Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Modernization of Media Regulation	)	MM Docket No. 17-105

COMMENTS OF EDUCATIONAL MEDIA FOUNDATION

Educational Media Foundation ("EMF") hereby submits its comments in the above-referenced proceeding. EMF welcomes the opportunity to offer suggestions on FCC rules and policies that can be modified or eliminated so as to modernize media regulation to better reflect current technological and marketplace realities. EMF is a noncommercial broadcaster, holding licenses for more than 300 full-power noncommercial educational broadcast radio stations ("NCE") and a similar number of FM translators, operating in communities large and small across the country. Given its experience in operating stations, EMF is well positioned to offer proposals for rule changes in a number of areas. There will no doubt be additional ideas that are triggered by other comments filed in this docket, but EMF would like to offer the suggestions set out below as prime areas ripe for regulatory review.

I. Eliminate the Rural Radio Policies[1]

On March 3, 2011, the Commission released its *Rural Radio Order*, which made changes to the presumptions used in evaluating Section 307(b) of the Communications Act of 1934, as amended[2] in connection with new allotment proposals and city-of-license change applications, where such proposals would allow radio stations to potentially provide service to urbanized areas

[1] *Policies to Promote Rural Radio Services and to Streamline Allotment and Assignment Procedures*, Second Report and Order, First Order on Reconsideration, 26 FCC Rcd 2556 (2011) ("*Rural Radio Order*").

[2] 47 U.S.C. § 307(b).

(the "Rural Radio Policies").[3] These policies require greater scrutiny when a station is moving from a rural community to a community located in or near an Urbanized Area – in practicality, making many such moves all but impossible.[4]

An applicant proposing to move from outside an Urbanized Area to within an Urbanized Area must provide very detailed information demonstrating that such a move is in the public interest. Specifically, in addition to requiring an explanation regarding how the proposal would result in a preferential arrangement of allotments, the Commission (1) requires applicants to show not only the size of the populations gaining and losing service but also the numbers of services those persons would receive if the proposal were granted; (2) strongly disfavors any change that would result in the net loss of third, fourth, or fifth reception service to more than 15 percent of the population in the station's current protected contour; (3) strongly disfavors any proposed removal of a second local transmission service from a community with a population of 7,500 or greater; or (4) considers any other changes in circumstances relevant to its consideration.[5] Such showings are voluminous, and rarely succeed in persuading the Commission's staff to permit the move of a station from a rural to urban area.

These policies should be eliminated. As a result of their adoption, the ability of a licensee to move a station to respond to market conditions and to serve the communities most in need of new radio services has been greatly hampered. Instead, stations are arbitrarily frozen in their current location, often prohibited from taking advantage of potential transmitter site moves

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[3] *See Rural Radio Order*, 26 FCC Rcd at 2567.

[4] *Id.* at 2572. *See, e.g., Mexia, Texas*, Letter, 27 FCC Rcd 10877 (MB 2012) (applicant failed to overcome the rebuttable presumption because proposed community was not sufficiently independent of the urbanized area).

[5] *See Rural Radio Order,* 26 FCC Rcd at 2578-79, para. 39.

that would allow them to serve vastly greater populations. Stations are prevented from maximizing their service to listeners, just because those listeners reside in an urbanized area.

The Rural Radio Policies have made an arbitrary determination that service to populations in rural areas is more important than additional services to urbanized areas, even though a move-in of a station to an urbanized area can provide minorities, specialized programmers (like EMF), and other new entrants the ability to serve larger markets where costs can make prohibitive the purchase of an existing station already licensed to such larger community, even if one were available for sale. Many of the stations in larger markets are already owned by consolidated broadcast owners. Often, the only way for any new entrant to enter the market is through a technical change to an existing rural station that allows it to move into the larger urbanized area. By foreclosing such moves, the Commission freezes existing competition, precluding new services in these markets. Such a result is antithetical to its goals of increasing diversity in the broadcast marketplace.

At the same time, under the current Commission rules, rural communities are protected from the loss of certain services. The Commission limits the ability of stations to move if the proposed change would remove the only transmission service from a community no matter how small that community may be. The rule also prevent the removal of a second transmission service from a city of license of over 7500 people. And they disfavor the removal of a third, fourth or fifth reception service from a service area. Forcing stations to guarantee this level of service to *any* community, and forbidding the loss of *any* third, fourth or fifth service to *any* area, no matter what the countervailing public interest benefits may be, serves no rational purpose.

Today's technology gives listeners in even the most rural areas access to satellite radio and television, and other portable music and news sources. Many areas also have wireless access to the Internet and all of the audio services that it provides in addition to broadcast radio and TV. Mandating the level of rural radio service now required serves no purpose other than to lock stations into serving areas which may not be their most productive uses. Is a fifth service to 1,000 people worth sacrificing a new Spanish or religious or other new niche program offering to potentially ten times as many listeners? EMF submits that it is not.

Under the current rules, a station providing the second local transmission service to a community of over 7500 people is presumed to be locked into serving that community even if it has the potential to serve far more people in a nearby urbanized area. If that rural station has a total of 25,000 people in its service area, is that service more important a 10th service to an urbanized area of 500,000? By denying that 10th service to an urbanized area, more people on a per capita basis are disenfranchised by that result. Instead of having one station for every 50,000 people in the urban area, you are requiring that 25,000 people share two services – when there are likely to be at least 10 different audiences that can be addressed in the larger community. In the US House of Representatives, Congressional representation is apportioned by population, not by giving each city or county, regardless of size, their own representation. No one contends that such representation based on population is unfair, or somehow disenfranchises rural constituents. In many ways, representation of community needs on a broadcast station is similar. In an urban environment, there are diverse communities of appreciable size that can each be served by their own station. In rural areas, the diversity that does exist may not be of the size necessary to economically justify service from a unique radio station.

Not all communities are alike. Not all communities have the need for a second service. In fact, there are communities with a single radio station that likely do not really have the need or the ability to financially support even a single radio station. Station locations can be the result of an historical allocation that is no longer justified by marketplace conditions. Broadcast stations need listeners and advertisers to survive and to be able to afford to provide service to their communities. To restrict stations from moving from communities that have stagnated or disappeared in order to provide competitive service in new vibrant communities where the need is greater is to be guided by historical allocation accidents rather than by the real interest of the public. To restrict stations from expanding service is asking that they put blinders on to ignore the needs of listeners outside of some arbitrary political boundary - a boundary which does not reflect the potential reach of any broadcast signal. The FCC should not be in the position of acting as economic arbitrator of whether a station's service is needed more in one community or another. These are uniquely listener-driven decisions that should be left where they are best made - in the marketplace.

The Commission has presumptions that pre-date the Rural Radio Policies that establish a firm presumption – for the most part almost irrefutable – that stations cannot move their signals so as to create areas that are "white" or"gray" areas. In other words, stations cannot significantly move their signals if they are the only reception service that an area enjoys or the only competitive reception service to an area. These rules, which have been in place since the FCC started evaluating 307(b) issues, guarantee most of the nation some baseline of broadcast coverage. Once this baseline of service is established, the Commission should not be concerned with mandating additional services to rural area. The baseline service should meet the basic needs of listeners in any area. Even if a station is not licensed to a particular community, if that community is within the service area of a broadcast station, and something that would be of interest to the station's audience occurs in that area, any station that is trying to maximize its audience will be sure to cover it.

But it is simply impossible to provide each community with its own transmission service, or to provide rural populations multiple competitive reception services, if the economics of station operations don't allow for such services. Forcing too many radio services to serve small populations in rural areas will leave stations with nothing unique to talk about and competing over the small amounts of advertising in such areas, weakening the competing stations in these rural areas, while precluding some larger urbanized communities from getting the multiplicity of broadcast services that they need to address the broad range of interests in their communities. The FCC simply cannot mandate marketplace demand for service in rural areas.

Moreover, in most rural communities, if there is a need for service, there is a much greater likelihood that any station moved from a rural community can be replaced by a new station on a vacant frequency if there is the marketplace demand for such service. There is simply less spectrum congestion in these rural areas than in urbanized areas. Plus, any significant move of a broadcast station creates opportunities for new allocations, or increases in the facilities of existing stations, to operate in the areas abandoned by the station that is moving toward a larger community. So the likelihood of a rural area being abandoned by broadcast services if there is a true need to such service, even if the Commission eliminates the Rural Radio Policies, is slight.

EMF is a noncommercial broadcaster (even operating its non-reserved band stations as NCE facilities). Like many minority group members, small broadcasters, and other new entrants into media ownership, the stewardship of the company's finances (raised principally through the contributions of its dedicated listeners) oftentimes does not give it the resources to acquire high- powered stations licensed to the central cities of larger radio markets.

Instead, EMF, like many other new entrants, has many times relied on "move-in" or "reach-in" stations to serve these larger markets. The Rural Radio Policies have made it difficult, if not impossible, for minorities and other new entrants, or parties like EMF with niche formats that might not otherwise be present in these communities, to provide a new voice in these metropolitan areas.

The FCC should not be in the position of acting as economic arbitrator of whether a station's service is needed more in one community or another. These are uniquely listener-driven decisions that should be left where they are best made, in the marketplace. The Rural Radio Policies interfere with these marketplace decisions and should be repealed.

II. Evaluate 307(b) Based on Service Areas, Not Specific Communities

The Commission has interpreted the mandate of Section 307(b) to distribute radio services "among the several States and communities" as requiring an analysis of whether each political municipality proposed to be the city of license for a broadcast station is worthy of having service from a station. Stations are viewed as being tied to particular communities, rather than to a broader service area. This interpretation of "community" as requiring that broadcast stations be tied to particular political subdivisions does not comport with the realities of the marketplace. Few if any stations restrict their actual service to a political subdivision, instead providing news and entertainment programming addressing the needs of their entire service area.

In connection with the Rural Radio Policies discussed above, the FCC has already upended this presumption when dealing with stations licensed to communities in urbanized areas. In those areas, the Commission has determined that, for purposes of a 307(b) analysis, a station licensed to any community in an urbanized area should be treated as if it is licensed to the entire urbanized area. It makes no sense to recognize that, for stations licensed to communities in urbanized areas, their service actually encompasses their entire marketing area, while stations in more rural areas are assessed as serving only a single political subdivision.

In practice, this fiction that stations only serve their communities of license restricts the flexibility of a broadcaster to relocate its station to the location from where it believes that it can best serve the public interest. Under current practice, an application for a community of license change filed as a minor modification must demonstrate that, pursuant to Section 307(b) of the Communications Act of 1934, as amended, the proposed change of community constitutes a preferential arrangement of allotments in comparison to its current service.[6] The Commission makes this determination using the FM allotment priorities set forth in *Revision of FM Assignment Policies and Procedures*.[7] This standard often precludes broadcasters from making modifications to their stations that would better serve the public interest and best react to marketplace needs. If a station is licensed to a small community, and is the only station licensed to that community, the station is essentially stuck there, even if there are greater needs that could be met by moving elsewhere in its service area.

EMF sees no practical reason why the Commission cannot move to a simpler, more streamlined approach by allowing licensees to move anywhere within their service area, rather

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[6] *See Modification of FM and TV Authorizations to Specify a New Community of License,* Report and Order, 4 FCC Rcd 4870 (1989), recon. granted in part, Memorandum Opinion and Order, 5 FCC Rcd 7094 (1990).

[7] *See Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982) ("*FM Assignment Policies*"). The four priorities are: (i) first full-time aural reception service to a community; (ii) a second full-time aural reception service to a community; (iii) first local transmission service to a community; and (iv) other public interest factors. The second and third criteria have equal priority. *Id.* at 91. *See also Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services,* 21 FCC Rcd 14212, at ¶ 10 (2006) (Section 307(b) priorities and policies used by Commission since 1982 continue to apply under new application procedures).

than conducting a community-to-community comparison. Stations serve their entire coverage area, not just their community of license. The Commission should move away from the political subdivision approach and allow broadcasters to change their transmitter site locations anywhere within their service area. Where there are conflicts between allotment or application proposals, rather than going a complicated and subjective analysis of which community most needs a new broadcast stations, the priorities should be awarded based on a straightforward population coverage approach (i.e., the move would be considered acceptable if it serves a larger population), giving special consideration only when the proposal would provide coverage to white or grey areas.

III. Eliminate the Prohibition of Security Interests on a License and Limitations on the Right of Reversion and the Sale of a Bare License

Moving away from the allocations sphere, EMF suggests changes to outdated policies that restrict the flow of capital in the broadcast marketplace. EMF has often purchased broadcast stations through a combination of a cash payment at closing, and a deferred amount paid out over time. In its early days, EMF had difficulty persuading certain station sellers to extend credit to the company for these deferred payments. Sellers have been concerned about deferred payments, especially as the FCC prohibits the grant of a security interest in a broadcast license despite the fact that the license is almost always the single largest asset held by a broadcast borrower. When EMF has sold stations and considered extending credit, the unavailability of the license as security for the credit has been a major area of concern.

Commission practice has evolved to expressly permit licensees to grant security interests in the stock of the licensee, in the physical assets used in connection with its licensed spectrum, and in the proceeds from operations associated with the licensed spectrum or from the sale of a license,[8] these stopgap measures still are confusing to many broadcast lenders given the fact that the broadcast license is the most valuable asset that the broadcaster holds. To remedy this historical anomaly, the Commission should relax its policies to permit licensees to grant lenders a security interest in FCC licenses, conditioned upon the prior approval of any assignment or transfer of control of the license. Doing so will permit licensees to take full advantage of the collateral value of their spectrum rights and reduce the risks of broadcast lending.

Historically, the Commission has restricted such an interest based on the principle of the Communications Act that spectrum is a public resource and cannot be "owned" or deemed private property.[9] The Commission has held that "[t]he extraordinary notion that a station license issued by this Commission is a mortgageable chattel in the ordinary commercial sense is untenable,"[10] and observed that a "license, as distinguished from a station's physical assets, is not subject to a mortgage, security interest, or lien, pledge, *attachment*, seizure, or similar property right."[11]

This position, though, has been dramatically undercut in the 60 years since the policy was first announced. In more recent times, the FCC does treat a broadcast license more and more like a property right. Unbuilt construction permits can be sold at a profit – and yet they are nothing more than an FCC authorization. Licenses are recognized as property that can be sold

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[8] *See* Commission Policy Regarding the Advancement of Minority Ownership in Broadcasting, 99 FCC 2d 1249, 1254 (1985).

[9] *See* 47 U.S.C. § 301. Section 301 of the Act provides that the government can authorize the use but not the ownership of the spectrum.

[10] *Radio KDAN*, Memorandum Opinion and Order, 11 FCC 2d 934, n.1, *recon denied*, 13 RR 2d 100 (1968), *aff'd on procedural grounds sub nom, W.H.Hansen v. FCC*, 413 F.2d 374 (D.C. Cir. 1969).

[11] *See, e.g., Kirk Merkley,* Memorandum Opinion and Order, 94 FCC 2d 829 (1983) ("*Merkley I*"), *recon. denied*, 56 RR 2d 413 (1984) ("*Merkley II*"), *aff'd sub nom. Merkley v. FCC*, 776 F.2d 365 (1985) (declining to recognize court order based on contract with a prohibited reversionary interest that was tantamount to a vested security interest in a license).

by a bankruptcy estate, even though there may not be any direct security interest in the license itself. The recent television incentive auction effectively recognized that TV broadcasters have a property interest in their licenses and their rights to the spectrum on which they operate, and such rights can only be revoked, absent malfeasance by the licensee, through a voluntary payment of consideration for the spectrum rights themselves, divorced from any tangible property or business.

Recognizing the reality that licenses are a valuable property right that should be subject to a security interest will greatly improve the willingness of broadcast lenders to make funds available to prospective broadcasters, opening up access to capital, and enhancing the value of a licensee's available collateral by facilitating the lender's ability (as a secured party) to keep all of the licensee's assets together as a package. Relaxing the current restrictions on security interests will also more accurately reflect the Commission's increased reliance on market-oriented policies to facilitate and encourage competition and ownership diversity.

These policies can be adopted without undercutting the FCC's primary responsibility to ensure that any broadcast station operator possesses the requisite qualifications under the Communications Act to be a licensee. Thus, before exercising any security interest in a license, and accomplishing any *de facto* or *de jure* assignment or transfer of control of the license, the party seeking to exercise its security interest in the license would need to seek prior Commission approval pursuant to Section 310(d) just as in any other transfer or assignment of a license. In that way, the Commission will retain ultimate control over licensees of the spectrum that it administers, as required by the Communications Act.

Growing out of these same historical concerns, the FCC also has enforced policies against the sale of a "bare license" and any "right of reversion" in a license. The prohibition against the right of reversion is reflected in Section 73.1150(a) and (b) of the rules. These policies seem to be enforced inconsistently by the Commission's staff, sometimes popping up in unusual circumstances. These policies stem from the same historical roots as the prohibition of a security interest in a license, grounded in the belief that an FCC license is not a property right. But, as is the case with the security interest in a license, these rules, in practice in today's modern communications world, make no sense and should be abolished. Allowing a license to be a security interest, or the sale of a bare license, conditioned upon the Commission's prior approval of any assignment or transfer of *de jure* or *de facto* control, seems logical to spur investment in the broadcast industry without undermining the public interest. Thus, these proposals should be adopted, and these ancient policies abolished.

IV. Modify the NCE Translator Signal Delivery Rules

Another rule section that bears modification deals with NCE translator signal delivery. Section 74.1231 of the Rules allows delivery of a signal to a "fill-in" translator by "any terrestrial facilities." However, an NCE translator operating on a reserved channel can use alternative delivery methods, including satellite delivery. But non-fill-in noncommercial educational translators on Channels 221 through 300 are prohibited from any alternative methods of signal delivery, including programming feeds by satellite. Why should a noncommercial broadcaster be able to feed a distant translator, operating on a reserved channel by satellite, but be restricted to feeding a fill-in translator on a commercial channel to terrestrial means? This patchwork of rules is unnecessarily confusing and has no apparent public interest justification. If a broadcaster is allowed to operate a translator in a particular area, why should it make any difference how that translator receives the signal that it rebroadcasts? As such, the rules should be modified to allow for the signal delivery to NCE fill-in and non-fill-in translators, whether or not commonly owned with the primary station, by any means.

V. Eliminate the Requirements that Reserved-Band NCE Stations TV Protect Channel 6

Sections 73.525 and Section 74.1205 require that FM stations and translators operating in the noncommercial Reserved Band protect television stations operating on Channel 6.[12] These rules were adopted when television was operating in an analog mode, and where the potential for interference from FM operations using a similar technology was possible. EMF, which operates many stations in the Reserved Band, has rarely if ever found that such interference really occurred, even when television stations operated in analog.

The conversion of television operations to digital operations renders these rule provisions obsolete. The digital television format is not as subject to interference from adjacent channel operations – particularly radio broadcasts likely to be at significantly lower power than a Channel 6 TV operation. EMF has not noted any instances of real interference from an NCE station to a digital Channel 6 TV operation. Yet EMF has still had difficulties getting Channel 6 consent to the location of its stations in the lower NCE band where such consent is required under the rules. Given the change in technology, the FCC should eliminate the rule, or at a minimum start a proceeding to look at whether any such protection is still required.

VI. The FCC Should Amend the Definition of a Minor Change in the FM Translator Rules to Encompass Any Change that Where the Proposed Facilities Would Be Precluded by the Current Operation

Section 74.1233(a)(1) defines a minor change in the facilities of an FM translator to be one where the current and proposed 1 mv/m contours of the translator overlap. EMF suggests

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[12] Section 1.420(h), Note 1, also addresses potential interference to Channel 6 television stations that should be considered in connection with applications to upgrade Class A FM stations operating on commercial Channel 221. This Note should be abolished for the same reasons set forth above.

that the Commission amend that rule so as to make a minor change any one where the interfering and protected contours of the existing and proposed sites overlap. This would be consistent with the Commission's treatment of city-of-license changes for full power FM stations under Section 73.3573(g) and with the Mattoon waiver policy adopted for the processing of FM translators that rebroadcast AM stations.

The purpose of the Mattoon waiver is to permit translators to be moved to locations where they can be used most efficiently without having to file multiple applications and to construct at multiple transmitter sites.[13] Mattoon waivers allow a translator to move from one transmitter site to another, just as long as a translator cannot be operated on the same channel at both sites. In essence, the policy makes sure that the present and proposed sites are mutually exclusive. As the current rules treat an application as a minor change only if the 1 mv/m service area of the current and proposed sites overlap, the Mattoon waiver allows slightly larger moves, but ones that are still limited by the preclusive effect of the originally licensed translator site. Why shouldn't this policy for translators be set out in a rule, rather than applied as a waiver? EMF submits that the policy should be extended to apply to all moves of FM translators.

The public interest clearly favors the adoption of the Mattoon wavier policy as a rule of general applicability. While, without the waiver, licensees still have a path to relocating a translator to a desired site via a series of minor modifications, that path is an inefficient and expensive and takes up unnecessary resources of both the Commission and the licensees.

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[13] The Cromwell Group Inc. of Illinois, Letter from Peter H. Doyle, Chief, Audio Division, Media Bureau, FCC, to John F. Garziglia, Esq., Womble Carlyle Sandridge and Rice, PLLC, 26 FCC Rcd 12685 (dated Sept. 2, 2011) ("Cromwell"). To qualify for the waiver, the decision stated that an applicant must meet the following criteria: (1) it cannot have a history of filing "serial" minor modification applications; (2) the proposed facility must be mutually-exclusive to its licensed facility; (3) the proposed move cannot implicate the concerns raised by the Commission in the recent orders in the low power FM ("LPFM") docket, and (4) the move would serve the public interest which, in Cromwell, was the rebroadcast of an AM station.

Without the Mattoon waiver, a licensee has to obtain multiple transmitter sites, lease those sites, build and operate the station at each of the hops, and prepare and file multiple FCC applications for each hop necessary to move the station to its preferred location. The FCC has to spend its resources to process these multiple hops. Under the Mattoon waiver, there is but one application for the FCC to process, and one site for the applicant to have to build out. Making this policy into a general rule would make these efficiencies available to all translator applications.

AM and FM licensees alike routinely have needs to change the transmitter sites of FM translators to respond to marketplace conditions and to address changes in site availability. The adoption of the interference criteria used in the Mattoon waiver policy contributes to the efficient processing of such applications.

This change in the processing standards should be a general rule applied to translators that rebroadcast both AM and FM stations. The exact same efficiencies apply for both the translator applicant and the FCC – eliminating the need for multiple hops to accomplish a site move to a desired location. Indeed, in many cases decided since the Cromwell case adopting the Mattoon waiver, the Commission applied this policy to translators proposing to rebroadcast FM stations, demonstrating that the policy at one point was equally applicable to the move of translators proposing to rebroadcast FM stations, just as it was for the rebroadcast of AM stations.[14] Given the efficiencies involved, this just makes sense. For NCE licensees such as

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[14] See FCC, CDBS Public Access, First Ventures Capital Partners, Inc., W247BA (Application Search, FCC File No. 20130516AOO) (proposing fill-in service for FM station); CDBS Access, World Radio Link, Inc., W256BE (Application Search, FCC File No. 20130514ADA) (proposing fill-in service for FM station); CDBS Public Access, Woman's World Broadcasting, Inc., W296BB (Application Search, FCC File No. 20130411ACR) (proposing fill-in service for FM station); CDBS Public Access, Educational Media Foundation, K221DQ (Application Search, FCC File No. 20130327AGV) (proposing non-fill-in service for FM station); CDBS Public Access, Sun Valley Radio, Inc., K250AV (Application Search, FCC File No. 20130325ALV) (proposing fill-in service for FM station); CDBS Public Access, Chicago Public Media, Inc., W217BM (Application Search, FCC File No. 20120425AEH) (proposing fill-in service for FM station); CDBS Public Access, Faith Broadcasting, Inc., W262BL (Application Search,

EMF, the benefit is especially important, as wasting resources to accomplish moves is particularly hard to justify when those resources come from donors. Thus, making the waiver into a general rule should benefit the public.

EMF submits that this policy should be adopted as a general processing rule for changes in the transmitter site of any FM translator station, amending the definition of minor change in Section 74.1233(a)(1).[15] EMF respectfully requests that the Commission incorporate the policy into a rule that applies to moves of all FM translators.

VII. Conclusion

While there certainly are numerous other rules and policies that could use modification or elimination, these are issues that immediately come to mind. EMF may well supplement this list as other issues surface. EMF hopes the Commission reviews the rules identified in this pleading, and those in other filings in this proceeding, and takes steps to remove unnecessary broadcast regulation. It looks forward to filing comments on these proposals and others in the future and applauds the Commission for inviting this review of unnecessary broadcast regulation.

FCC File No. 20120213ABP) (proposing fill-in service for FM HD station); CDBS Public Access, Way Media, Inc., W248BM (Application Search, FCC File No. 20120628ABN) (proposing fill-in service for FM HD station); CDBS Public Access, Canyon Media Group, L.L.C., K268BH (Application Search, FCC File No. 20120314ABY) (proposing fill-in service for FM station); CDBS Public Access, Edgewater Broadcasting, Inc., W286AY (Application Search, FCC File No. 20120828AFX) (proposing fill-in service for FM HD2 station); CDBS Public Access, Edgewater Broadcasting, Inc., K281BF (Application Search, FCC File No. 20120907AEF) (proposing fill-in service for FM station).

[15] The Audio Division has instituted a policy in connection with translators granted via a Mattoon waiver that the translator must remain associated with the AM station for a number of years, even though the waiver was merely a more efficient means of granting in a single application a site change that likely could have been accomplished through multiple applications without the waiver. If the site change had been granted through multiple applications, then the condition would not apply. While EMF can understand similar conditions being applied to applications granted through last year's 250-mile waiver window, where the site and channel changes allowed could not have otherwise been accomplished, to apply them in the Mattoon waiver cases which simply make processing more efficient, should not be required. Certainly, such conditions should not be applied if the rule change that EMF is here requesting is adopted.

Respectfully submitted,

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