

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of )  
 )  
Amendment of Part 74 of the Commission's Rules )  
to Permit Satellite Feeds to ) RM-10609  
Noncommercial Educational FM Translators )  
Operating on Commercial Frequencies )

To: The Commission

**STATEMENT OF  
NATIONAL PUBLIC RADIO, INC.**

**Introduction**

Pursuant to Section 1.405 of the Commission's Rules, 47 C.F.R. § 1.405, National Public Radio, Inc. ("NPR") hereby submits its Statement regarding the above-referenced petition for rulemaking proposing changes to Part 74 of the Commission's rules to permit the use of satellites to "feed" noncommercial educational ("NCE") FM translators operating on non-reserved frequencies.<sup>1</sup>

NPR is a non-profit membership corporation that produces and distributes noncommercial educational programming through more than 600 public radio stations nationwide. Among its award winning programs are *All Things Considered*<sup>®</sup>, *Morning Edition*<sup>®</sup>, *Talk Of The Nation*<sup>®</sup>, and *Performance Today*<sup>®</sup>. NPR also operates the Public Radio Satellite Interconnection System and provides representation and other services to its member stations.

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<sup>1</sup> See Public Notice, Report No. 2584, File No. RM-10609, Nov. 21, 2002 [hereinafter "Translator Petition"].

## Argument

### **If the Commission Permits the Use of Satellites to Feed Translators Operating on Non-Reserved Spectrum, It Should Adopt Complementary Regulatory Provisions To Preserve Local Translator Service**

NPR and its member stations have a strong interest in using the most efficient and cost effective technical means to broadcast noncommercial news, informational, and cultural programming to the public. Public radio stations operate with limited resources and, by necessity, constantly strive to minimize costs, while pursuing opportunities to expand and improve service to existing and new audiences. Accordingly, we see merit in the rule change proposed in the Translator Petition.

Allowing noncommercial educational stations to use satellite technology among other technological means to deliver a quality signal to a translator operating on non-reserved spectrum would enable individual licensees to select the technology that best serves their particular circumstances. In some cases, satellite technology may enable licensees to feed a translator that, because of terrain or other factors, they would be unable to reach with an off-air signal. In many cases, satellite technology may also be less expensive to utilize than other options.

While we therefore recognize merit in the proposed rule change, we also think that, without modification, the proposal threatens to undermine one of the bedrock principles underlying the system of broadcasting in the United States -- localism.<sup>2</sup> It does so by

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<sup>2</sup> The Communications Act of 1934 established localism as a touchstone for the allocation of spectrum for over-the-air broadcast use. 47 U.S.C. § 307(b). See also Pinellas Broadcasting Co. v. FCC, 230 F.2d 204, 207 (D.C. Cir. 1956) (“In requiring a fair and equitable distribution of service, Section 307(b) encompasses not only the reception of an adequate signal but also community needs for programs of local interest and importance and for organs of local self-expression.”), cert. denied, 350 U.S. 1007.

encouraging the proliferation of national satellite networks,<sup>3</sup> which, in turn, prevent others from obtaining scarce broadcast spectrum to fill-in gaps in service areas or to extend service to adjacent service areas.

It is not an issue of competition between translator and full power services for listeners.<sup>4</sup> Rather, by facilitating the construction and expansion of national translator networks, the proposed rule change will only heighten the difficulty of obtaining scarce broadcast spectrum to provide local translator service.

As the Commission long ago recognized, the radio broadcast spectrum in many parts of the country is severely congested. Thus, in the early 1980s, the Commission concluded that “under the [then] present allotment rules, additional service cannot be offered to many parts of the nation where demand has not been satisfied.”<sup>5</sup> Particularly with the authorization of a new low power FM radio service, the demand for radio broadcast facilities has swamped the existing FM broadcast spectrum allocation.<sup>6</sup> The reserved FM spectrum, in particular, is unavailable in

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<sup>3</sup> The Calvary Chapel network, for instance, consists of 2 primary stations in Idaho and 334 translator stations arrayed across the country. Translator Petition at 2.

<sup>4</sup> Compare In the Matter of Amendment of Part 74 of the Commission's Rules to Provide for Satellite and Terrestrial Microwave Feeds to Noncommercial Educational FM Translators, MM Docket No. 86-112, 3 FCC Rcd 2196, at ¶ 16 (1988) (discussing and discounting the potential competitive impact of satellite fed translators on full service NCE stations) [hereinafter "1988 Translator Rulemaking"].

<sup>5</sup> Modification of FM Broadcast Station Rules to Increase the Availability of Commercial FM Broadcast Assignments, 94 F.C.C.2d 152, 153 (1983).

<sup>6</sup> See Conflict Between Applications and Petitions for Rulemaking to Amend the FM Table of Allotments, 7 FCC Rcd. 4917, 4919 (1992) (noting “the significant increase in the number of FM stations and the accompanying congestion in the FM band that has occurred since the formation of the FM Table of Allotments in 1964”); In the Matter of Creation of a Low Power Radio Service, Notice of Proposed Rulemaking, MM Docket No. 99-25; RM-9208; RM-9242,

many parts of the country because of the presence of television channel 6 stations,<sup>7</sup> among other reasons, and NCE broadcasters are dependent on access to non-reserved spectrum.

The secondary status of translators does not ameliorate the potential harm because the unconditioned adoption of the proposed rule change threatens harm to new local translators, not existing full power stations.<sup>8</sup> While translator stations are secondary and, therefore, must give way to new full power origination stations, translator stations are primary to each other. As a result, any proposed new translator must protect existing translator stations, in addition to existing full power and low power stations. Thus, the further proliferation of national translator networks will foreclose access to spectrum for new, local translator services.

If the Commission decides to pursue the Translator Petition through a notice of proposed rulemaking proceeding, we believe the Commission can readily achieve the benefits of the proposal while preserving translator service as an adjunct to local broadcast service. There are several possible means for striking a balance between the use of satellite technology and

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14 FCC Rcd 2471, at ¶ 11, rel. Feb. 3, 1999 (noting that “the Commission received over 13,000 inquiries in the last year from individuals and groups showing an interest in starting a low power radio station.”).

<sup>7</sup> The Commission has long required reserved FM band NCE stations to protect the signals of adjacent channel 6 television licensees, which has prevented stations from fully utilizing the reserved FM spectrum in television channel 6 markets. See Changes in the Rules Relating to Noncommercial Educational FM Broadcast Stations, Memorandum Opinion and Order, 58 R.R.2d 629, at 630-31 (1985); 47 C.F.R. § 73.525.

<sup>8</sup> See 1988 Translator Rulemaking at ¶ 17 (“The new rules will in no way alter the secondary status of noncommercial FM translators that would be served by alternative signal delivery means or the requirement that they ‘give way’, i.e., that the translator operator resolve the conflict or cease operation of the translator, when in conflict with a full service station.”).

preserving localism, but they all involve a limitation on the permissible distance between the so-called "parent" station<sup>9</sup> and any translator that will utilize a satellite-fed input signal.

Thus, the Commission might establish a simple mileage table based on station class or the 30 dBu F(50-50) signal contour to approximate the maximum distance at which a "parent" station's off-air signal could adequately feed a translator station.<sup>10</sup> Alternatively, the Commission might establish a distance limitation for each class of full power station that would apply to all translators that use satellites to feed the translator's input signal.<sup>11</sup> Assuming a 30 dBu signal at maximum facilities for the class, and then adding approximately 8 kilometers (km) to assure no less than what off-air signal delivery would enable, yields the following sample table.

<u>Station Class</u>	<u>Permissible Distance</u>
Class D (& Translators)	65 km
Class A	100 km
Class C3	121 km
Class B1	121 km
Class C2	142 km
Class B	142 km
Class C1	175 km
Class C0	189 km

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<sup>9</sup> See *id.* at ¶ 5.

<sup>10</sup> The 30 dBu is roughly the point at which a translator ceases being able to receive a noise/fade-free signal for rebroadcast.

<sup>11</sup> This approach would not account for differences in antenna height and power level among full power stations.

A third alternative would be to authorize satellite-fed translators located in the same state as the "parent" station or, to accommodate "parent" stations located near a state border, a contiguous state. Such an approach is less effective in mirroring the service contours achievable with off-air signal delivery, but it may be somewhat easier to administer.

As a supplement to any distance limitation, we would also urge the Commission to permit the use of satellites to feed a translator that will serve an area in which the applicant or licensee is "local" as determined under the Commission's existing rules.<sup>12</sup> Just as the Commission's existing rules are designed to promote localism in the awarding of licenses to NCE applicants, authorizing the use of satellites to feed translators serving the area in which the applicant or licensee is local will facilitate the use of the most appropriate technology while preserving the translator service as an adjunct to local broadcasting.

There may well be other alternatives that achieve the efficiency and economy benefits of the Translator Petition, while preserving localism in the translator service. If the Commission decides to pursue the Translator Petition, therefore, we urge the Commission to develop distance limitations or other complementary provisions to prevent the proliferation of national satellite-fed translator networks at the expense of local translator service. Otherwise, licensees of full power stations seeking to construct translators to fill in service gaps or to extend service to adjacent areas may be foreclosed from obtaining the necessary spectrum.

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<sup>12</sup> Specifically, the Commission's rules for resolving mutually exclusive applications among NCE applicants define "local applicant" as "[a]n applicant physically headquartered, having a campus, or having 75% of board members residing within 25 miles of the reference coordinates for the community to be served, or a governmental entity within its area of jurisdiction." 47 C.F.R. § 73.7000.

**Conclusion**

For the foregoing reasons, if the Commission decides to pursue the proposed change to its existing translator rules, NPR urges the Commission to modify any rule change to preserve translator service as an adjunct of local origination services.

Respectfully Submitted,

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December 23, 2002

**Certificate of Service**

I, Gregory A. Lewis, hereby certify that, a copy of the foregoing Statement of National Public Radio was sent this 23rd day of December 2002, by regular mail, postage pre-paid, to the following person:

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