

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

In the Matter of:)
)
Amendment of Sections 74.1201, 74.1231,) RM-11331
And 74.1232 of the Commission's Rules)
Prohibiting Local Origination by)
FM Translator Stations)

To: Office of the Secretary (Electronic Filing)

**STATEMENT IN OPPOSITION
OF SAGA COMMUNICATIONS, INC.**

Saga Communications, Inc. ("Saga")¹, by its counsel, and pursuant to Sections 1.4 and 1.405 of the Commission's Rules, files this Statement in Opposition to the "Petition for Rulemaking" ("PRM") filed April 27, 2006, by Miller Communications, Inc.; Kaskaskia Broadcasting, Inc.; and Virden Broadcasting Corp. ("Petitioners").² The PRM should be dismissed or denied without issuance of a notice of proposed rule making because: (1) A virtually identical proposal as Petitioners' was, in 1990, carefully considered and rejected; and (2) There exists already a way to meet the needs Petitioners claim are being unmet without upending the Commission's policies on FM translator stations.

The current rules limit FM translators to rebroadcasting the signal of an FM radio

¹ Saga Communications, Inc. is a broadcasting company, the stock of which is publicly-traded, whose business is devoted to acquiring, developing and operating broadcast properties. The company owns or operates radio and television broadcast properties in 26 markets, including 57 FM and 30 AM radio stations and FM translator stations.

² By *Public Notice*, Report No. 2771, released May 10, 2006, the Commission afforded interested persons 30 days to file statements opposing or supporting the PRM, so this Statement in Opposition is timely filed.

broadcast station. Program origination by FM translators is prohibited with the exception of origination authority to acknowledge or solicit financial support and to provide emergency warnings of imminent danger. Petitioners want the Commission to turn its back on many years of precedent and authorize FM translators to originate programming. The PRM is based on Petitioners' belief that the Commission's prohibition of local origination should be changed so that FM translator licensees can provide additional community service such as coverage of city council meetings and the broadcast of high school games.

The reasons advanced by Petitioners to permit program origination by FM translators were considered and rightly rejected in *FM Translator Stations*, 5 FCC Rcd 7212 (1990). Therein, the Commission stated its belief that it should not authorize program origination for FM translators, even on a limited basis. The Commission said:

The proper role of FM translators among aural services to the public is to provide secondary service to areas in which direct reception of signals from FM broadcast stations is unsatisfactory due to distance or intervening terrain obstructions. In view of our commitment to provide FM radio broadcast service in a manner that promotes program diversity while enhancing the incentives for efficient broadcast station development, we believe it is desirable to hold constant the existing relationships between FM broadcast stations and translator service. Furthermore, we believe that our efforts to improve local service must be balanced against the technical degradation to the overall broadcasting system that could result from a proliferation of translator stations. Thus, we will maintain FM radio broadcast stations and translators in their current role as providers of primary and secondary service, respectively.

[Paragraph number omitted] Where there is sufficient community interest, the rules that permit translators to rebroadcast the programming of FM stations provide an opportunity to import programming formats otherwise unavailable. Furthermore, our existing rule, which permits unlimited programming in the event of an emergency, gives the translator licensee an adequate vehicle for informing local residents of any such situations. Yet, in these areas, we believe that allowing low cost translators to operate essentially as FM radio broadcast stations, without subjecting the translators to the requirements imposed on the radio broadcast stations, would undermine our preference to provide service through more efficient primary service stations.

The Petitioners criticize the position taken in *FM Translator Stations*, *supra*, but nowhere

in the PRM do the Petitioners recognize that the Commission made an exhaustive review of the FM Translator rules in 1990 and concluded that there was no good reason to permit program origination by FM translators. Petitioners have failed to show that the broadcast landscape has so changed in the intervening 16 years that a total reversal of policy would be warranted.

Petitioners request that the Commission rewrite its FM translator policy to mirror that of low power television stations whereby television translators were permitted to originate local programming.³ But, Petitioners also do not mention anywhere in the PRM that the FCC has already created a whole new radio broadcast service to serve precisely the perceived needs Petitioners' identify. That service is the Low Power FM ("LPFM") Service.⁴ LPFM stations exist to fill the supposed niche that Petitioners would fill if FM translators could originate programming. If the Petitioners are serious about serving the public's interest, rather than their own private interest, there is nothing to prevent Petitioners from divesting themselves of their commercial radio stations and applying for an LPFM station when the FCC next opens a window for filing applications.

Petitioners attach to the PRM some identical "cookie-cutter" letters they solicited in support of their proposal. These letters refer to a "waiver," of the program origination rules which Petitioners say they "may in the future" request. It should be noted that a similar waiver was requested and rejected in *FM Translator Stations, supra*. Should Petitioners request such a waiver, the Commission should reject it.

³ See *Low Power Television Broadcasting*, 51 RR 2d 476 (1982).

⁴ See *Creation of a Low Power Radio Service*, 70 Fed. Reg. 39217, published July 7, 2005; and *Creation of Low Power Radio Service*, 15 FCC Rcd 2205 (2000).

WHEREFORE, Saga respectfully urges the Commission not to adopt a Notice of Proposed Rule Making. The Commission should promptly dismiss the Petitioners' PRM.

Respectfully submitted,

SAGA COMMUNICATIONS, INC.

A handwritten signature in black ink, appearing to read "Gary S. Smithwick", written over the company name.

By: Gary S. Smithwick
Its Attorney

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June 9, 2006

CERTIFICATE OF SERVICE

I, Sherry L. Schunemann, a secretary in the law office of Smithwick & Belendiuk, P.C., do hereby certify that a copy of the foregoing "Statement in Opposition of Saga Communications, Inc." was mailed by First Class U.S. Mail, this 9th day of June, 2006, to the following:

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Sherry L. Schunemann