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FCC MAIL ROOM Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
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)
1998 Biennial Regulatory Review) MM Docket Number 98-93
Streamlining of Radio Technical Rules in)
Parts 73 and 74 of the Commission's Rules)

To: The Commission

COMMENTS OF THOMAS DESMOND

I hereby respectfully submit the following comments in reference to the above-captioned Mass Media Docket relating to the technical rules applying to the AM and FM broadcast band services.

I. BACKGROUND

The FCC has solicited comments in regard to this Docket, which was initiated as part of the FCC's ongoing initiative to streamline its rules, policies, and licensing procedures.

In these comments, I will address a variety of the issues which were raised by the FCC docket. As I presently have two petitions for rulemaking before the FCC regarding amendments to the FM table of allotments, a number of the issues raised by the FCC have the potential to significantly impact me.

II. NEGOTIATED INTERFERENCE IN THE FM SERVICE

Although I generally support the concept of allowing negotiated interference in the FM broadcast band, I believe that the proposals outlined in 98-93 go to far as a result of an erroneous assumption.

Specifically, the erroneous assumption is the one that "[c]ongestion in the FM band provides a major technical impediment to the further 'urban clustering' of stations...[and] a station's obligation to serve its community of license will continue to limit transmitter relocations and service area modifications." I reside in the Dallas-Fort Worth metropolitan area, which has been "ground zero" for a large number of FM station relocations (96.7 moving from Sherman, TX to Flower Mound, TX; 100.7 moving from Bowie, TX to Highland Village, TX; 101.7 moving from Denison, TX to Azle, TX; 104.1 moving from Sherman, TX to Sanger, TX; and 104.9 moving from Denison, TX to Pilot Point, TX), and I strongly believe that the FCC's proposals to allow negotiated interference will only accelerate this trend. Presently, the only factor that has prevented these stations from moving close enough to Dallas or Fort Worth to provide a community grade contour to one or both cities has been the FCC's second and third adjacent spacing rules.

Under the proposed rules, these stations would be able to move substantially closer to Dallas and/or Fort Worth, and the result would be a significant loss of service to outlying areas,

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in violation of Section 307(b) of the Communications Act. The restrictions on negotiated interference proposed by the FCC would provide little protection against this occurring. The very small size of the 100 dBu interfering contour for second/third adjacent interference when compared to the overall coverage of a station pretty much guarantees that any such proposal will meet the provisions that "...no greater than five percent of the area and population within each station's protected service contour [will be affected by interference]..." and that "...service gain must be at least five times as great as the increase in total interference, in terms of both area and population." Similarly, for a class C or C1 station, the provision that "[n]o predicted interference can occur within the boundaries of any affected station's community of license..." can be easily met by locating a transmitter site 10 or 15 km outside of either Dallas or Fort Worth. The requirement that five interference free services remain in the affected area will also be easily met in most metropolitan areas.

In view of the preceding, I propose that the FCC place additional restrictions on negotiated interference agreements that involve second or third adjacent spacing issues. Such restrictions should include a strict limit on the area of the second/third adjacent contour overlap (I would propose a low limit, such as 30 square km maximum overlap with the consent of the station whose protected contour is overlapped, and 5 square km overlap allowed without the consent of the station whose protected contour is overlapped); and a restriction on how far inside one station's protected contour the interfering second/third adjacent contour of another station would be allowed to extend (I propose 16 km as a distance that would grant flexibility to stations in selecting transmitter sites without allowing a massive "move in" of outlying stations into metropolitan areas.

With the addition of these (or similar) restrictions, I believe that the negotiated interference proposals will serve the public interest and allow licensees greater flexibility in site selection. Otherwise, I fear that negotiated interference will result in an increase in service to listeners in major markets, and a massive loss of service to everyone else.

III. POINT TO POINT PREDICTION METHODOLOGY

Allowing supplemental point to point predictions for interference analysis is an idea which is much overdue. With the cheap and abundant availability of PCs and software for performing these calculations, there is no longer any justification for not utilizing these tools. Furthermore, allowing the use of these supplemental calculations should benefit the public by allowing increased service.

I believe that the FCC should take this one step further, and allow the use of such analysis in rulemaking procedures to amend the FM table of allotments. Such analysis should be allowed both for interference showings, and for showing the ability of a site restricted allotment to provide a community grade contour over the proposed city of license. Such a modification of the rules should allow the authorization of new FM allotments where they otherwise could not be considered, resulting in an increase in service to the public.

IV. PROPOSED MODIFICATION TO 73.215(e)

The commission proposes to provide moderation relaxation of the second and third adjacent spacing restrictions called out in 73.215(e), which applies to stations that are unable to meet the spacing considerations called out in 73.207. I note that since the amount of the

proposed relaxation is quite modest, this proposal does not appear to allow stations to move into major metropolitan areas to any significant extent.

V. CREATING A NEW CLASS OF FM STATIONS

The FCC notes that "...many Class C [FM] stations continue to operate with facilities that are significantly less than maximum...approximately 60 percent...operate with facilities less than 450 meters HAAT..." The FCC proposes to downgrade these stations to a new Class C0, which would be between existing Class C and C1 facilities.

The FCC notes that these changes would "increase the efficiency of FM band licensing," a statement that I would agree is generally true. However, in this instance, I believe that the FCC is not going far enough. After all, under this proposal, many stations that operate well under their class maximum facilities would continue to be protected based on their maximum class contour, rather than their actual facilities. This protection results in FM band licensing being significantly less efficient than it could be.

The ideal solution is to eliminate the classes of FM stations entirely, in which case new or modified FM assignments would be based on avoiding overlap of interfering contours, as is currently done in the non-commercial portion of the FM band. This would also eliminate the FM table of allotments, which means that new station applicants would need to do an engineering study and file an application for an open frequency instead of referring to the table. I would propose that the FCC handle competing applicants in this scenario in the same way as has been proposed for AM applicants in the spectrum auction proceeding (MM Docket 97-234). Existing stations, construction permits, and allotments should be grandfathered in place for a reasonable period (perhaps three years) to allow stations to upgrade; during this period, new applications would be accepted outside of the table of allotments, but these applicants should be required to fully protect all allotments, permits, and stations up to their class maximums. After this period, the table of allotments would be abolished and protection would only be granted based on existing coverage contours.

It is time to acknowledge that the current scheme of assigning FM stations per a table of allotments with a small number of different classes dates back to a time when computing power was an expensive and limited resource. Today the computing power to implement a demand based system of assigning FM stations is widely available, and it is time for the FCC to change its procedures accordingly.

One complication that exists is that in Zones I and I-A, different classes of FM stations are currently protected to varying contours (ranging from 54 dBu for Class B facilities to 60 dBu for Class A facilities). This could be addressed in one of two ways. The first would be to set a uniform standard of 60 dBu for all classes, but allow Class B and B1 stations to boost power and/or HAAT to keep the same protected contour during the transition period. As an example, this would allow a full Class B station to upgrade from 50 kw/150 meters to 50 kw/300 meters. Another approach would involve keeping the different protected contours for the northeast US and most of California, and continue to apply them based on the overall power and coverage of a particular station. Thus, a 5 kw/100 meter station in Connecticut would be protected to its 60 dBu contour, whereas a 10 kw/100 meter station would be protected to its 57 dBu contour and a 50 kw/150 meter station would be protected to 54 dBu.

If the commission is uncomfortable with the concept of eliminating station classes completely, an alternative approach could also be considered. In this alternative approach, the

class of an FM station would be determined by the distance to the protected contour of a station or proposed station based on that facilities ERP and HAAT. This number would be rounded to the nearest kilometer. Thus, a station operating at 100 watts and 30 meters HAAT would be a Class FM-06; a station operating with 6 kw at 100 meters HAAT would be a Class FM-28; and so on, up to FM-92 (which would be allowed only in Zone II). This would allow the FCC to retain the table of allotments if desired, or these classes could be assigned on a "demand" basis when applications are accepted by the FCC. I would favor the "demand" approach, as it allows greater flexibility for new station applicants. As suggested a couple paragraphs previously, the FCC could handle auctions for FM applications under a "demand" scenario in the same manner as the FCC is proposing to use for AM applicants.

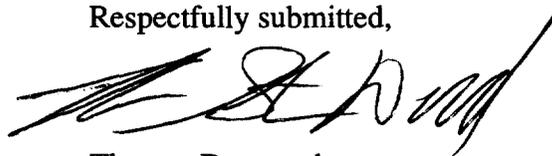
I would also propose that whichever approach is selected from the above paragraphs, the maximum and minimum protected contours for a full powered station for a given part of the country would be unchanged. Thus, the minimum power level for full powered stations would remain at 100 watts at 30 meters HAAT or less (corresponding to a 60 dBu contour that extends just under 6 km from the transmitter site); and maximum power levels authorized for a region could not exceed those levels that would provide an overall contour equal to those of current Class B (Zones I and I-A) and Class C (Zone II) facilities. Note that my recommendation that the current minimum power level not be changed should not be considered in opposition to an LPFM service. Rather, I believe that power levels below 100 watts should be considered under the ongoing LPFM dockets, and not as a part of this review.

VI. REVISIONS TO CLASS D RULES

The FCC proposes a variety of changes to the rules applying to Class D NCE FM stations. I generally support these changes, but suggest that the FCC go further by allowing Class D NCE FM stations to operate on either the non-commercial or commercial bands with second or third adjacent contour overlaps. As the FCC notes, the potential second/third adjacent interference area is "exceedingly small" for Class D stations anyway, so I see no valid reason to limit such operation to the non-commercial band as the FCC proposes.

The FCC should also consider accepting applications for new Class D stations, although consideration of that issue is more properly a part of the ongoing LPFM dockets. If and when the FCC approves a licensed version of LPFM, I would propose that existing Class D NCE FM stations be reclassified to the new service.

Respectfully submitted,



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