

In the Matter of)	
)	
MODERNIZATION OF MEDIA)	MB Docket No. 17-105
REGULATION)	

COMMENTS BY DON DAVIS

I am the individual local owner of Vanguard Media LLC, the licensee of AM radio station KOAZ (Isleta, NM), and the licensee of FM translator station K279BP. My comments in this proceeding are based on my experience as an AM station operator who also broadcasts on an FM translator, and as a technical consultant for numerous radio stations in New Mexico.

KOAZ began operating in 2011 through the Commission's "streamlined AM community of license procedures". When KOAZ began broadcasting, it operated with a classic country music format, and struggled to gain traction in listenership. KOAZ has an effective daytime signal at 5,000 watts on 1510, but is limited to 30 watts at night on a channel that receives so much nighttime interference that the station only covers about two miles from the tower at night. The opportunity to acquire the translator station arose from a religious broadcaster who wished to exit the market, and KOAZ began broadcasting KOAZ through the translator on FM 103.7 at noon on Valentine's Day 2012.

For many years in the Isleta market, which is adjacent to Albuquerque, NM, the public was served by FM stations which broadcast a format then known as "smooth jazz". The market lost the format about four years prior to the initiation of service from the KOAZ translator as the corporate operators wished to change to what they considered more "mainstream" formats. This left a significant number of listeners in our area without the radio service they loved. As our background provided us with an understanding of the format both in programming and sales, when the FM service was implemented, we decided to change the format of KOAZ to a Contemporary Jazz format so as to serve these disaffected listeners. KOAZ, which we call "The Oasis", is not a traditional Smooth Jazz station.

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Rather, we reflect our area's unique musical tastes by programming a unique blend of contemporary jazz, world music, chill, and in particular Latin guitar, which is very popular in New Mexico.

We are also very responsive to local issues; for example every Sunday morning for several hours we have a special program hosted by people from a local homeless shelter, a program which has proven to be very popular with our listeners and delivers some of the largest listenership of the entire week.

Each Valentine's Day we celebrate the initiation of service on the FM translator, and this Valentine's Day at noon was the fifth anniversary. In that time, KOAZ has been strongly embraced by our community.

I am fortunate to work with a remarkable team of people at KOAZ, who are longtime residents of our area, and who have worked at some of the largest and most successful radio stations in the market. To a person, they are all involved with KOAZ because of their dedication to our community and The Oasis' format and listeners. I attribute our success to these people's understanding of our local culture and their commitment to make KOAZ a truly great radio station.

We stream KOAZ online, and I invite you to sample our programming at www.oasisnewmexico.com. When you listen, I believe you will gain an understanding of the passion we share for serving our community and our listeners. We are very proud of the quality of programming we provide our community through KOAZ. Were we still broadcasting exclusively on AM, it would have been impossible to serve the people of our community in this manner.

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COMMENTS ON AM REVITALIZATION

1. MODIFICATIONS OF AM PROTECTION STANDARDS

Currently, many AM stations have their coverage curtailed in the earlier and later hours of daytime operation by “critical hours” limitations, including my KOAZ. In today’s high-noise reception environment, which encompasses almost all reception inside structures as well as in vehicles except in the most rural areas, the field intensities protected by critical hours operations are, in my opinion, too low to be useful in almost any situation. Therefore, the wholesale reduction of operating power during critical hours among many stations to protect a small number of Class A stations is to me an inefficient use of spectrum. Therefore, I support the Commission’s plan to eliminate the reduction of power required of many AM stations during critical hours.

I fully support the Commission’s proposal to reduce the daytime protection requirements among class B, C, and D stations. The present protection requirements were established when radios had a much wider bandpass, and when interfering noise sources were much fewer. The daytime contour protection ratios as proposed make perfect sense, but I propose that while Class C stations maintain the 1,000 watt nighttime operation, that Class C AM stations be allowed to operate at any desired daytime power level as Class B and D stations are. An example of such a change in power limits took place when Class B stations were allowed to increase their power from a maximum of 5,000 watts to 50,000 watts as long as other stations were protected by the contour overlap rules. Of course, doing so will certainly enable many Class C licensees to apply to increase power, so I propose that the Commission authorize a filing window with a settlement opportunity and later auction. This will likely happen with Class B and D stations when the Commission changes the contour protection rules, so perhaps the Commission will provide for such a procedure for all classes of AM stations.

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2. AM FILL-IN TRANSLATORS AND LOW POWER FM STATIONS.

The Commission's recent Low Power FM initiative resulted in some 2,800 applications for new LPFM stations being filed, and while many of those applications have already been dismissed as being defective or have been abandoned, there are many channels in communities which would have previously been useful for AM fill-in translators that are no longer available for such use as translators must now protect LPFM applications, and later, licensed facilities.

I propose that the Commission adopt policies that allow an FM translator licensee or permittee that wishes to change channels or upgrade the translator to serve as an AM fill-in translator, to "displace" an LPFM station to an alternate FM channel which will permit the LPFM station to operate at its proposed, permitted or licensed location and power. I propose that the displacement of the LPFM station would be permitted to any FM channel that met the interference protection requirements of the Rules. This will enable the LPFM station to establish new service or continue to serve its community, while substantially increasing the efficiency of the use of the FM broadcasting spectrum in a community. This policy will result in no loss of service by the LPFM station, while allowing the development of additional AM fill-in service by FM translators. In the case of operating LPFM stations, the translator licensee would be required to reimburse the LPFM licensee for reasonable expenses related to the technical aspects of the change to the new FM channel.

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3. MODIFICATION OF THE POWER THRESHOLD FOR INTERMEDIATE FREQUENCY PROTECTION.

Presently the Commission's Rules specify a power level of 100 watts ERP as the power level at which Intermediate Frequency ("I.F.") distance and contour protection must be implemented. This has resulted in many translator stations being licensed at 99 watts to stay below the threshold. I propose the I.F. protection threshold be modified to apply only to an ERP in excess of 250 watts, only 4 decibels above the current threshold of 100 watts. While the Commission would be aware of any I.F. interference issues that have arisen at the 99 watt power level, I have to believe that such instances, if any, are rare. If this rule change is implemented, many translators in AM fill-in service will be able to increase their power to a level above 99 watts, significantly improving service to their communities.

4. REBROADCASTING OF CROSS-SERVICE TRANSLATORS.

There is an anomaly in Section 74.1201(g) of the Commission's Rules related to "other-area" translators which rebroadcast the signal of an FM translator used as a "fill-in" translator for an AM station. While the rule section's clear intent is to define the siting of both AM and FM fill-in translators, it contains language that could be construed – *or not*, to mean that other-area translators could not rebroadcast the signal of an AM fill-in translator. This anomaly resulted in the grant of rebroadcast authority of the KOAZ fill-in translator by an other-area translator about three and a half years ago as specifically shown on the other-area translator license (K240EC), but when the other-area translator licensee applied to assign the license, the Commission deferred the grant of the assignment based on a different interpretation of Section 74.1201(g).

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I see no reason why licensees of other-area translators that wish to rebroadcast an AM fill-in translator should not be allowed to do so. Many AM stations that utilize a fill-in translator, including KOAZ, program unique locally originated programming that is unavailable on full-service FM stations. In the case of K240EC, the other-area translator licensee was translating KOAZ into a market that strongly embraces the unique programming service the translator provides.

Therefore, I propose the language of Section 74.1201(g) of the Rules be changed to add the words “a fill-in” as follows: “The coverage contour of a fill-in FM translator rebroadcasting an AM radio broadcast station as its primary station...”

6. THE DISCONTINUANCE OF OPERATION OF THE PARENT AM STATION.

In the case of my AM station, KOAZ, the very low authorized nighttime power limits the station's viability. Of course, I knew when I acquired KOAZ that this was the case, but since we added the FM service from the fill-in translator, by far the majority of listeners to KOAZ are tuned to the FM signal. This makes sense, as the KOAZ signal “disappears” for most of our listeners in the evening at sunset, while the FM signal is consistent throughout the day and night.

I propose that after some defined period of operation of the AM fill-in translator, that at the AM station licensee's option, the Commission will allow the AM station licensee to discontinue operation of the AM station and surrender the license for the AM station to the Commission, while maintaining the operation of the translator. This would accomplish several goals:

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- 1) The number of interfering signals on the AM band would diminish. Most of the licenses surrendered would naturally be stations like mine with limited nighttime coverage, while more substantial AM facilities will remain on the air, receiving less interference, and potentially opening up opportunities for both daytime and nighttime signal improvement by other AM stations.
- 2) The resources consumed by the operation of the AM station would be reduced. This includes the consumption and environmental impact of electric power, which is quite high at many AM stations, and the environmental impact of the necessary tall tower associated with AM stations.
- 3) Most of the (numerous) AM radio stations that I am aware of across New Mexico that are using fill-in translators are, like mine, locally owned stations that have very limited financial resources. By their nature, these stations provide unique, valuable radio service to their communities, many in small towns across rural New Mexico. If the AM licensee could, again at its option, surrender the license of the AM station, the financial resources expended by AM station licensees in operating their AM facilities could be employed to sustain the service of the radio station to its community through the FM translator.

I propose that if this policy is adopted by the Commission, that once fill-in service from the translator is initiated, the AM station will be required to broadcast at full power for a period of at least one year prior to the surrender of the AM license. As many (if not most) fill-in translators do not cover the entire area encompassed by the coverage of the AM station, the Commission will need to permit such a reduced coverage area for continued service from solely the (formerly) fill-in translator.

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COMMENTS ON FM SHORT-SPACING

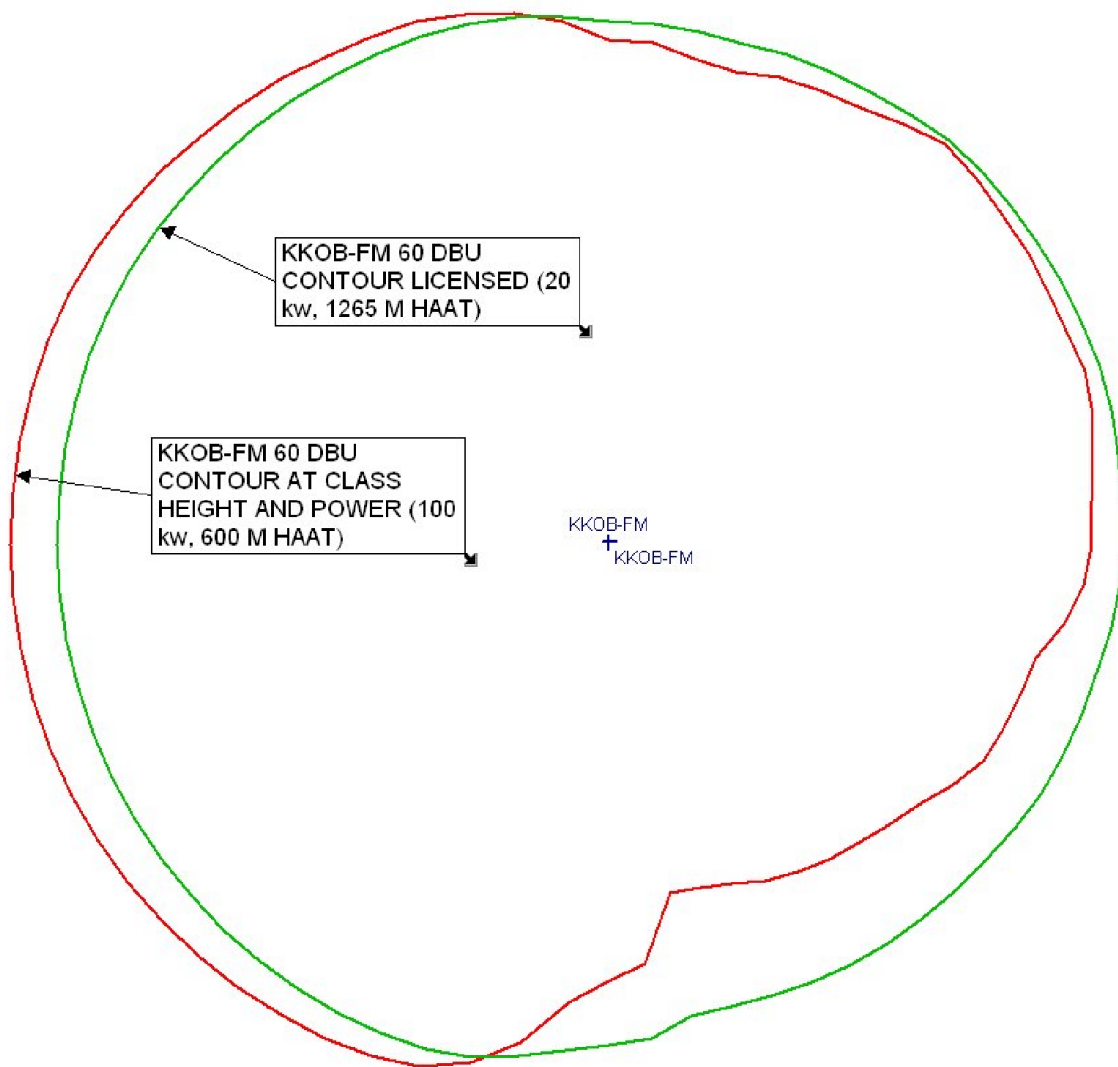
There is an anomaly in the Rules, Section 73.215(b)(2)(ii & iii) which are written to protect an existing FM station which is operating at less than the power and / or antenna height allowed for its class. Each paragraph contains the phrase, “...**equal to the reference HAAT for the station class of the allotment.**” In the west, including here in New Mexico, it is common for FM stations to be operating at HAAT’s which are considerably in excess of the reference HAAT for the station’s class. Such stations operate at reduced power for the class, which power is determined using the Commission’s FMPOWER online program.

Commission policy is to implement the Rules in Section 73.215(b)(2)(ii & iii) precisely as written, requiring the analysis of the potential contour of an existing station with an over-height antenna to consider the station as operating at the standard height and power authorized for the class. For example, here in Albuquerque, there are numerous Class C FM stations operating at Sandia Crest, a tower site over a mile above the city, which results in the stations having a HAAT of some 1,260 meters. This requires the stations to reduce their power to about 20 kilowatts as calculated by FMPOWER. If one of these stations is analyzed for short-spacing protection, under the present Rules, it must be considered as operating at 100 kw at 600 meters HAAT, which places the antenna 660 meters below ground level. This results in an unrealistic contour, which serves no one.

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The following is a contour map on one of these over-height stations, Class C KKO-B-FM. The map shows the presently licensed contour of KKO-B-FM along with the significantly different contour using the reduction in HAAT and concurrent increase in power for the analysis prescribed by Section 73.215(b)(2)(ii & iii).



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To resolve this anomaly in the Rules, I propose the text of these two rule sections be changed as follows:

73.215(b)(2)(ii) (AS WRITTEN) For existing stations that were not authorized pursuant to this section, including stations with authorized ERP that exceeds the maximum ERP permitted by §73.211 for the standard eight-radial antenna HAAT employed, and for applications not requesting authorization pursuant to this section, contours are based on the presumed use of the maximum ERP for the applicable station class (as specified in §73.211), and the antenna HAATs in the directions of concern that would result from a non-directional antenna mounted at a standard eight-radial antenna HAAT equal to the reference HAAT for the applicable station class, without regard to any other restrictions that may apply (e.g. zoning laws, FAA constraints, application of §73.213).

73.215(b)(2)(ii) (AS CHANGED) For existing stations that were not authorized pursuant to this section, including stations with authorized ERP that exceeds the maximum ERP permitted by §73.211 for the standard eight-radial antenna HAAT employed, and for applications not requesting authorization pursuant to this section, contours are based on the presumed use of the maximum ERP for the applicable station class (as specified in §73.211), and the antenna HAATs in the directions of concern that would result from a non-directional antenna mounted at a standard eight-radial antenna HAAT equal to the reference HAAT for the applicable station class, without regard to any other restrictions that may apply (e.g. zoning laws, FAA constraints, application of §73.213). If the existing station is operating at a HAAT in excess of the reference HAAT for the applicable station class, the contour will be based on the maximum ERP for the applicable station class at the licensed HAAT as calculated by the Commission's *FMPOWER* program.

73.215(b)(2)(iii) (AS WRITTEN) (iii) For stations authorized pursuant to this section, except stations with authorized ERP that exceeds the maximum ERP permitted by §73.211 for the standard eight-radial antenna HAAT employed, contours are based on the use of the authorized ERP in the directions of concern, and HAATs in the directions of concern derived from the authorized standard eight-radial antenna HAAT. For stations with authorized ERP that exceeds the maximum ERP permitted by §73.211 for the standard eight-radial antenna HAAT employed, authorized under this section, contours are based on the presumed use of the maximum ERP for the applicable station class (as specified in §73.211), and antenna HAATs in the directions of concern that would result from a non-directional antenna mounted at a standard eight-radial antenna HAAT equal to the reference HAAT for the applicable station class, without regard to any other restrictions that may apply.

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73.215(b)(2)(iii) (AS CHANGED) For stations authorized pursuant to this section, except stations with authorized ERP that exceeds the maximum ERP permitted by §73.211 for the standard eight-radial antenna HAAT employed, contours are based on the use of the authorized ERP in the directions of concern, and HAATs in the directions of concern derived from the authorized standard eight-radial antenna HAAT. For stations with authorized ERP that exceeds the maximum ERP permitted by §73.211 for the standard eight-radial antenna HAAT employed, authorized under this section, contours are based on the presumed use of the maximum ERP for the applicable station class (as specified in §73.211), and antenna HAATs in the directions of concern that would result from a non-directional antenna mounted at a standard eight-radial antenna HAAT equal to the reference HAAT for the applicable station class, without regard to any other restrictions that may apply. If the station authorized pursuant to this section is operating at a HAAT in excess of the reference HAAT for the applicable station class, the contour will be based on the maximum ERP at the licensed HAAT for the applicable station class as calculated by the Commission's *FMPOWER* program.

I am grateful for the opportunity to submit these comments.

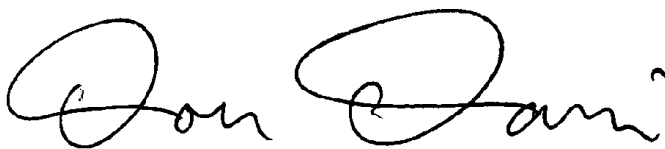
Respectfully Submitted,

Vanguard Media LLC

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A handwritten signature in black ink, appearing to read "Don Davis". The signature is fluid and cursive, with a large loop at the beginning and a long, sweeping tail.

Don Davis, owner

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