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COMMENT

RE: RM-9242

FEDERAL COMMUNICATIONS COMMISSION

1. COMES NOW COSMOPOLITAN ENTERPRISES OF VICTORIA,INC, licensee of radio station KTXN-FM,Victoria,Texas, and JOHN J. (JOE) TIBILETTI, individually on the matter of the above described petition to add a new class (or classes) of radio stations to the already existing definitions as contained in 47 C.F.R. (parts 73-74 and 15).

2. Petition should be immediately and summarily dismissed from further Commission action for one simple reason: It does not read in the current genre of language used by the Commission: namely metric and international in terms such as meters and kilometers. But rather it is written using miles and feet and no-where in its body does a term used by the Commission today inthe propoer meter genre appear. Since applications must be in the metric to be accepted, certainly metric should be used in petitions to relate to their matter.

3. Petitioner claims to be a consultant preparing low power and FM applications, yet should such an oversight have been caught by the preliminary studies of his applications, they would have been dismissed with no further consideration. Petitioner should be called on to explain this major deficiency. How can one be a consultant and ignore this salient ingredient of applications which has been in force for most of the 1990 decade. What applications has he prepared and how is he accepted and by whom?

4. Commentator has prepared his applications for many years. In fact, the original application for KTXN-FM,prepared in 1963 was done without assistance of legal,engineering , or programming help. Subsequent ones for power increases and transmitter site moves have been accepted and acted on favorable by professionalcommission action. Aditionally other non-owned applications were prepared and acted upon favorably.

5. To the specific issues addressed in petition RM-9242, as contained either in the filing document or in the commentary as found on pages 10 and 13 of April 15, 1998 "Radio World" magazine commentator now

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addresses. Commission Chairman Kenndard should read the Broadcast Specifications of the Canadian counterpart to the Federal Communications Commission. There is already some equivalency existing in Canada to the power limitations proposed by petitioner, however the uses of the mini facilities are limited to remote areas and re-transmissions of parent stations. Since he is new to the agency homework still is in order at this level of administration. We really need to call in the Canadians who have allowed and done broadcastilng in this mode for consultation.

6. Several issues are reasonable relative to ownership and the so-called bucks to get into the game. Petitioner raises some goodquestions,commentator answers thusly. What happened to the San Francisco operation on FM of a station operated under the aegis of "Poor Peoples' Radio?" So-far as commentator knows this operation was so bone dry financially that there was not even a telephone. We need to address this issue in light of the plaintive pleas of poverty. Who is going to finance these stations of puny power and how are they to stay on the air meeting their daily bills? What are costs of equipment -- given the studio equipment to be of broadcast transmission quality to be transmitted, and the ancillary equipment such as EANS monitors, modulation and frequency monitors,and other mandated equipment is of necessity to produce a competitive and professional signal. The mistaken idea is that low power is the solution to entrance is quite absurd. Further, the costs of professional transmitters in presentday catalogs of manufacturers starts at well over several thousand dollars even for the 10 watt units. Now should there be kits manufactured as was the case with the Bauer transmitter, how would commission have any control that proper professional standards were being met in this day of de-regulation where the still emphasis is on technical and violators finding stiff fines for variances. There needs to be several prototype low power stations set up and

operated to understand the actual conditions of operations, such as was the UHF-TV experiments in New York and Connecticut in the 1950's and 1960's. Several items are missing in the logic of this model. One element is that of the audience itself. Speaking from a program format point of view in the industry, most listeners find in most major markets a duplication of most formats and few one of a kind formats surviving for long. Even the classical format, once the mainstay of FM stations , has gone off the air even in the large markets like New York, Los Angeles, Houston, etc. It might be of some remote interest to find out that commercial dollars of advertisers are placed where large numbers of listeners are available. How can the puny power attract large enough numbers to be commercially viable when the signal is not available to the vast majority of listeners that already listen to over 12 signals available in most major markets. Low power, if heard at all, will have a very weak signal in an era of very strong processed signal. The element of the advertiser dollar is important and will be taken up in the subsequent paragraphs.

7. Already in existence is the public access channels on most cable systems which are at a loss for programmaterial in many cases. The question still remains where thecommercial sponsorship will come from. It would be wise to have a prototype station in accordance with the constraints alleged by the petitioners to see actual conditions of operations.

8. There are statements about minority ownership raised in the petition. It is obvious the problem of minority ownership is not the real issue. Specifically, the situation should be the stability and longevity of minority ownership. In San Antonio, Texas, two of the post 1980 construction permits for minority ownership have resulted in bankrutcy and finally in operations by non-minority owners who existed in the market

prior to the minority emphasis of the 1980's era onward. Meanwhile the minority owners in the market continued their operations -- in some ceases fro the 1950's to the present. Why the difference? Possibly the fact that the market has becomemore sophisticated and now takes more skills to succeed. Managerally, the problem could be from lack of experience in the broadcasting game. In the market of Victoria,Texas, which is now described as a 61,000 population city market and 80,000 county population there have been over seven Hispanic station operations to fold. What is the cause? Lack of applied know-how of proper business principals is most likely the one most occurring cause. A good example is the mistaken idea that one will blow the world away with fantastic (to him) but ordinary programming to the Hispanic audiehce. Additionally, the non professional approach of only calling on their ethnic business people -- and ignoring the Anglo owned business community. Additionally, the non payment of air and office/sales personnel on time and the subsequent related back-up of un-paid taxes to the Internal Revenue Service. One of the folded Hispanic owner-operators in Victoria,Texas, was assessed over $185,000 inun-paid taxes and found the station seized and bought by an Anglo conglomerate. In short,petitioner is very shortsighted in its statement that minorities are not properly represented in the industry and thus must be shovelled in via some low power route -- which is already under fire for feasibility.

9. The matter of local programming translators was addressed previously by the Commission with a turn down of request. In the 1980 decade there was a grant to commentator of a translator of his owned KTXN-FM for the market of Kenedy-Karnes City,Texas, some 60 miles from its trnsmitter. In this grant the applicant had requested and received a local programming permit. The Commission has been previously very reluctant to grant low power stations for small communities and suburban areas. In the late 1970's there was a proposal to allocate the then top 12 channels of the UHF-TV band -- channels 70-83 -- to community television with 10 kilowatts maximumpower. This was defeated and the Commissiongave away these channels to cellular radio without any docket action later.

10. There has been very limited interest in community size FM operators in the past and the issue was address numerous times in previous dockets of FM allocations with very little interest. Why the so-called missionary cause assistance of this area of interest today is a big question when it is not wanted. At one time there was a one kilowatt effective radiated power and 150 foot (described in then used nomenclature) antenna height. What happened to these operators is that they ultimately asked for and got a power increase. This is what commentator fears in this instant docket. When grants have been amde and stations put on the air, there will come a time when the operators, not saved from folley by the commission, will ask for more power. This has happened numerous times. The list includes the power increase to one kilowatt by class IV local AM stations in the 1950's and 1960's -- resulting in more interference and questionable improved service (the class IV in Victoria, Texas, gained two miles coverage with its switch to the one kilowatt power level at night). The upping of the power on the local FM station class from one kilowatt to three kilowatts and from 150 feet to 300 feet, only later to be raised in treaties to 328 feet and described as 100 meters. In most modern times this class has been granted a power increase per their request to six kilowatts with two miles gain in the coverage. Should one want to consider the class C3 FM station which is now a jump above the class A six-kilowatt station, thus only shows that power increases are inevitable and should the matter of the low power stations be considered and granted, commentator requests that there be specific limitations placed on all grants that there will <u>never</u> be a power increase. In short commentator feels this is another attempt of the camel to get into the tewnt of the industry and take over.

11. Commentator has done numerous feasibility studies as to possible allocations in the various bands -- AM, FM, and TV -- and is the most recent challenge was handed one the computer programmers threw up their hands and walked away from. In the case in question, an onerous LMA-lord insisted to the exclusion of reality that a station move to his site seven miles

from its existing site for the lifetime of the LMA contract. The LMA'ed owner faced problems of monumental proportions in determining if the 7 mile move would open-up opportunities for stations on the three minus and plus adjacent channels that would prelude a move back to his original tower. Commentator prepared the mathematical model and ran the problem for the station in question. Addition commentator was the petitioner for numerous channel allocations --primarily channel 25 in Victoria,Texas -- to end a epidemic of applicationitis when applications were filed for the one existing channel allocation. Additionally commentator has been aware of other practical allocation considerations -- in some cases not covered in the rules in their basic form -- but existing in the field. Examples include the mountain duct that caused interference for a station midway between Phoenix and Tucson, the co-channel interference un-explained on 99.1 to a station in Lampassas,Texas. Additionally the matter of the longer distance of wave travel along the Gulf Coast. This brings up still another point in what is called the inter-mod. It has not been explored whether or not low power stations would mix with other stations in the areas. There are already areas that can not receive good reception and the lower power operations would only compound the matter. The matter of the spacing stations is addressed in the next paragraph.

12. Petitioner has done no research into the matter of the co-channel and adjacent channel coverages and spacing save for citing the part 73 of the CFR relative to FM educational stations on non-reserved stations and the lower end of the band. As there is no readily available data on the performance of receivers,it is most un-realistic to state there will be no problem in the receivers separating the stations on second adjacent channels

from each other. In the early days of FM the receivers could not do this feat and this was one of the reasons why FM failed in the 1940's and 1950's. This was a finding in a paper done for a communications class by commentator. No receiver data was provided in the comments just allegations un-substantiated. What percentage of receivers exist as car radios and portable radios, and table radios. The coverage areas of these puny power stations would be a nuisance to the listening public for several reasons. The first one is that at the speed of most cars in metro areas of 30 miles per hour, the coverage area wold be eclipsed in two to three minutes. Thus the more non-mobile receivers would bemost used and their receptiuon sensitivity and selectivity would be subject to question. There are no listening tests to prove that the existing stations -- such as commentators KTXN-FM with 100 kilowatts would not be interfered with as close as two miles from its transmitter and well in its blanket area. Commentator requests statistical data to substantiate the lack of interference claimed by the petitioner.

13. No mention has been made of the sub-channel operations of existing stations as to possible interference to such services as reading services for the blind and stock quotes,paging services,etc,which would be harmed by the new low power stations.

14. As to the matter of local ownership commentator is well in agreement with petitioner that owner operators are in order. Commentator is totally against the de-regulation prone Tele-communications Act of 1996 as to un-capping the number of stations that an owner operator could own. Big buck is now a part of even the minor markets and shut out the existing owner operators from expansion. In reality the matter of age should be addressed in the ownership of these low power stations. Commentator is 56 years old and facing the discrimination in employment. These are real questions facing the aging baby boomers. The commission should address this issue as well.

15. Commentator takes issue as to statements that low power stations can be built for less than an automobile. Please provide support as to this statement. I call attention to the fact that low power television did not necessarily mean low cost of operations , nor cost of construction -- as for example the Bemidji, Minnesota LPTV which was really a full blown TV station.

16. The so-called displacement of low power operators for DTV is hardly one tear that should not have been thought about before entering the broadcast business. In commentator's co-home city of Austin,Texas, there have been potential low power operators shut out by full blown stations -- as in the case of Balcones Televison for channel 55 when KNVA went on the air on channel 54. It was the finding of the commission in the re-bound in this case that the possible loss of operating authority was a real cost of doing business they accepted when their application was filed. The same situation existed in Denver, Colorado, when Trinity broadcasting was forced off the air as the advent of a new UHF-TV station made operations side-by-side not possible.

17. What is going to happen when and if the Commission ever decides to give out channels for a new service like that which is happening in Canada with the DAB transmission mode. Will the low bucks operators have the money to stay in the game or will they cry fowl at the goyuse rules.

18. The proposed classes of low power station are un-realistic in another way in that there is aready use of low power transmitters for these races and regattas in another band. In the case of rthe World's Fair in Tennessee some decade ago there was a special radio authorization and special radios to receive it. In Canada, there were low powered AM stations for use by fair-goers. The possible use of AM radio for low power stations is not realistic. Numerous one watt post sunset authorizations are on the books but few if any use them because of the extremely low distance of coverage -- c.f. 1540 stations and 1550 stations on Bahamian and Mexican-Canadian clear channels. Additionally, there is a 5 watt station on the air in Boston on 740 kilohertz. Commentator tried to add this AM low power to a post sunset and pre-sunrise docket in the 1980's with no success. One must realize the determiners of skywave that can go hundreds of miles at night.

19. The matter of the one watt station is not at all practical and this can

be attested to in the removal of the ceiling of 10 watt educational FM stations and instead a minimum power of 100 watts was now required for these campus area limited educationalbroadcasters. All considerations that were mentioned about the higher classes should apply here.

20. It is subject to question whether or not there are technicians that can work on these low power stations, or that the equipment is stable enough to not interfere with other communications. It is after the reading of "pirate" stations and their interference to aviation and other services that this consideration is brought up for relevancy.

21. For the reasons contained within commentator requests that the commission further look at the matter and possibly dismiss petition for lack of substance. It is to be pointed out that commentator had approached then commissioner Hooks about this low power concept in the past and did not even get the courtesy of a reply of acknowledgement. SUBMITTED, APRIL 23, 1998

For COSMOPOLITAN ENTERPRISES OF VICTORIA, INC.

John J. (Joe) Tibiletti
Its Presidebt

For COMMENTATOR, INDIVIDUALLY

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