

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

In the Matter of)	
)	
Amendments of Parts 73 and 74 to Improve the Low Power FM Radio Service Technical Rules)	MB Docket No. 19-193
)	
Modernization of Media Regulation Initiative)	MB Docket No. 17-105

**REPLY COMMENTS OF
PRESERVE COMMUNITY PROGRAMMING COALITION**

The Preserve Community Programming Coalition (“PCPC”), an ad hoc group of broadcasters who utilize the unique video and audio capabilities of analog channel 6 to broadcast programming that can be received both on televisions tuned to channel 6 and on radios tuned to 87.7 FM, hereby submits these Reply Comments in the above-referenced proceedings.¹

I. INTRODUCTION AND SUMMARY

The members of the PCPC appreciate the work of low power FM (“LPFM”) licensees to advance the FCC’s “core goals of diversity and localism.”² LPFM licensees and PCPC members serve a shared purpose of fostering a diversity of new voices on the airwaves.³ Both LPFM operators and operators of audio services on TV channel 6 are committed to investing the time and resources necessary to deliver programming to underserved audiences on spectrum that

¹ The members of the Preserve Local Radio Coalition are Guadalupe Radio, Murray Hill Broadcasting, LLC, Prism TV, Signal Above LLC, Venture Technologies Group, Inc., and Weigel Broadcasting Co.

² See *Amendments of Parts 73 and 74 to Improve the Low Power FM Radio Service Technical Rules*, Notice of Proposed Rulemaking, 34 FCC Rcd. 6537 ¶ 1 (2019) (“*NPRM*”).

³ *Creation of Low Power Radio Service*, Report and Order, 15 FCC Rcd. 2205 ¶ 4 (2000).

would otherwise be vacant or underutilized.⁴ As such, the PCPC respects the efforts of LPFM licensees and generally supports efforts by the LPFM community to maximize the ability of LPFM stations to reach their target communities.

At the same time, however, the PCPC seeks to ensure that the expansion of LPFM service does not unnecessarily interfere with the ability of listeners to receive the valuable programming that PCPC members provide on 87.7 FM. The PCPC applauds the Commission for having the foresight to ask specific questions about the interaction between LPFM services and audio services on TV channel 6. Based on the initial comments, it is clear that these services not only can co-exist, but can thrive together. Nevertheless, the FCC has raised important considerations regarding the potential effect of eliminating all protection to TV channel 6 stations and the impact such a broad approach could have on future hybrid digital video/analog audio services. The PCPC offers two specific suggestions to address these concerns.

First, before the Commission adopts any rules in this proceeding that could affect future services on TV channel 6, it should expeditiously grant the PCPC's pending request to allow existing analog low power television ("LPTV") stations operating on channel 6 to transmit a supplemental analog audio carrier following the July 13, 2021 digital transition deadline. To adopt rules governing potential interference between channel 6 television stations and LPFM stations without first deciding what channel 6 operations will be permitted after 2021 would amount to putting the cart before the horse. The Commission has a complete record, developed over the past five years, on extending supplemental aural services on TV channel 6, and it should act swiftly to grant the PCPC's request.

⁴ *Id.* ¶ 5.

Second, the Commission should preserve protections for the limited number of channel 6 LPTV stations that will be authorized to transmit a supplemental analog audio carrier after July 2021. Based on the PCPC's experience, there should be no second- or third-adjacent interference between LPTV audio carriers at 87.7 FM and LPFM/NCE FM stations at 88.1 FM or 88.3 FM. Nevertheless, the record in this proceeding is focused on the absence of interference involving digital transmissions on TV channel 6, not hybrid digital video/analog audio transmissions. Accordingly, the FCC should preserve the existing protections solely as between LPTV stations authorized to transmit supplemental analog signals on TV channel 6 and LPFM/NCE FM stations on channels 201 and 202.

The Commission can take each of the aforementioned actions swiftly and based on the existing record, fostering a promising new future for LPFM while preserving the established benefits of 87.7 FM program services on TV channel 6.

II. THE COMMISSION SHOULD DETERMINE THE FUTURE OF AURAL SERVICES ON TV CHANNEL 6 BEFORE ELIMINATING ANY PROTECTIONS FOR TV CHANNEL 6 STATIONS.

It is readily apparent from the initial comments that the Commission should address the future of aural transmissions on TV channel 6 by granting the PCPC's proposal *before* the agency considers whether to reduce or eliminate protections for TV channel 6 stations. In the *NPRM*, the FCC justifies its tentative conclusion to eliminate all channel 6 protections on the grounds that "today's digital equipment is far superior to the analog technology that existed when the requirements were adopted in 1985."⁵ Indeed, the first five paragraphs of the *NPRM*'s discussion regarding channel 6 protections assumes that all analog transmissions will end with

⁵ *NPRM* ¶ 10.

the LPTV digital transition on July 13, 2021.⁶ Only after proposing to eliminate all channel 6 protections following the LPTV digital transition deadline does the *NPRM* acknowledge the long-pending question regarding the future of aural services available at 87.7 FM.⁷

The PCPC does not believe the Commission can properly analyze the effect of eliminating channel 6 protections without first resolving the question of whether existing analog channel 6 stations can utilize a supplemental analog audio carrier following their transition to digital. As one commenter explained, the FCC should avoid a piecemeal approach to TV channel 6 issues and “address the entire issue rather than just a part.”⁸ In this spirit, the Commission should expeditiously grant the PCPC’s request to authorize a limited number of LPTV stations currently broadcasting an analog signal on TV channel 6 to continue transmitting a supplemental analog carrier after the digital transition. By taking this first step, the FCC will better position itself to analyze the future effect of removing all TV channel 6 protections.

Fortunately, the Commission has a fully developed record in MB Docket No. 03-185 that allows it to extend the availability of existing audio services on TV channel 6 (87.7 FM). As recognized in the *NPRM*, the agency first sought comment on the future of aural operations on LPTV channel 6 stations in 2014.⁹ The PCPC’s members have actively participated in that

⁶ See generally *id.* ¶¶ 8-12.

⁷ *Id.* ¶ 13.

⁸ See Comments of California State University Long Beach Research Foundation ¶ 2 (Oct. 21, 2019) (“CSULBRF Comments”).

⁹ See *NPRM* ¶ 13 (citing *Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power Television and Television Translator Stations; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions; Amendment of Part 15 of the Commission’s Rules to Eliminate the Analog Tuner Requirement*, Third Notice of Proposed Rulemaking, 29 FCC Rcd. 12536 (2014)).

proceeding, and the PCPC itself recently provided a roadmap for the Commission to: (1) expressly authorize supplemental analog aural services by a limited number of existing analog LPTV stations; and (2) adopt interference criteria to ensure that future analog broadcasts on 87.7 FM do not cause actual interference to any existing and operating broadcast station.¹⁰

The initial comments in this proceeding provide further support for the PCPC's proposal to grandfather existing channel 6 aural operations following the LPTV digital transition. A number of commenters, including the largest noncommercial educational FM licensee in the country, either explicitly or implicitly endorse permitting transitioning LPTV stations to utilize a supplemental analog audio carrier in the future.¹¹ Even a commenter that has raised unsupported concerns about potential interference from TV channel 6 operations does not oppose allowing certain digital LPTV stations to utilize an analog audio carrier to avoid disruption to 87.7 FM audio services.¹²

The only two commenters that expressly oppose preserving 87.7 audio services after the digital transition merely repeat arguments already refuted in MB Docket No. 03-185. First, NPR argues that LPTV stations can devote a disproportionate amount of power to their audio

¹⁰ See Comments of Preserve Community Programming Coalition, MB Docket No. 03-185 (July 3, 2019) ("PCPC Letter").

¹¹ See Comments of Educational Media Foundation at 4-5 (Oct. 21, 2019) ("EMF fully supports the continued operations of these LPTV stations with analog audio channels even after the digital conversion of all LPTV stations.") ("EMF Comments"); Comments of New Jersey Broadcasters Association at 5-6 (Oct. 21, 2019) (expressing concern that "the 26 LPTV stations currently using their signals as virtual radio stations at 87.7 MHz could be detrimentally affected by the FCC's proposed elimination of the TV6 protection requirements in their entirety"); Comments of LPFM/NCE Community-Radio Engineer Advocates at 3 (Oct. 21, 2019) (discussing applicability of interference rules to "LPTV audio on 87.7 FM") ("LPFM Coalition Comments").

¹² See CSULBRF Comments at ¶ 3 & n.5.

channels.¹³ Under the PCPC’s proposal, however, digital LPTV stations must provide a signal that can be “satisfactorily viewed” on an ATSC receiver.¹⁴ This ensures that all grandfathered digital LPTV stations will strike a proper balance between the power allocation to their digital video signal and their analog audio carrier. Second, NPR and Jeff Sibert each advance the oft-repeated argument that allowing audio services on channel 6 is an inefficient use of spectrum.¹⁵ At its core, this argument invites the FCC to question the programming decisions made by LPTV licensees, which the Commission has long recognized would be improper.¹⁶ The efficiency argument is also based on a false premise that a 6 MHz channel in the television band can be repurposed for less-bandwidth intensive audio services. It cannot. Accordingly, comparing the spectral efficiency of channel 6 audio services to services in other bands is a false equivalence. Finally, as the PCPC has explained, licensees that currently provide an audio service on 87.7 FM also provide valuable video services to viewers who still watch analog television, including live traffic and weather radar, information about events in the home country of large ethnic communities, and information about community events near the station.¹⁷ Although the audience for these analog video services is exponentially declining, once these stations transition to digital they will have a renewed incentive to invest in their video services.

¹³ See Comments of National Public Radio at 6 (Oct. 21, 2019) (“NPR Comments”).

¹⁴ PCPC Letter, App’x A.

¹⁵ See NPR Comments at 6-7; Comments of Jeff Sibert at 5 (Oct. 21, 2019).

¹⁶ See *See, e.g., License Renewal Applications of Certain Commercial Radio Stations Serving Philadelphia, Pennsylvania*, Memorandum Opinion and Order, 8 FCC Rcd. 6400, 6401 (1993) (citing *Time-Life Broadcast, Inc.*, Memorandum Opinion and Order, 33 FCC 2d 1081, 1082 (1972); *Office of Communications of United Church of Christ v. FCC*, 707 F.2d 1413 (D.C. Cir. 1983)).

¹⁷ PCPC Letter at 5.

The PCPC also respectfully disagrees with the contention of REC Networks that the Omnibus Crime Control and Safe Streets Act of 1968 prohibits digital channel 6 stations from providing a supplemental analog audio carrier on 87.7 FM.¹⁸ The premise of REC’s argument—that reception of a supplemental audio stream is prohibited—grossly misinterprets the relevant statute. Indeed, 18 U.S.C. § 2511(2)(g)(ii) expressly *permits* the interception of a radio communication transmitted “by any station for the use of the general public.”¹⁹ Under the PCPC’s proposal, 87.7 FM analog carriers would expressly be authorized for use of the general public and transmitted for that purpose. In that sense, there would be no legal distinction between a supplemental analog audio carrier transmitted by a station operating on TV channel 6 and the digital multicast streams currently offered by many digital television stations and hybrid radio stations. Nothing in Title 18 prohibits the transmission or reception of such signals, and Title 18 should not serve as a barrier to grant of the PCPC proposal.

For the foregoing reasons, the Commission should promptly grant the PCPC’s proposal to prevent a disruption in the diverse and valuable analog audio services available on 87.7 FM.

III. THE COMMISSION SHOULD MODIFY ITS PROPOSAL AND RETAIN LIMITED PROTECTIONS BETWEEN STATIONS WITH AN ANALOG AUDIO CARRIER AND LPFM/NCE FM OPERATIONS ON CHANNELS 201 AND 202.

The PCPC agrees with the majority of commenters that the FCC’s existing channel 6 protection standards unnecessarily inhibit the ability of LPFM and NCE FM stations to find reserved band channels. Specifically, the PCPC supports the Commission’s conclusion that the separation charts in Section 73.525 and 73.825 are overly restrictive²⁰ – particularly with regard

¹⁸ See Comments of REC Networks ¶¶ 102-03, 106 (Oct. 21, 2019).

¹⁹ 18 U.S.C. § 1211(2)(g)(ii)

²⁰ See NPRM ¶¶ 8, 12.

to: (1) protections involving TV channel 6 stations transmitting only ATSC digital signals; and (2) protections involving FM stations operating on channels 203-220. There is no technical justification for these protections and they needlessly prevent the introduction of diverse program services on otherwise vacant or underutilized spectrum.

At the same time, the PCPC does not believe that the record presently before the Commission supports the elimination of all protections between channel 6 stations broadcasting a supplemental analog audio carrier on 87.7 FM and LPFM or NCE FM stations operating on channels 201 or 202. The NPRM offers two bases for eliminating the channel 6 protections: (1) the superior ability of digital television receivers to reject unwanted FM signals; and (2) the forthcoming digital transition for remaining analog LPTV stations.²¹ Neither of these justifications extend to supplemental analog audio transmissions on 87.7 FM, however, and the record is incomplete with regard to the effect of LPFM and NCE FM operations on the reception of those transmissions.²²

To be clear, the experience of PCPC members suggests that the likelihood of interference from an FM station on channel 201 or 202 to the analog audio carrier of a TV channel 6 station or vice-versa is extremely low. This empirical observation was echoed by numerous commenters.²³ Indeed, several PCPC members currently operate analog channel 6 stations in the proximity of NCE FM stations on channels 201 and/or 202 without any indicia of interference in

²¹ *See id.* ¶ 10.

²² *See, e.g.*, NPR Comments at 2-3; REC Networks Comments at ¶ 97. NPR attached to its comments an updated engineering statement from John C. Kean that reinforced prior findings regarding FM-to-DTV6 interference, but that did not address FM-to-87.7 FM interference.

²³ *See* LPFM Coalition comments at 3 (“Translator or LPFM operation on channel 201 near a channel-199 [LPTV] is unlikely in practice to cause problems for either party.”); EMF Comments at 4-5 (finding that circumstances of interference will “be rare or non-existent”).

either direction. Nevertheless, the present record does not include enough evidence to remove all existing protections between supplemental analog audio transmissions on TV channel 6 and FM channels 201 and 202 at this time.

Perhaps more importantly, removing the limited protections between those TV channel 6 stations utilizing a supplemental analog audio carrier and FM stations on channels 201 and 202 is not necessary to advance the Commission's objectives in this proceeding. As several commenters observe, the presence of existing full service NCE stations on channels 201 and 202 precludes the introduction of new services in areas near existing analog channel 6 operations.²⁴ Accordingly, preserving the limited protections between 87.7 FM audio carriers and stations operating on channels 201 and 202 will not in any inhibit the ability of LPFM and NCE licensees to expand diverse program services.

Accordingly, the Commission should preserve at least some cross-service protections between stations transmitting a supplemental audio carrier on TV channel 6 and LPFM and NCE FM station on channels 201 and 202. Even if the FCC determines that the existing protections in Sections 73.525 (NCE FM), 73.825 (LPFM), and 74.1205 (FM translators) of the FCC's Rules²⁵ are excessive, the record does not support elimination of all protections for supplemental analog signals on 87.7 FM. Rather, the Commission should extend the contour overlap protections in Section 73.509(a) of the Commission's Rules²⁶ to potential overlap between the contours of LPTV stations transmitting a supplemental analog audio carrier and LPFM or NCE FM stations on channels 201 and 202 (applying the 400/600 kHz separation standard between the

²⁴ See REC Comments ¶ 105; EMF Comments at 5.

²⁵ 47 C.F.R. §§ 73.525, 73.825, and 74.1205.

²⁶ 47 C.F.R. § 73.509(a).

supplemental channel 6 audio carrier and stations on channels 201 and 202). This approach would balance the Commission's interest in expanding the availability of spectrum in the reserved band against the public interest benefits of preserving existing 87.7 FM services without interruption following the LPTV digital transition.

IV. CONCLUSION

For the reasons set forth above, the Commission should: (1) expeditiously authorize existing analog LPTV stations to transmit an analog audio carrier on 87.7 FM after the LPTV digital transition; and (2) extend existing TV channel 6 protections solely as between TV stations operating an audio carrier on 87.7 FM and LPFM/NCE FM stations operating on channels 201 and 202.

Respectfully submitted,

HOMBRE NUEVO INC DBA
GUADALUPE RADIO

By: /s/ René Heredia /s/
René Heredia
Executive Director

METRO TV, INC.

By: /s/ Craig Fox /s/
Craig Fox
President

SIGNAL ABOVE, LLC

By: /s/ A. Wray Fitch III /s/
A. Wray Fitch III
Its Attorney

SYNCOM MEDIA GROUP, INC.

By: /s/ J. Christopher Blair /s/
J. Christopher Blair
President

VENTURE TECHNOLOGIES GROUP, LLC

By: /s/ Paul Koplin /s/
Paul Koplin
Chief Executive Officer

WEIGEL BROADCASTING CO.

By: /s/ Evan Fieldman /s/
Evan Fieldman
Vice President

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