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

In the Matter of:	)	
	)	
Assessment and Collection of Regulatory Fees For Fiscal Year 2019	)	MD Docket No. 19-105
	)	
	)	

REPLY COMMENTS OF HUBBARD BROADCASTING, INC.

Hubbard Broadcasting, Inc. ("HBI"), by its attorneys, hereby submits its Reply Comments in the above-captioned proceeding in order to join other commenters in alerting the Commission to the harm of the arbitrary, capricious and unsupportable annual regulatory fees ("Fees") that the Commission has proposed to be assessed against full-power satellite television stations ("Satellite Stations").[1]

For FY 2019, the NPRM proposes to transition full-power television broadcast stations to a new Fee system that will be based on each station's projected noise-limited service population by requiring each station to pay the average of a Fee based on that population with a fee based on what most television stations would have paid under the Commission's prior Fee system.[2] For most television stations, that prior (or "historical") Fee was based on a station's Designated Market Area ("DMA"). For many years, however, Satellite Stations did not pay this DMA-based fee; instead, they paid a single flat Fee, regardless of DMA.

As other commenters have noted, the NPRM does not explain why the Commission, to the extent it proposes to change the flat Fee for Satellite Stations in FY 2019, chose to base every

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[1] These Reply Comments are authorized in this proceeding under *Assessment and Collection of Regulatory Fees for Fiscal Year 2019,* Notice of Proposed Rule Making, MD Docket No. 19-105, FCC 19-37 (rel. May 8, 2019) ("NPRM").

[2] NPRM, ¶¶20-21. After 2019, the Fee for each station is expected to be based solely on "the actual population covered by the station's contour." *See id.* at ¶20.

Satellite Station's "historical" fee methodology on its DMA (as if it were a primary full-service television station), rather than use its historical flat Fee.[3] If put into effect, the Fees proposed in the NPRM would be contrary to the FCC's long-standing treatment of Satellite Stations as meriting low Fees *as well as* the Fees that the FCC intends for many Satellite Stations in years to come, imposing an unwarranted burden on Satellite Stations that would threaten their continued operations. Based on these serious considerations, and in keeping with the comments of other parties to the proceeding,[4] the Commission either should substitute the flat Fee imposed on Satellite Stations as the historical component of this year's planned "average" Fee, or, if a simpler approach is preferred, apply the 2018 flat Fee to Satellite Stations for FY 2019.

HBI's own Satellite Stations demonstrate the arbitrariness of the Fees currently proposed for FY 2019. Through its wholly owned licensee subsidiaries, HBI is the parent company of thirteen full-power television stations, of which five currently are Satellite Stations. From 2010 through 2018, HBI's Satellite Station flat Fees ranged from $1,250 to $1,750 a year. For these five Stations, their 2018 Fees are similar to the total Fees expected due under the population-based methodology set forth in Appendix C of the NPRM (and which is expected to serve as the basis for Fees going forward). However, the Fees currently proposed for FY 2019 for these five Satellite Stations are shockingly and exorbitantly different, as shown on Page 3 of these Reply Comments.

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[3] *See, e.g.*, Comments of Ramar Communications, Inc., MD Docket No. 19-105, at 1-5 (submitted June 7, 2019) ("Ramar Comments") (proposing historical flat Fee in lieu of "DMA Based" fee component for purposes of calculating FY 2019's transitional or "blended" average Fee); Joint Comments of Nexstar Broadcasting, Inc. & Gray Television, Inc., MD Docket No. 19-105, at 2 (submitted June 7, 2019) ("Nexstar/Gray Comments") (proposing retention of "lower" and "separate flat fee" for satellite stations).

[4] *See id.*

The detrimental and disproportionate effects of the proposed Fees for FY 2019 are illustrated in the following chart, which details the annual regulatory fees imposed on HBI's five Satellite Stations in 2018 compared to (i) the currently proposed 2019 Fee; and (ii) the population-based fee set forth for each Station by the Commission in Appendix C of the NPRM;

HBI Satellite Stations	**FY 2018 Reg. Fees**	**FY 2019 Proposed Reg. Fees**	**NPRM Appendix C Population-Based Fee**
KOBF(TV), Farmington, NM	$1,500	$14,304	$1,459
KOBR(TV), Roswell, NM	$1,500	$14,340	$1,529
KRWF(TV), Redwood Falls, MN	$1,500	$20,647	$618
KSAX(TV), Alexandria, MN	$1,500	$21,636	$2,596
WIRT-DT, Hibbing, MN	$1,500	$2,684	$918
Total	$7,500	$73,611	$7,120

As shown above, four of the five HBI Satellite Stations now face Fees that are nearly 10 times to almost 15 times their Fees from last year. The smallest increase is almost 80% higher than the Station's Fee in 2018. Similarly, with one exception, this year's proposed Fees range from more than eight times to 33 times as high as what the Fees would be if based on use of Appendix C's population-based methodology alone. These vast increases in Fees – which, collectively, are nearly ten times as much as last year's collective Fees for these same Satellite Stations (as well as more than ten times as high as fees based solely on population) – simply have not been justified based on any change in the regulatory burden on the Commission's resources or any significant change with respect to the Satellite Stations themselves.[5]

[5] *See, e.g.*, Nexstar/Gray Comments at 3-7; Ramar Comments at 3-4.

For more than half a century, the Commission has classified certain full-power television stations as "satellite" because they provide over-the-air broadcast services in predominantly rural areas in which a stand-alone full-power television station would not be viable economically. As early as 1954, the Commission authorized television satellite operations to serve "small or sparsely populated areas with insufficient economic bases to support full-service operations."[6] In support of the satellite classification, for decades the Commission has exempted Satellite Stations from its multiple ownership rule[7] because the Commission understands that Satellite Stations operate where ordinary full-power stations cannot survive financially.[8] Similarly, the Commission intended to assess fees against Satellite Stations which would recognize their tenuous economics.[9]

Unfortunately, the proposed FY 2019 Fees upend the Commission's long-established understanding of Satellite Stations or its current intention to protect them. As an example of the

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[6] *See, e.g., Authorization of UHF Stations*, 43 FCC 2734 (1954).

[7] *See* Note 5 TO §73.3555 of the Commission's rules ("Paragraphs (b) and (e) of this section will not be applied to cases involving television stations that are "satellite" operations.")

[8] Twenty years ago, the Commission explained: "A television satellite is a full-power terrestrial broadcast station authorized under Part 73 of the Commission's Rules to retransmit all or part of the programming of another station (most commonly the parent station). Satellite stations are operated by the same party that operates the parent station. The Commission does not authorize satellite operation unless it is demonstrated that the frequency would likely go unused otherwise. As a result, satellite stations typically operate in areas that are likely to provide television broadcasters relatively little opportunity for growth and profit when compared with larger markets." *Broadcast Television National Ownership Rules; Review of the Commission's Regulations Governing Television Broadcasting; Television Satellite Stations Review of Policy and Rules,* Report and Order, 15 FCC Rcd 20743, 20745 (1999).

[9] When the Commission adopted a population-based Fee methodology in 2018, one of its justifications for the change was to "address[] concerns about the assessment of regulatory fees on broadcast television satellite stations serving small markets at the fringe of larger DMAs" when other full-service stations had greater over-the-air coverage of the same DMA. *Assessment and Collection of Regulatory Fees for Fiscal Year 2018*, Report and Order and Order, 33 FCC Rcd 8497, 8502 (¶ 14) (2018).

absurd effects of the proposed 2019 Fees, consider HBI's subsidiary-owned Station KOB(TV), Albuquerque, New Mexico. KOB is the NBC affiliate serving the dominant city of that DMA, and is commonly owned with two same-state, same-DMA Satellite Stations serving Farmington and Roswell, New Mexico. Per the NPRM, these two Satellite Stations, KOBF(TV) and KOBR(TV), would pay FY 2019 Fees of $14,304 and $14,340 respectively, while their parent station would pay $17,739. In other words, each of the two Satellite Stations in the same DMA as KOB would pay more than 80% of the 2019 Fee of their parent station, even though the populations of Roswell and Farmington are only a bit larger than 5% of the population of the Albuquerque metropolitan area, and each of the Stations are projected to serve over-the-air approximately 1/8 of their DMA's overall population (based on Appendix C of the NPRM and assuming an Albuquerque DMA TV population of approximately 1,657,882 persons).[10] (In 2018, KOBR and KOBF paid about 6% of the Fee paid by their parent station.)

Making the same comparison for the proposed 2019 Fees for HBI television station KSTP-TV, St. Paul, Minnesota ($34,024) and its two Satellite Stations: KSAX(TV), Alexandria, Minnesota ($21,636) and KRWF(TV), Redwood Falls, Minnesota ($20,647), the burden of those Satellite Station Fees are about 64% and 61%, respectively, of their primary station Fee.

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[10] The 2018 population of the Albuquerque metropolitan area was 903,000. *See https://www.google.com/search?source=hp&ei=ZqAGXZCAD_DP5gLo9ZDQAw&q=population+of+albuquerque+new+mexico&oq=population+of+albuquerque&gs_l=psy-ab.1.1.0l10.1503.7451..9354...0.0..3.305.5170.8j0j16j1......0....1..gws-wiz.....0..0i131.lr7Ermldka* The 2017 population of Roswell was 47,775. *See https://www.google.com/search?ei=LKEGXcjLHa_U5gKDjarIBQ&q=2018+population+of+roswell+new+mexico&oq=2018+population+of+roswell+new+mexico&gs_l=psy-ab.12...37091.37944..39911...0.0..0.317.1423.2-4j1......0....1..gws-wiz.......0i71.kbPOyV5FdmE.* The 2017 population of Farmington was 45,450. *See https://www.google.com/search?ei=wKEGXciYPKjX5gK3g7yACg&q=population+of+farmington+new+mexico&oq=population+of+farmington+new+mexico&gs_l=psy-ab.12..0.3491.3491..5614...0.0..0.305.305.3-1......0....1..gws-wiz.......0i71.98vEgxzlPj8*

The following chart provides population served information for the HBI Satellite Stations and their primary stations, which they rebroadcast. The "Service Population" column is based upon the calculated populations within each station's noise-limited service contour, as shown in Appendix C to the NPRM. The "DMA TV HH" column shows households within the relevant DMA based upon Nielsen information. The "DMA TV Population" column also is based on Nielsen data.[11] The final two columns are percentages based upon the preceding columns.

Station	Service Population	DMA TV HH	DMA TV Population	Of DMA Population	% Satellite/Main Station
KOB(TV)	1,152,841	650,890	1,657,882	69.54%	100.00%
KOBF9TV)	201,911	650,890	1,657,882	12.18%	17.51%
KOBR(TV)	211,709	650,890	1,657,882	12.77%	18.36%
KSTP-TV	3,788,898	1,713,310	4,363,972	86.82%	100.00%
KRWF(TV)	85,596	1,713,310	4,363,972	1.96%	2.26%
KSAX(TV)	359,400	1,713,310	4,363,972	8.24%	9.49%
WDIO-DT	341,506	148,870	379,187	90.06%	100.00%
WIRT-DT	127,001	148,870	379,187	33.49%	37.19%

As this chart projects, the two New Mexico Satellite Stations only serve approximately 17.51% to 18.36% of the same DMA as their primary station, yet they would bear the burden of more than 80% of the Fee assessed against their primary station. The two Minnesota Satellite Stations are projected to serve an even lower proportion of the same DMA as their parent station, 2.26% and 9.49%, but they would be expected to pay more than 60% of the Fee assessed against their primary station. These Fee burdens are unjustified.

HBI considers the Satellite Stations operated by its licensees to be a public service to rural area viewers. Three of the five HBI Satellite Stations do not support any originated

[11] Specifically, the DMA TV population has been estimated from the number of television households in the DMA multiplied by the average number of persons per Nielsen television household nationwide (i.e., 119.9 million TV households including 305.4 million people, or approximately 2.547 persons per household).

advertising. The Commission should note that in approximately December, 2017, CBS Broadcasting, Inc. shut down its Satellite Station, KCCO-TV, Alexandria, Minnesota (part of the Minneapolis-St. Paul DMA) after completing the sale of its spectrum.[12] It appears that CBS suffered no material loss of viewership from terminating KCCO-TV. Thus, huge increases in Fees imposed upon financially fragile operations might drive some Satellite Stations out of business, damaging the public interest by disrupting television broadcast services to rural locations. If the proposed Fees are not corrected, HBI would have to consider whether to terminate the operations of some or all of its Satellite Stations.

The proposed massive and arbitrary increases in annual regulatory fees for Satellite Stations are directly contrary to their 65-year history before the FCC and unjustified. Therefore, HBI respectfully requests that the Commission assess the same $1,500 flat Fee to Satellite Stations in 2019 as was applied in 2018, or, alternatively, average the $1,500 flat Fee imposed on Satellite Stations in 2018 with each Station's population-based fee (as set forth in Appendix C of the NPRM) to determine each Satellite Station's new FY 2019 Fee. Taking either action would support the public interest and be in keeping with decades of FCC precedent.

Respectfully submitted,

Hubbard Broadcasting, Inc.

/s/
Charles R. Naftalin
F. William LeBeau
HOLLAND & KNIGHT LLP
800 17th Street, N.W., Suite 1100
Washington, D.C. 20006
Tel: 202-955-3000 Fax: 202-955-5564

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Its Attorneys

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[12] *See* LMS File No. 0000037139. KCCO-TV was licensed to Alexandria, Minnesota, the same community of license as KSAX(TV), one of the Satellite Stations of KSTP-TV.

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