

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of )  
 )  
Revitalization of the AM Radio Service ) MB Docket No. 13-249  
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 )

***COMMENTS OF  
of  
MORTENSON BROADCASTING CO. OF TEXAS, INC.***

Mortenson Broadcasting Co. of Texas, Inc. (“MBC”)<sup>1</sup> submits these comments in response to the Commission’s *First Report and Order, Further Notice of Proposed Rulemaking, and Notice of Inquiry*<sup>2</sup> (the “NPRM”), specifically to address the provisions of Section E of the Further Notice of Proposed Rulemaking section of the NPRM, regarding the proposed required surrender of licenses by dual standard band/expanded band licensees.<sup>3</sup>

The *NPRM* proposes that the 25 existing dual licensees (standard band/expanded band), at a date to be calculated as one (1) year from release of a future Report and Order adopting the proposals in the NPRM, elect to relinquish either the standard band license or the expanded band license. Absent a timely election, the FCC proposes to extinguish the standard band license, which it deems to be a ‘high-interfering’ standard band facility.<sup>4</sup> While acknowledging that retention of the dual licenses runs contrary to the original proceeding authorizing the expanded band facilities<sup>5</sup>, the relinquishment requirement in MBC’s case will cause a loss of service to a significant minority community which has relied upon the standard band facility for over 50 years to provide

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<sup>1</sup> MBC is an FCC licensee of AM radio stations KHVN, 970 kHz, Fort Worth, TX and KKGM, 1630 kHz, Fort Worth, TX and is one of the 25 “dual licensees” referenced in the NPRM.

<sup>2</sup> *First Report and Order, Further Notice of Proposed Rulemaking and Notice of Inquiry* in MB Docket No. 13-249, (rel. October 23, 2015)(the “NPRM”).

<sup>3</sup> *NPRM* at ¶ 75-77.

<sup>4</sup> *NPRM* at ¶ 77.

<sup>5</sup> *Technical Assignment Criteria*, 6 FCC Rcd at 6276, 6310

programming specific to that community. The same situation is likely to be repeated amongst the other 24 dual band licensees.

The principal justification for the relinquishment of the standard band facility (the so-called “high-interfering standard band stations”) was that they contributed to the congestion and interference in the standard AM band. However, in the time elapsed since the original proceeding, it has become more apparent that the interference component in the standard AM band is not because of other AM stations but the plethora of other devices which raised the “noise floor” for the AM standard band. Indeed, a companion rule from the *Technical Assignment Criteria* proceeding also intended to reduce station to station interference, the so-called “Ratchet Rule”, is in fact eliminated in this very same *NPRM* because it has been shown to not produce the desired interference reduction AND instead discourages AM station improvements.<sup>6</sup> MBC believes the same analysis and reasoning that led the Commission to abolish the Ratchet Rule can be applied to the dual band licensee situation. The original intent of the rule was to reduce congestion and interference. But, the Commission expressly acknowledges elsewhere in the *NPRM* that **“In this proceeding, spectrum scarcity is not the problem as much as is the need for existing AM stations to overcome an increasing noise floor that inhibits local service, both day and night.”**<sup>7</sup> Indeed, as demonstrated by the attached technical exhibit from Mullaney Engineering, (Exhibit “A”) the “improvement factor”<sup>8</sup> of KHVN (MBC’s standard band facility) has been reduced to less than 50% of what it was at the time of the *Technical Assignment Criteria* proceeding, and could, with a small reduction in nighttime power, result in NO nighttime interference issues whatsoever and the improvement factor being less than 20% of what it was at the time of the *Technical Assignment Criteria* proceeding. Simply put, the rationale for deleting the standard band facilities

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<sup>6</sup> NPRM at ¶ 31-34.

<sup>7</sup> NPRM at ¶ 55 (emphasis added).

<sup>8</sup> “Improvement Factor” is a value used in the *Technical Assignment Criteria* proceeding to determine which stations produced the greatest amount of interference and congestion to the AM band and thus were chosen to participate in the Expanded Band proceeding.

(congestion and interference with other stations) is no longer a valid rationale and in fact works counter to the desired Commission goals to expand opportunity for minority broadcasters, whose most frequent entrée in to the broadcasting ownership community is through the AM band. Reducing the total number of AM facilities does not serve the purposes of that goal, particularly when the alleged rationale for such reduction can be demonstrated to be no longer valid. Although MBC acknowledges that it should not be permitted to retain indefinitely the dual standard and expanded band stations, it does believe that the benefits to the community provided by its standard band station KHVN,<sup>9</sup> which would be lost permanently if that license were cancelled, compel the Commission to consider an alternative solution to the issue. The Commission should provide each of the 25 remaining dual band licensees a time period (36 months would be reasonable) to divest either the standard band facility or the expanded band facility to a minority owned licensee, in order to increase the enunciated goal of the Commission to increase diversity in broadcast ownership. There is precedent for the Commission to adopt such a proposal, as it previously did so for Station KYHN, as noted in footnote 197 of the NPRM.<sup>10</sup> Adoption of such a proposal would have the salutary effect of making 25 facilities available for qualified minority licensees to acquire and serve their respective communities. The Commission could impose a hard timeline on filing an assignment application for the 25 dual band licensees (and further deadline on consummating such assignments) to ensure divestiture and provide for termination of the standard band license if an assignment was not filed and consummated within the applicable timeline. This would serve as sufficient motivation for the 25 dual band licensees to accomplish the divestiture as originally

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<sup>9</sup> See Exhibit “B” to these Comments detailing the role and impact of KHVN on the African-American community in the Dallas-Forth Worth market.

<sup>10</sup> Footnote 197 states, in pertinent part: “For example, the Media Bureau approved the assignment of Expanded Band KYHN, Ft. Smith, Arkansas, from Capstar TX LLC (also licensee of standard band KWHN, Ft. Smith, Arkansas) to MMTC Broadcasting LLC. File No. BAL-20100706JZM; see *Capstar TX LLC and MMTC Broadcasting LLC*, Letter, Ref. No. 1800B3-TSN (MB Oct. 21, 2010). In that case, KYHN was silent and had sustained flood-related damage, and the Bureau reasoned that Capstar’s donation of the facility to MMTC, which planned to use KYHN to train women and minority group members in broadcasting and broadcast management, advanced the diversity goals set forth in the pending proceeding *Promoting Diversification of Ownership in the Broadcasting Services*, Report and Order and Third Notice of Proposed Rule Making, 23 FCC Rcd 5922, 5952-54 (2008) (“*Diversity Order*”).”

contemplated by the *Technical Assignment Criteria* proceeding, while preserving facilities that could serve a minority community and further the Commission's parallel intentions of promoting diversity in licensee ownership. Indeed, the Commission could specify a minimum threshold of minority ownership sufficient to qualify applicants to acquire these 25 facilities. In MBC's specific case, it would seek to find a minority qualified applicant to acquire KHVN and continue the programming and service to the African-American community which has been developed and sustained for over 50 years, rather than cause a significant loss to that community by turning in the standard band license.

MBC believes the foregoing proposals strike a fair balance between the original laudable intent of the *Technical Assignment Criteria* proceeding, which has been demonstrated and acknowledged in the *NPRM* itself to have "misdiagnosed" some of the issues affecting AM facilities, and providing an opportunity for preservation of these heritage standard band facilities to a new generation of minority broadcasters who will have the ability to serve their respective communities.

### ***Conclusion***

In conclusion, MBC offers the above comments to the Commission, as invited by the *NPRM*, for the purpose of finding a solution regarding the dual standard band/expanded band licensees which will serve to accomplish the *NPRM*'s stated goals of improving the quality and viability of broadcast radio services, while also serving to further the equally important goals of promoting diversity in broadcast licensee ownership. It is respectfully requested that should the Commission consider the foregoing proposals as an alternative to the rule proposed in the *NPRM*, which would have the effect of unnecessarily reducing the number of AM broadcast stations and

diminish service to minority communities.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Anthony T. Lepore', with a long horizontal line extending to the right.

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Dated this 18 day of March, 2016.

EXHIBIT "A"

ENGINEERING STATEMENT

RECALCULATION OF THE IMPROVEMENT FACTOR  
CONCERNING

KHVN, 970 KHZ FORT WORTH, TEXAS

AM Expanded Band Operation

Improvement Factor Calculations (Day & Night)

Improvement factors are based on two distinct considerations: (a) Service area lost by other stations due to interference caused by the subject station, and (b) service area of the subject station. These considerations are represented by a ratio. The ratio consists, where applicable, of two separate additive components, one for nighttime and one for daytime. The value of this combined ratio constitutes the facility's improvement factor.

NIGHTTIME IMPROVEMENT FACTOR FOR KHVN

Step 1: Interference to Other Stations (50% RSS Limit or Greater to Other Facilities)

For the nighttime component, to determine the numerator of the ratio, calculate the RSS and associated service area of the stations (co- and adjacent channel) to which the subject station causes nighttime interference. Next, repeat the RSS and service area calculations excluding the subject station. The cumulative gain in the service area is the numerator of the ratio.

RSS NIGHTTIME 50% NIGHTTIME INTERFERENCE FREE  
SERVICE (NIF) TO KIXL 970 KHZ DEL VALLE, TEXAS

STATION	50% RSS WITH KHVN	50% RSS WITHOUT KHVN	SERVICE AREA GAIN
KIXL 970 KHZ	11.51 MV/M	10.19 MV/M	
NIF AREA	1036 sq. km.	1223 sq. km.	187 sq. km.

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Step 2: The denominator is the subject station's interference-free service area.

**RSS NIGHTTIME 50% NIGHTTIME INTERFERENCE FREE SERVICE  
(NIF) TO KHVN 970 KHZ FT WORTH, TEXAS**

STATION	50% RSS LIMIT TO KHVN
KHVN 970 KHZ	13.59 MV/M
NIF AREA	297 sq. km.

The present nighttime improvement factor for KHVN is  $(187/297) = 0.63$

**DAYTIME IMPROVEMENT FACTOR FOR KHVN**

Step 1: For the daytime component, the composite amount of service lost by co-channel and adjacent channel stations, each taken individually, that are affected by the subject station (outgoing interference to other facilities), is used as the numerator of the daytime improvement factor.

STATION	CITY/STATE	AREA LOST
KIXL	DEL VALLE, TX	8,059 sq km.
KIMP	MOUNT PLEASANT TX	7,232 sq. km.
KCFO	TULSA, OK	1,466 sq. km.
KFCD	FARMERSVILLE, TX	57 sq. km.
TOTAL		16,814 sq. km.

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Step 2: The denominator consist of the actual daytime service area (0.5 mV/m contour) less any area lost to interference from other assignments (incoming interference to KHAVN).

STATION	CITY/STATE	AREA LOST (sq. km.)
KIMP	MOUNT PLEASANT TX	11,092
KFCD	FARMERSVILLE, TX	57
TOTAL		11,035
KHAVN	FT. WORTH, TX	NET SERVICE
0.5 MV/M	47,112 sq. km. Service Area	
NET SERVICE	(47,112-11,035)	36,077

The value of this ratio constitutes the daytime improvement factor. The present daytime improvement factor for KHAVN is  $16,814/36,077 = 0.47$

The present improvement factor (IF) for the facility is the sum of the nighttime and daytime ratios,  $0.63$  (nighttime) +  $0.43$  (daytime) =  $1.06$  KHAVN present day improvement factor.

The former improvement factor (1991) was  $2.26$  as noted in Appendix D of the MM Docket 87-267 Report and Order, Adopted: September 26, 1991, Released: October 25, 1991.

That improvement factor was later adjusted to  $2.159$  as noted in DA-96-408, Media Bureau Announces Revised Expanded AM Broadcast Band Improvement Factors and Allocation Plan, Released: March 22, 1996.

Computed Expanded Band Improvement Factor

1991	1996	2016
2.26	2.16	1.06

The primary reason for the change in the improvement factor as calculated over a period of 25 years is unknown without further historical research but it is thought to be related to a decrease in the number of facilities that are currently in operation - i.e., other stations in which KHAVN had played a part in the 1991 and 1996 (as modified) calculations are no longer operating.

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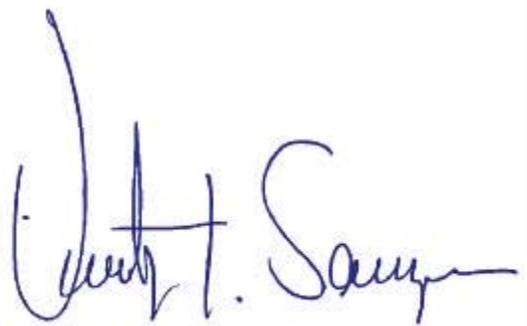
It is possible for further reductions in the improvement factor by reducing the nighttime power to a level below the interference threshold to other facilities, thus reducing the improvement factor to 0.43 – the daytime component only.

For example a power of 205 watts would remove the facility from the 50% RSS interference level calculations to KIXL, thus removing the nighttime improvement factor from the total calculations. A power of 205 watts would allow the station to remain a fully protected Class B facility as the RMS of the current antenna system would be above the minimum RMS values for the station class. Thus, by simply reducing the nighttime power from 270 watts to 205 watts the station could remain in operation without causing prohibitive (or contributing to) interference to other stations at night and still serve nearly the same area that it presently does at night. A reduction of 65 watts shrinks the distance to the interference free contour by approximately 1.2 km. (0.74 miles).

The daytime improvement factor is thought to be wildly overstated as it requires the use of the Commission's M3 soil conductivities values for ease of calculations. However, based on practical experience of the writer, the actual overlap of the protected and interference contours during daytime hours is not likely to occur to the extent predicted by the use of M3 soil conductivity values only.

Based upon the improvement factor calculations of today, the facility has little real world impact on other facilities and that impact can be further diminished by a slight reduction in nighttime power.

March 16, 2016

A handwritten signature in blue ink, reading "Timothy Z. Sawyer". The signature is written in a cursive style with a large initial "T" and "S".

Timothy Z. Sawyer, Consulting Engineer  
Mullaney Engineering

**EXHIBIT "B"**  
KHAVN SERVICE TO COMMUNITY

## Nobody Does Gospel like KHAVN - Heaven 97

KHAVN has proudly served the Dallas/Forth Worth Christian Community since 1985. We have built a loyal listener base who spend large amounts of time spent listening to our station.

Currently, KHAVN is one of the most unique radio formats available with it contemporary gospel format. In addition to serving the community with music, KHAVN also provides broadcast facilities for leading national/community ministries, and national/community news.

We work with many of our local organizations to impact the needs of our community, such as: Christmas in the Park with the S. M Wright Foundation (helping low income families with food and gifts for Christmas); Labor Day of Praise Celebration with the Cornerstone Foundation (providing food, clothing, and entertainment for the homeless community); Homegrown Honors (celebrating the achievements of Gospel Artists/Ministers in our community); Easter on the Bridge with the City of Dallas (providing an Easter celebration and food for low income families); Praise In The Village (community celebration of diversity in ministry), African American Read In with the City of Dallas (children's literacy program), Sister to Sister Fitness Walk (walk for the cure for Breast Cancer) and many, many more.

We have received several honors and awards for our work in the community: including several Stellar Award Nominations, and an ultimate win. Radio Station of the Year with the Rhythm of Gospel Awards, Announcer of the Year with the Texas Gospel Music Excellence Awards, Station of the Year with the Key of Gospel Awards, Community Outreach Award with the Epitome Awards, to name a few.

We spend countless hours in the community with church programs, non profit organizations, youth organizations, homeless communities, political forums, health fairs and much more. We have worked to make our imprint as more than just music, but a viable part our community.

## What KHVN Heaven 97 Means To The Dallas Fort Community.

Khvn Heaven 97 is like sunshine on a rainy day, food to the needy, comfort at a time of pain & suffering and joy at a time of celebration!!! This Gospel station is the only 24 hour full service Gospel Radio Station in Dallas/ Fort Worth serving over five million people living in North Texas. This station is the only one that provides serious daily local news coverage under the director of Longtime Program Director Carmina Barrett. KHVN also offers the only two hour daily talk show focusing on the needs of the Dallas Fort Worth Black Community. In the Black Community, KHVN is the only one which literally gets down in the vineyard and goes to work on the issues of education, economic development, crime, healthcare & religious freedom..KHVN talks directly to the community while other stations only talk at the community while buying their loyalty with expensive giveaways..At KHVN, we work to earn the Community's trust by during promotions like the " Church Tour, " " Saving Our Sons," " Gospel First Ladies Fashion Shows, " " African American Church/School Read Ins," " Neighborhood Clean Ups," " Hosting Business Round-Tables," " Live Broadcast At Local Hospitals On Obamacare," " Burying The Dead & Hosting Programs On Understanding Death & Dying," ...KHVN is a business life-line because Local Businesses see KHVN as way a freeway to travel in order to buy & sell to the Black Christian Market..The Gospel is considered " Good News, " in Bad Times..America has faced its share of Terrorism, Mass Shootings, Church Mass Shootings and racial tension..The Role of The BLACK Church is to serve as the Moral Conscience Of A Nation or Community and we have found KHVN RADIO playing a vital role in helping Citizens cope with the ups and downs of life..Here at KHVN, we have also offered local Police Departments a weekly show called, " A Call For Action," in order to better protect the lives of our Citizens as well as Police Officers...We also believe we have played a major role in bridging the gap between the Black Community & the Police Departments..We have also for the last 20- to 30 years hosted " Political Candidate Forums, " with some of they receiving world-wide coverage as a result of our long standing involvement in the Dallas Fort Worth Community...This station is a Spiritual Life-Line for those wanting to connect with a Higher Religious Power..Finally, down through the years, KHVN has transcended Christianity..As America has changed and more people have come to the United States, we have served various other traditional and non-traditional faith beliefs..We have worked with members of the Islamic, Jewish, Catholic & Atheist beliefs...As Christians, we are becoming more Universal in our approach to Broadcasting from a religious points of view...We are a tolerate people and realize we all don't believe and think alike...Its our goal to have KHVN continued to be viewed as a " Community Radio Station," you can truly called your own as well a " Radio Station, " Where You Have A Friend..."