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Before the

Federal Communications Commission

Washington, DC 20554

In the matter of	)	
	)	RM-9242
Petitions for the creation of a low-	)	RM-9208
power FM broadcast service (LPFM)	)	
and/or a microstation broadcast	)	
service.	)	
	)	

To: Chief, Mass Media Bureau

COMMENTS IN OPPOSITION TO
LOW POWER FM
AND MICROSTATIONS IN THE
RADIO BROADCASTING SERVICE

I, Robert L. Caron, of 790 Wiggins Bay Drive, Naples, FL 34110, wish the Commission to consider the following material in its evaluation of the merits of the above noted Petitions for Rulemaking presently before it. I have been employed continuously in the radio broadcasting field for forty years, and presently serve as General Manager of a three-station cluster in a medium market.

1. By the Commission's own admission, limited funding and understaffing have left it barely able to cope with its present workload. Emerging new technologies across the entire range of the Commission's area of responsibility demand a high priority be placed on sound planning procedures so that prudent management of precious

spectrum is assured for the future. It would be ill advised for the Commission to divert present resources to the administration of thousands of new licenses in a service of unproved merit and necessity while leaving the weighty decisions and management tasks of the present day to a harried and overworked staff.

2. Petitioners for low-power stations have failed to demonstrate a bona fide need for additional aural services. Their pleadings consist of generalized statements or anecdotal claims based solely on opinion, emotion, or speculation—not on any formal and statistically sound study. On such a shallow showing of public need and necessity, the petitioners are demanding no less than a major upheaval of the fundamental structure of the nation's radio broadcasting service. The Commission's stewardship of the nation's airwaves under the Communications Act of 1934 requires a far more compelling case to justify a sea change such as that proposed by petitioners.

3. Petitioners do not address EAS (Emergency Action System) equipment and procedures, no doubt because the minimalist regulatory climate they desire would not likely produce a substantive guarantee that listeners to low-power stations would get these valuable public safety warnings in a timely manner. The entire concept of EAS could be completely undermined should a substantial portion of the nation's radio audience—intentionally or inadvertently tuned in to semi-regulated or completely unlicensed broadcast facilities—miss warnings of impending dangerous conditions in the area. It's difficult to believe broadcasters with shoestring budgets would willingly install professional grade EAS equipment to provide this service, or have the integrity to broadcast regular warnings that their stations are not properly equipped to provide listeners with emergency warnings. The Commission's limited resources could again be disproportionately dissipated in the effort of assuring responsible EAS compliance by thinly financed low power and "pirate" broadcasters.

4. Subtler, but no less insidious, is the currently fashionable notion that because the radio spectrum is regarded as belonging to the public, it is a violation of the Constitution to place any restrictions on its use. The premise that public property cannot be subjected to reasonable use restrictions is not only legally insupportable, it could—carried to its logical extension—severely undermine the entire Federal regulatory structure. Radio frequencies are "public" not so much due to the number of citizens entrusted with their management as by the number of persons who derive benefit from their fair and proper administration. That not all citizens have unlimited and unrestrained access to a radio microphone is no more a violation of liberty than is the fact that no one is able to build a house in Yellowstone Park or is entitled to commandeer a corner of the Post Office to sell flowers.

5. More bothersome yet is the attempt to establish worth and necessity for low power stations by pointing to the increasing number of "pirate" or unlicensed broadcasters across the country. Many have caused harmful interference with other services, including aircraft communications. It would be a dangerous precedent to allow such "mob rule" tactics to be rewarded, fueling similar action among other groups who view certain laws as unpopular or inconvenient—in the certainty that the government would eventually bless lawlessness with an endorsement of their behavior.

6. Petitioners speculate that easily obtainable broadcast licenses would obviate the need for these "pirates" to operate illegally. However, that line of reasoning fails to address the equally plausible counter-scenario that with the availability of consumer grade transmitting equipment and loose licensing standards, illegal stations would proliferate into a bedlam of frequency, power, and modulation "turf wars" of unimaginable proportions. It stretches credulity to suggest that those with utter disregard for the present law will suddenly be placated into docile obedience by the gift of a low power service. More than likely, a grant for LPFM would open the way for a gradualism of additional demands consuming ever-larger amounts of Commission and federal judiciary resources.

7. No less worthy of consideration is the proposition that micro broadcasters—licensed or otherwise— with only a minimal investment at stake might be less likely to adhere to technical standards and other regulatory matters than the more financially committed broadcasters of the day. If so, a regulatory nightmare could evolve that would quickly undermine the existing system that relies heavily on the concept of self-policing and mutual respect between competitive entities.

8. Public radio has evolved into a network of hundreds of high-power, well-equipped facilities serving essentially every area of the country. This alternative to commercial broadcasting, if it is to live up to it's billing as "public" radio, must be considered to have as one of its primary purposes the duty of providing a voice to the general public. Tax revenue supports a significant portion of this service. Have the petitioners made any attempt at access to these public facilities?

9. College radio and other educational stations as well as cable public access channels are for the most part woefully underused. Many are completely off the air for long periods of time. This fact alone diminishes considerably the petitioners' claims that there is a widespread demand for more avenues of electronic expression. Have the petitioners considered the possibility of using, renting, or otherwise making use of some of these already implemented but sparsely utilized public fora?

10. In conclusion, the Commission should proceed only with extreme caution in this proposed uprooting of the nation's very successful system of broadcasting. Petitioners' demands are wrapped in innocuous-sounding altruism, but nonetheless are potentially devastating to the public's access to the Emergency Action System. Microbroadcasting threatens the financial, technical, and legal standards that have served the public interest with a high quality product since the inception of broadcasting over seven decades ago.

11. With the new concepts born of the Telecommunications Act of 1996 yet to undergo their first mandated review, the still evolving and undetermined spectral needs of digital In-Band On Channel (IBOC) radios, and the effects on the present industry of the Satellite Digital Audio Radio Service (S-DARS) still a matter of speculation, one can easily make the case that the Commission's plate is excessively full. Such a time of change and uncertainty makes the petitioners' demands for LPFM untimely, ill considered and fraught with dangerous implications for the future well being of the industry. I urge the Commission to deny the petitioners' request for a Notice of Proposed Rulemaking.

Respectfully submitted,

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April 24, 1998