

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC

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| In the matter of:                           | ) |          |
|   | ) |          |
| Amendment of Parts 73 and 74 to further     | ) | RM-11810 |
| implement the Local Community Radio Act of  | ) |          |
| 2010 and make other improvements to the Low | ) |          |
| Power Radio Service.                        | ) |          |

**COMMENTS OF REC NETWORKS**

1. Founded in 1984, REC Networks (REC) is a leading advocacy voice for a citizen’s access to spectrum through broadcast and other radio services. REC’s constituency includes but is not limited to Low Power FM (LPFM), rural commercial and noncommercial broadcasting and non-broadcast services such as the Amateur Radio Service. REC is the author of the *Petition for Rulemaking* in the above captioned proceeding (“Petition”).

2. In this filing, we are affirming our support for the Petition. RM-11810 will not only bring additional flexibility for existing LPFM stations but will also prepare the service for the next LPFM filing window by allowing for additional methods to place LPFM stations in a manner that meets existing engineering standards and is also in accordance with the actual statutory wording of the Local Community Radio Act of 2010 (“LCRA”)<sup>1</sup>.

3. The Petition takes a “fresh look” at the wording of the LCRA, and also takes into consideration some of the previous interpretations made by the Commission in previous rulemaking proceedings. With the replacement of the Radio Broadcast Protection Act (“RBPA”)<sup>2</sup> by the LCRA, much of the “blanket” language of the RBPA was replaced by more precise language used in the LCRA. Much of this rests on the usage of the terms “full-service FM station” and “FM translator station” in the LCRA. Just the fact that the LCRA does distinguish full-service FM stations from FM translators shows that some of the language of the

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<sup>1</sup> - Pub. L. No. 111-371, 124 Stat. 4072 (2011).

<sup>2</sup> - Pub L. No. 106-553, §632, 114 Stat. 2762, 2762-A-111 (2000)

LCRA, such as rules relating specifically to minimum distance separation does not apply to facilities that are not full-service FM stations, in other words, FM translators and also the fact that the LCRA does not specify power levels and that language for minimum distance separation details values that were codified when the LCRA was enacted, the LCRA was not fully implemented in previous rulemaking proceedings.<sup>3</sup> RM-11810 attempts to remedy that.

4. With the growth of cross-service FM translators from Auctions 99 and 100, there has been a lot of discussion and controversy regarding those translators, the impacts that those translators have on the future of LPFM stations, the availability of LPFM in future filing windows and whether the Commission properly followed the LCRA in MB Docket 13-149, the AM Revitalization proceeding. While there have been unsuccessful attempts to “reverse” the grants of Auction 83, 99 and 100 FM translators citing lack of compliance with the LCRA, RM-11810 takes a different and less disruptive approach to reach similar goals of the other LPFM advocates.

5. The truth of the matter is that there is a disparity between how LPFM stations protect FM translator facilities and how FM translator facilities protect LPFM stations. The current regulations require distance separation for LPFM stations to protect FM translators, even if those translators are directional and do not place a signal anywhere near the LPFM.<sup>4</sup> Meanwhile, the regulations prohibit an LPFM station from moving closer to a “short-spaced” FM translator even if the proposed LPFM facilities would not cause any kind of contour overlap with the translator.<sup>5</sup> In the other direction, FM translators are able to move in closer to LPFM

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<sup>3</sup> - See LCRA at §3(a)(2) (“In general – The Federal Communications Commission shall not amend its rules to reduce the minimum co-channel and first- and second-adjacent channel distance separation requirements in effect on the date of enactment of this Act between – (a) low-power FM stations; and (b) full service FM stations.”) See also LCRA §5(3) (“...FM translator stations, FM booster stations and low-power FM stations remain equal in status and secondary to existing and modified full-service FM stations.”) In this language, the LCRA clearly makes a distinction that FM translators and full-service FM stations are two different types of entities and that distance separation is only required in the protection of full-service FM stations and not FM translators. Further, RBPA §632(a)(1) as amended by the LCRA states that the Commission “prescribe protections for co-channels and first- and second-adjacent channels.” In this specific context, it specifies protection but unlike in LCRA §3(a)(2) in respect to full-service FM stations, it does not elaborate on what type of protection to use.

<sup>4</sup> - See 47 C.F.R. §73.807 in comparison with 47 C.F.R. §74.1204.

<sup>5</sup> - See 47 C.F.R. §73.807(d) (“Existing LPFM stations which do not meet the separations in paragraphs (a) through (c) of this section may be relocated provided the separation to any short-spaced station is not reduced.”)

stations and based on an authorized or in some cases, unauthorized directional antennas, these translators are causing interference to LPFM stations. REC is aware that changes to the rules regarding interference from translators to incumbent broadcast services (including LPFM) are being considered in a different proceeding.

6. Instead of making it harder for FM translators to be added or make changes, RM-11810 makes it easier for LPFM stations to be added or make changes. This is done through our reinterpretation of the LCRA to demonstrate that while it is Congress' will that that Commission prescribe protections from LPFM stations on co-channel, first- and second-adjacent channels<sup>6</sup>, that the methods of distance separation is only statutorily required in respect to LPFM stations protecting full-service FM stations.<sup>7</sup> We further propose to relieve burdens to LPFM stations by eliminating the massive overprotection to low-power TV stations on channel 6 and replacing it with an interference method similar to FM translators.<sup>8</sup> We also propose the expansion of directional antennas within the LPFM service to give stations near translators some additional flexibility and provide relief to a handful of LPFM stations located within 125 kilometers of the Mexican border.<sup>9</sup> Finally, we propose to eliminate the overlapping regulations in respect to FM translators that are commonly-owned by LPFM licensees by eliminating the contour overlap and over-the-air reception requirements and enforcing localism through the 10 or 20 kilometer radius rule.<sup>10</sup>

7. Other aspects of this proceeding address the issues of failing construction permits and issues that may come up with newer stations by providing them with a lifeline to save their facility while remaining consistent with existing procedures that apply for other noncommercial educational facilities while striking a balance with the ongoing concerns related to speculation

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<sup>6</sup> - See RBPA §632(a)(1) as amended in LCRA §2.

<sup>7</sup> - See LCRA §3(a)

<sup>8</sup> - See 47 C.F.R. §73.825 for LPFM compared to 47 C.F.R. §74.1205 for FM translators. See also *Petition* at para. 43-46.

<sup>9</sup> - See *Petition* at para. 33-34.

<sup>10</sup> - See *Id.* at para. 47-52.

and shadow-ownership.<sup>11</sup> Changes allowing assignments of construction permits after 18 months and eliminating the 3-year hold on assignments will give more community FM stations a chance. The 36-month construction period for original and modification permits is consistent with other broadcast services and takes a burden off of Commission staff. Finally, changing the definition of a “minor change” in regards to facility moves will bring LPFM on a more level playing field with FM translators and will eliminate the need to burden staff with waiver requests for moves of over 5.6 kilometers.<sup>12</sup>

8. Conclusion – This *Petition* is intended to address many of the technical issues that are impacting the LPFM service. This is more than just a 250-watt request but is intended to give LPFM as much flexibility as possible while remaining in compliance with statutes that pertain specifically to the LPFM service. This petition is only one step in “revitalizing” LPFM. There is still work that needs to be done to address issues with ownership, including shadow-ownership, qualifications, mutual exclusivity and localism requirements and other measures to reduce gamesmanship in the next LPFM filing window. We ask that the Commission consider the comments filed in this proceeding and RM-11749 so we can help our existing LPFM stations, especially those currently facing interference and displacement from FM translators and to prepare the service for the next LPFM filing window.

/s/  
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<sup>11</sup> - See Id. at para. 56-63.

<sup>12</sup> - See Id. at 64-66. Note, there are other changes being proposed in the petition that are not mentioned here. Our lack of mention of subjects in the original petition in these comments does not constitute discontinued support for those issues. REC remains in support of all aspects of the *Petition*.