

This is a Reply Comment in RM-11287, the Petition For Rulemaking To Establish A Low-Power AM Radio Service, filed by Donald Shellhardt for himself and The Amherst Alliance, The Michigan Music Is World Class! Campaign, The LPAM Network, and Nikolaus Leggett, N3NL, hereinafter "the Five Petitioners", and a similar Petition, RM-10803, filed by Fred Baumgartner, CPBE, and incorporated by extensive reference into RM-11287, hereinafter "Baumgartner". RM-11287 was announced in Public Notice Report No. 2735 dated October 21, 2005.

It seems a number of commenters in this proceeding either committed the logic error of hasty generalization, or they were attempting obfuscation.

The florid huffings and puffings about protecting Class A stations, and 540-1600 kHz. stations generally, are not germane to this proceeding and should be disregarded in their entirety by the Commission. Baumgartner's proposal, incorporated by reference into RM-11287 by the Five Petitioners, was only for the 1610-1700 kHz. Expanded Band. Although the Five Petitioners did not explicitly specify the Expanded Band in their Petition, they confined their allocation discussion to revising Baumgartner's allocation process, which was an Expanded Band proposal. We do not have a Proposed Rule here, so whether Baumgartner's 40-foot vertical conductor or Commenter Paul W. Smith's quarter-wave (about 149 feet in the Expanded Band) vertical appears in the yet-to-be Proposed Rule as a standard antenna, is up to the Commission's drafting such a Proposed Rule, hopefully very soon. The existing Expanded Band Rule (73.30) provides for petitioning the Commission for an allotment. There are no interference requirements to be met by an Expanded Band applicant (FCC Rule 73.37(c)). What Baumgartner proposes is not much different from the 100-watt Class IV station permitted for many years by the FCC Rules. Commenter DuTriel, Ludin & Rackley, Inc., in fact, offers a protection distance of 200 miles for a new Class C station, not much different from Baumgartner.

The extensive scare-commenting about AM skywave ignores the fact that about 1000 of the 4759 (June 30, 2005) AM Broadcast stations now licensed by the FCC, have no skywave interference protection at all, though receiving huge amounts of it, in strict accordance with the present FCC AM Rules. These Class C stations are allocated based only on their daytime coverage at a pretend power of 250 watts non-directional, even though nearly all of them

operate with 1 kilowatt. Baumgartner essentially proposes putting new Class C stations in the Expanded Band, with lower power and an inefficient antenna. The suppression of skywave radiation from a vertical antenna at vertical angles below 30 degrees over average or worse ground systems is known to the Commission, and mathematically modeled on pages 9-3 to 9-5 of "Low Band DX-ing" by John Develdore, ON4UN, third edition, published by the American Radio Relay League. Baumgartner's proposed standard LPAM antenna will not radiate much long-distance skywave. It is evident from their Petition that the Five Petitioners were not writing a Proposed Rule. Commenters asking the Commission to deny the petition of the Five Petitioners because of its technical paucity are being premature. The Commission hasn't proposed a Rule yet. I hope that the Rule, when drafted by the Commission, will not permit the abuses that have occurred with translators.

The decision here is a policy decision: whether or not to utilize a small sliver of spectrum to replace the truly local, truly independent radio voices, which were lost in the consolidation craze which followed the lifting of ownership caps and the abandonment of the suburban rule. The real public interest here is providing voices to the national discourse that are independent of massive media conglomerates and their gargantuan lobbying power.

Commenters' allegations of economic stress to LPAMs overlook the audiences and revenues discarded by the mega-corporate absentee owners when they convert a "home-town" station into a rimshot, or relegate an AM, acquired with the FM they really wanted, to a quasi-orphan, minimal-budget place-holder. A truly community-oriented LPAM station will find plenty of revenue. Commenters seeking non-commercial operation for the proposed LPAM overlook the importance of local retailing to the life of smaller communities. Small-town retailers are constantly bombarded with requests for money to support many local causes. They cannot support these causes without sales revenue. Nor can a really local LPAM be what it can be without advertising revenue. A substantial amount of retail advertising money is provided through cooperative advertising, in which a retailer's vendor reimburses the retailer's advertising expenditure for the vendor's product. In many years of selling radio advertising to small-town retailers, I have never seen a co-op plan provide for "underwriting" of non-commercial broadcasting. Typically, the co-op funding requires the

retailer to use 30- or 60-second commercial scripts provided by the vendor. Little or no co-op money would be available to non-commercial LPAMs. These small retailers need effective, affordable local radio advertising targeted to their local customers, to compete effectively against the malls and big-box stores. This local focus will not be found on rimshot radio, personal music player, satellite, or Internet-streamed programming.

Commenters urge the Commission not to re-examine its decisions of years ago. The Commission would be in error not to re-examine its past regulatory policies in the context of present experience with those past actions. The experience, replicated many times, of one minimum-wage baby-sitter "running" all the stations in an absentee-owned "cluster", if, in fact, there is a human presence at all outside normal weekday business hours, is not the public interest the Commission should be protecting. Perusal of broadcast message boards on the Internet will elicit reports of "nobody home" operations, sometimes with an AM station silent all weekend because the automation system malfunctioned and the absentee owner really doesn't care.

The Commission has been urged in the past to deregulate and let the marketplace decide. This proceeding is another place where the public marketplace should decide, not the beltway law firms. If the programming provided by new LPAM stations attracts an audience and advertiser support with its truly local focus, it will thrive, against even the personal music player, satellite, and Internet program sources the mega-corporate absentee-owners presently fear so much. The marketplace will choose. No wonder the mega-corporate absentee-owner purveyors of cookie-cutter formats want this Commission's opportunity, presented in this Petition, to let the marketplace decide, to just go away. The "everything's wonderful, don't change a thing" line in several comments overlooks the litigation that has followed the Commission's Expanded Band actions. There are now only a few dozen stations operating in the entire Expanded Band, hardly an allocations challenge. The Commission itself expressed reservation about its own process in the Freeze enacted nearly 4 years ago (DA 02-239).

This proceeding and the new, truly local, stations it could provide, are the best hope for the public that was damned in the lifting of station ownership caps and abandonment of the "suburban rule". I urge the Commission to grant the Petition and propose Rules to create truly local,

independently-owned, LPAM stations in the Expanded Band, as I had urged the Commission to do many years ago. The need is even more compelling today.

Please let this process progress.

Respectfully submitted,

Frederick W. Seibold, W9FWS

.....38 years in commercial broadcasting.

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