Gregory J. Buchwald

August 23, 2005

Via Electronic Filing

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: MM Docket No. 99-325
Written Discussion of Gregory J. Buchwald's Reply to Comments
***Ex Parte* Notice**

Dear Ms. Dortch,

This cover letter is provided to your office in compliance with notification of late-filed Comments and Replies to the NPRM issued April 15, 2004; not yet scheduled for discussion.

In lieu of a formal appearance on my part before the Commission, I ask that my written statement, attached, be entered into the formal record with regard to Docket 99-325.

The purpose of this Statement is to formally enter into the record, certain technical arguments and discussions which other Commenters in this proceeding have asked to be expunged / ignored from the record. As a private citizen with concern over the adoption of the system proposed for use in the AM Broadcast Service, And as an invested party to a commercial AM broadcast facility, I wish to insure that my Comments and concerns are part of the formal record.

I thank you, in advance, for your attention to this matter.

Sincerely,

Gregory J Buchwald

815 455 6155

K9VI@aol.com

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of:	)	
	)	
Digital Audio Broadcasting Systems	)	MM Docket No. 99-325
And Their Impact on the Terrestrial	)	
Radio Broadcast Service	)	

Ex-Parte Written Statement of Gregory J. Buchwald

Introduction

I am filing this *Ex-Parte* statement and comment on behalf of myself, and as a stockholder in WRPQ-AM (Baraboo, WI). My technical qualification statement is now part of the public record; specifically, my Comments of Docket 99-325 filed within the Comment period on 7/18/2005 and my Reply Comments of Docket 99-325, filed in a timely fashion on 8/17/2005. It would please me to enter these statements in to the record in person; however, as a private individual, it is not possible for me to do so at this time. Therefore, I file this statement electronically, for consideration by the Commission.

To the point, the National Association of Broadcasters has requested, in their (as I believe) improperly filed and designated Reply Comments (that were inappropriately filed as a Reconsideration Document rather than Reply Comments), that the technical statements made by myself and others in this proceeding, should be dismissed without consideration. Specifically, the NAB requests that, "Thus, NAB urges the Commission to dismiss the individual and other commenters that here advocate reconsidering IBOC as the approach for digital radio and urge other spectrum options for digital radio." Furthermore, they state, "Similarly, the Commission should not address here the variety of individual and other commenters that have express theoretical or analytical engineering concerns regarding AM IBOC nighttime operation and other theoretical concerns. While important to be adequately addressed, those issues are not germane to the scope of the issues in the present comment cycle and therefore not properly re-argued here."

While I believe that this is the proper time to raise these issues as we are just now able to conduct full interference assessments of AM IBOC with the few stations that have now gone on-air, if the NAB is afforded this concession by the Commission, I must respectfully request that my filings be treated as late-filed, ex-parte comments and replies with respect to the FNPR of Docket 99-325, issued 4/15/2004, with a Comment period of 6/16/2004, and a Reply Comment period of 7/16/2004. **Since the issues raised during that FNPR Comment and Reply Comment period have not yet been assigned an agenda date, it is my**

understanding that it is proper to file Ex-Parte statements, both verbal and written, at this late date. Furthermore, since the build-out of IBOC-AM has just now reached the level at which serious analysis can be made, the qualitative and quantitative data presented by myself and others is of timely concern to the Commission.

It does not surprise me that Ibiquity, broadcast companies that are invested partners with Ibiquity, and certain individuals that work for these companies would ask the Commission for immediate action and adoption of NRSC-5, including nighttime AM-IBOC operation – it is simply business for them. But, I am surprised, and somewhat appalled, that an organization, such as the NAB, which is supposed to work towards improvements of service for their constituents, in addition to providing checks and balances for all sectors of their constituents, <u>including minority, ethnic, rural, and other small market broadcasters, would endorse a system that would destroy the viability of these stations.</u> These classes of stations are the most susceptible to interference from AM-IBOC, yet the <u>NAB would rather the Commission NOT consider a new band for "AM digital" operation</u>, thus protecting only the interests of a few high power AM facilities (even this is a point of contention, technically) and the FM broadcasters. Nor do they want an unbiased study of the interference issues to take place; incredibly, they argue against it.

I would also like to add at this juncture that there are a large number of broadcast engineers that do not support the use of AM IBOC. A simply check of the broadcast engineering internet reflectors, blogs, and statements on file with the Commission support this. Many of these engineers are unable to Comment, either on behalf of their broadcast company or as private individuals, out of fear that they might loose their jobs for "going against the grain" of their respective employers. One such example of a statement actually filed by an engineer about personal knowledge of the AM-IBOCX system were the Comments of Mr. Scott Clifton, now part of the record. Mr. Clifton was the chief engineer of WGCI-AM at the time that the AM-IBOC system was tested. His comments, filed during the 2004 comment period, are one of few actually filed by an engineer with first hand experience with the AM-IBOC system, and one that was not an employee of a consortium member at the time of filing. He pointedly discusses the interference issues he witness with the AM-IBOC system when it was under test at the facility he was then responsible for.

In discussions with another broadcast engineer in the Chicago market about this topic, he indicated that he was precluded from filing Comments and replies. He made an email statement to me that I think sufficiently summarizes many engineer's thoughts about AM-IBOC interference and protection of existing service:

> *Well, at least when the FCC issues the report and order authorizing IBOC on AM and during day and nighttime, they should be kind enough to state at the bottom of the order, "We (the FCC commissioners) don't really care what happens to the AM broadcast band*

> *or the smaller broadcasters or the listeners.* Then, at least, they would be honest and I would applaud them for it. . . . ."

I have to add that I, personally, am optimistic that the Commission will re-consider the problems now coming to light and protect the AM band from IBOC service. If not, I would be inclined to support his latter comment.

It is also noteworthy that, although qualitative and quantitative Comments were filed by myself and many others I this latest round of Docket 99-325, none of the proponents argued with technical responses. The NAB and Ibiquity replied that my input and others should be ignored from the record. Yet, with the magnitude of the problem exposed by all of the technical data provided to the Commission, NONE of the statements were answered in the Replies. It is puzzling to me that, if a proponent really believed that there was no problem and had on-air data to prove it, they would WANT to make it part of the record. Instead, the topic is ignored completely by the few IBOC supporters that filed Replies and the Commission is urged to simply reject our duly-submitted data as "not germane to these proceedings." This statement is utter nonsense. Such decisions should be made on the basis of technical and political merit; both being equally important.

Finally, It is suggested that it is simply too late to bring up these issues at this late date within the life of this Docket. While this Docket is now nearing 6 years of age, that alone suggests the difficulty in closing this proceeding. I suggest if the system were viable, a rapid course of adoption would have been followed, such as that enjoyed by the BTS television stereo sound selection process and the fully digital DTV standard adopted for use in the United States by the FCC. While one can argue that OFDM might have been a better solution over 8-VSB, in the latter decision, the choice of 8-VSB did not occupy any additional bandwidth over an analog NTSC signal. Furthermore, as the Commission knows, it is never too late to re-think a poor decision. It was done in 1954, the adoption of the NTSC color standard reversing the CBS non-compatible mechanical system of 1950. It was done again in 1980 with the reversal of the 1979 decision to adopt the Magnavox PMX AM stereo system (which was flawed in that it utilized a limiter to demodulate the stereo difference signal, thus making it highly susceptible to downward modulation and noise), replacing it with the marketplace decision of 1982 and finally the C-QUAM standard of 1993. There have been other similar reversals of decisions as well. While one can argue that the best system may not have been chosen in each of these cases, it indicates that the Commission can reverse itself for the better public good, based on technical arguments that come to light <u>after</u> a preceding system was initially sanctioned for use. In the case of IBOC, it can be argued that, since notification must be made to the FCC prior to the initialization of service, and since the IBOC-AM system is not allowed to operate after sundown, we are in an experimental period. This is when we learn if a system works, real world, or not; this is where the rubber meets the road. My contention is that the FM system, while weak in some areas, has minimally proved itself and is justified in use. The AM-IBOC system simply IS NOT.

Summary Statement

The Commission now has a difficult task at hand. I respect and appreciate the ability and chance to offer my advice and discussion on the matter of Docket 99-325. To summarize:

1) The Commission should not approve the use of the IBOC-AM system on the basis of Interference.
2) International Treaties prohibit the level of interference to be broadcast on AM channels as proposed and currently in use by a few AM broadcast stations.
3) The Commission should seriously consider the use of Channels 5 and 6 (76 – 88MHz) for deployment of digital services with the singular use of carrying programming by stations currently operating analog services in the AM band.
4) A substantial quantity of Comments filed to the Commission with regard to this docket indicate that the interference produced is excessive. Quantitative and qualitative data has been presented through many of the Comments filed during July, 2005.
5) Homeland security issues should preclude the use of the AM IBOC system as it currently exists. In addition, other warning systems such as EAS, severe weather, etc. will also be impacted if AM IBOC is deployed. This is particularly true in rural areas.
6) An open standard for the audio Codec should be mandated for use by the FM-IBOC system and any future system that might be contemplated for use in the AM band.
7) NONE of the proponents in favor of the deployment of IBOC-AM, including the system owner, Ibiquity, have filed quantitative, or even qualitative measurements supporting the performance of the system and the interference, or lack thereof, produced by the AM IBOC system.
8) Although I feel that the FM-IBOC system is not the best choice, it is adequate for use at this time, and should be finalized in law, including the use of multi-casting, with two caveats:
    a. The AM service should be afforded an equivalent quality of digital service; the only method I see possible is by assignment in a new band of service at 76 – 88MHz, and
    b. Grandfathered high powered FM stations (those that operate above the class maximum for their channel assignment and location), should be allowed to inject only that level of power in the digital OFDM carriers which reflects an equivalent power level for class maximum allocations – that to which co-first, and second adjacent channels have been assigned.

Concluding Statement

I hereby state that the Comments herein, other than those specifically represented as those of other parties or individuals, are my own. I am filing this Ex-Parte statement as a private individual and as a stock holder of WRPQ-AM that is concerned over the future of the AM band with respect to IBOC-generated interference. To set the record straight, I have not discussed these matters with any of the other parties listed in the NAB Reply Comments: Mr. Leonard Kahn, Mr. Tim Cutforth, Mr. George Frese, Mr. Scott Clifton, etc. My last contact with Mr. Kahn at least 5 years ago, with Mr. Cutforth nearly 10 years ago as a technical representative for a broadcast interest in the Denver area for which we both provided technical services, and with Mr. Clifton nearly 10 years ago as well. I have, to the best of my recollection, personally never met Mr. Frese. I have discussed this filing with broadcast engineers that are not a party to the latest round of Comments and Replies and with Mr. Edgar Reihl, who did file Reply Comments in this latest round. I have no financial interest in the adoption of the CAM-D system; no do I act as a proponent of it. I do feel that it should be fully tested as a spectrum-compatible version of a hybrid digital broadcasting system in the United States. I do feel there is technical merit in the system as I have been led to believe it operates. The above statement should dispel any thought or suggestion that I am filing these comments as part of a group only concerned over the adoption of the CAM-D system. My sole concern in filing the Comments, Replies, and this Ex-Parte statement are to insure the viability of the AM band in the future, for use by ALL licensed facilities without added interference or prejudice, in times of National emergency and severe weather, as well as during regular operations, without added interference or reduced coverage. With that caveat, I submit my Comments, Reply Comments, and this statement with the hope that the Commission will acknowledge the problems present with the proposed continued roll-out of AM-IBOC, and, I particular, nighttime operation of AM-IBOC.

Respectfully Submitted,

(signed)

Gregory J Buchwald
August 23, 2005
Via Electronic Filing