

UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

Proposed Changes To The Low Power FM (LPFM) Radio Service:

Docket No. RM-11749

REPLY COMMENTS OF DON SCHELLHARDT, ESQUIRE TO VARIOUS WRITTEM
COMMENTS

I am Don Schellhardt, Esquire. In 1997, I joined Nickolays Leggett of Virginia to file the nation's first Petition For Rulemaking to establish a Low Power FM (LPFM) Radio Service. In 2013, I joined him again to file the nation's first Petition For Rulemaking to establish LP250 stations (101 to 250 watts) within the LPFM Radio Service. The Schellhardt/Leggett Petition on LP250s was filed 17 months before the REC NETWORKS Petition on LP250s.

In this document, I am speaking for Nick Leggett (who is presently unavailable), as well as myself. These Reply Comments are being submitted later than they should have been, for which I apologize, but I was delayed by serious computer problems.

I will pursue brevity by limiting this document to an outline of key points, concerning certain general themes in the body of RM-11749 Written Comments:

LPFM IN GENERAL IS FULFILLING ITS POTENTIAL

In many areas, the LPFM Radio Service has truly begun to fulfill its potential. Within the body of Written Comments, we see such statements as "our local LPFM station provides the only coverage of women's athletics in the Louisville area" and "Local musicians are getting played On Air for the first time in decades".

When we read these words, Nick Leggett and I are proud of the role we have played in making LPFM a reality.

LP250s MAKE SENSE IN RURAL AREAS, SMALL TOWNS AND SMALL CITIES

Docket RM-11749 contains Written Comments from parties who live in rural areas, small towns and small cities. These commenters overwhelmingly advocate bringing LP250s to their communities. Furthermore, many of them point to specific factual details which build a compelling case.

MORE CLARITY IS NEEDED IN THE DEBATE OVER LP250s IN AREAS WITH HIGH POPULATION DENSITY

The Schellhardt/Leggett Petition of 2013 bans LP250s in Standard Metropolitan Areas (SMSAs) The REC NETWORKS Petition of 2015 does not.

Some advocates of urban LP250s claim that 100 watts, in a highly urban setting, does not generate an LPFM signal that can penetrate all buildings and/or overcome “urban noise floor”. However, in spite of these reported problems, Nick Leggett and I know of urban LP100s which seem to be self-sustaining financially.

There is probably more revenue to be gained if you reach 80% of a large potential listenership than if you gain 99% of a small potential listenership. To put the point another way: We suspect that a typical LPFM broadcaster, for all his or her possible complaints about “building penetration”, would not trade an LP100 in (say) Richmond, Virginia for an LP250 in (say) Oakley, Kansas.

Nick Leggett and I believe the debate over urban LP250s can be clarified greatly if the following questions are asked of the public in the Notice For Proposed Rulemaking that is hopefully coming:

- (1.) What does “viability” mean for an LPFM station? Does it mean the ability to saturate a service area, including most or all interior spaces? Does it mean enough revenues to make the station self-sustaining financially? Does it mean both? And is there a point at which the Commission should not pursue a station’s viability -- because the extra wattage for a single LPFM station might pre-empt enough spectrum to preclude two or more smaller LPFM stations?

- (2.) The reports of problems with building penetration and/or “urban noise floor” seem to be anecdotal. Can someone suggest sources for actual equipment readings and/or other solid scientific data? If not, should the Commission conduct or “contract out” a technical study -- to see whether LPFM stations in crowded areas really need to go from 100 watts to more than 250 watts? In the event a study is initiated, Nick Leggett and I recommend: (a) proceeding expeditiously with LP250 licensing outside of areas with high population density; while (b) waiting two years, for completion and assessment of the technical study, before deciding whether or not to license LP250s in crowded areas.
- (3.) What criteria should be used to identify “areas with high population density”, where LP250s may be problematic? Nick Leggett and I, and also THE AMHERST ALLIANCE, have been criticized for using SMSAs: a Commerce Department concept that is not very familiar to the radio industry. On The Other Hand, we shied away from Arbitron Markets, which are indeed familiar to the radio industry, because the Arbitron Markets tend to sprawl. Urban and suburban and rural communities can be jumbled together -- making it difficult to focus exclusively on those highly urban areas where LP250s may pose problems.

If SMSAs and Arbitron Markets are both put to one side, what possibilities might be left? Nick Leggett and I suggest going directly to the factor that has been measured indirectly: human population density, expressed as persons per square mile.

Ask LP250 applicants to calculate the total human population in their proposed service area, and then divide that total population by the number of square miles in the proposed service area. If the population density per square mile exceeds a specified limit -- say, 3,000 persons per square mile -- then the license would be denied (or, if a technical study is in progress, delayed pending a policy decision by the FCC).

An LP100, based in a service area with 3,000 persons per square mile, would still reach the better part of 100,000 potential listeners. This would not be a hardship.

Respectfully submitted,

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