM Radio Preservation Alliance will oppose any and all of the Commission's suggested alternatives. What Romar maintains is most important is to sever, or uncouple, Class A protection—whether daytime, nighttime, or during critical hours—from the remainder of this proceeding. Otherwise, Romar fears, meaningful, necessary—and for Romar, *make-or-break*—reforms will be impeded and bogged-down in the Commission's regulatory mill for months, perhaps years, perhaps forever.

#### **Conclusion:**

Time is of the essence. What can be done now *should* be done now. The Commission's proposed elimination of nighttime skywave protection for Class A licensees is a thorny thicket, a battleground in which big money and powerful influence are likely to exact delay. Meanwhile, many smaller local broadcasters, class B, C, and D licensees and permittees, face day-to-day



challenges of reaching listeners effectively in an environment of increased non-broadcast competition, fewer revenue opportunities, and a radio spectrum that gets ever more noisy, ever more clogged with audio junk, whether from computers, power lines, modern automobiles, or the cut-corners AM receivers mounted within them.

As the dLR comment states at its conclusion:

“New engineering standards to increase AM stations’ flexibility in site selection, with the ability to provide signals that better overcome noise and man-made interference, are very much needed—NOW....

“We believe that this rulemaking should move forward to its conclusion without delay, and we encourage the FCC to make that happen.”<sup>20</sup>

Romar agrees. Modernization of the daytime allocation standards is very much needed. For this commenter, it is essential. Broadcasters benefit. So does the public. Please make change happen—and happen soon.

Please uncouple from the remainder of this proceeding, and then adopt expeditiously, modified, common sense relaxation of the § 73.37(a) daytime allocation standards for Class B, C, and D stations, and give serious consideration to the minor adjustment in those proposed standards as has been advanced by commenter du Treil, Lundin and Rackley, Inc.

Respectfully submitted,

January 22, 2019

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Robert A. Lynch  
President  
Romar Communications Inc.

cc. by electronic submission  
January 22, 2019

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<sup>20</sup> dLR Comment at page 8.