

UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

Recommendations of the)
Independent Panel on the) FCC Docket No. 06-119
Impact of Hurricane Katrina)

**REPLY COMMENTS OF
THE AMHERST ALLIANCE**

THE AMHERST ALLIANCE of Michigan is a Net-based, nationwide citizens' advocacy group. Founded on September 17, 1998, in Amherst, Massachusetts, The Amherst Alliance played a key role in the establishment of a Low Power FM (LPFM) Radio Service in 2000, and organized the 19-party Freedom Of Information Act (FOIA) Request that led the FCC to release a confidential, favorable report on LPFM in 2003. Besides LPFM, Amherst has supported numerous other proposals for media reform.

**REPLY TO WRITTEN COMMENTS OF
THE PROMETHEUS RADIO PROJECT**

The Importance of Expanding LPFM

Amherst strongly seconds the basic recommendation -- in the Written Comments of PROMETHEUS RADIO PROJECT of Pennsylvania, filed in conjunction with the MEDIA ACCESS PROJECT of the District of

Columbia -- that the LPFM Radio Service should be expanded as one way to increase the number on-the-scene news reports flowing into, and out of, a disaster area or a mega-disaster area. We commend Prometheus for the sophistication of the analysis in this filing.

THE AMHERST ALLIANCE
FCC Docket No. 06-119
Page Two

The Need for Adjacent Channel Spacing Reform

We acknowledge that the Commission has already recommended to the United States Congress that the statutory restrictions on adjacent channel spacing of LPFM stations, adopted by a “lame duck” Session of Congress in 2000, should be repealed. This recommendation was made primarily in response to the report that was released by the previously referenced, Amherst-led FOIA Request.

Amherst applauds the Commission for making this recommendation to Congress. Indeed, we urge the Commission to remind the next Session of Congress, when it convenes in January of 2007, that this recommendation has been made.

Still, action by Congress to adopt adjacent channel spacing reform would add fewer LPFM stations than action by the FCC to adopt meaningful translator reform.

The Need for Meaningful Translator Reform

Amherst, Prometheus and REC NETWORKS of Arizona have all submitted translator reform recommendations to the Commission on various occasions. Amherst’s key recommendations, expressed in both Written

Comments and a pending multi-party Petition For Rulemaking of 2002, include the following:

1. Establish Primary Service Status for LPFM stations -- or take other action to protect existing LPFM stations from displacement by new, upgraded and/or relocating LPFM stations

And

2. Establish Secondary Service Status for satellite-fed translators (aka “satellators”) and other “long distance translators” -- or take other action to allow new LPFM stations to displace translators which transmit, primarily or exclusively, programming which is relatively local in origin

THE AMHERST ALLIANCE

FCC Docket No. 06-119

Page Three

The Need to Open “Filing Windows” for 10 Watt LPFM Stations

The drastic under-representation of LPFM stations in large urban areas, with highly congested broadcasting spectrum, will continue to be a problem under virtually any reforms of LPFM that are politically conceivable. However, the situation can be eased, to a modest extent, if the Commission proceeds with its long-delayed implementation of “filing windows” for LP10 stations. Some stations with 10 watts can “fit” into crowded spectrum that cannot accommodate the current LP100 stations.

The FCC created the LP10 category in January of 2000, when it issued its final rule to establish LPFM, but during the intervening six and one-half years it has taken no visible action to allow the licensing of such stations.

We urge action now.

The Advisability of Establishing 250 Watt LPFM Stations,
Limited to Truly Rural Areas

According to the Bureau of the Census of the United States Department of Commerce, roughly 88% of the U.S. population resides in Metropolitan Statistical Areas (MSAs) or in the relatively new community category of "Micro" Metropolitan Statistical Areas (MMSAs). The remaining 12% of the U.S. population -- roughly one out of every eight Americans -- can be found living outside of either an MSA or an MMSA.

These people reside in farming areas, desert areas or mountain ranges that are relatively underdeveloped, and/or in interior Alaska, and/or on Indian Reservations, or in other areas with very low population density. Like most Americans, such rural residents need local news coverage and local entertainment coverage -- plus local information when and if emergency conditions develop on their doorsteps. Indeed, given their comparative isolation, rural residents may need such information more than most.

THE AMHERST ALLIANCE
FCC Docket No. 06-119
Page Four

In such areas, finding an available frequency is often not the primary challenge which faces aspiring LPFM broadcasters. Instead, the primary challenge is often finding a potential audience which is large enough to support the station financially. After all, every station, whether it is commercial or non-commercial, needs revenues -- whether those revenues take the form of advertising sales or donations by listeners and sponsors. This requires having the wattage to attain a sufficient broadcasting range.

The presently uniform LPFM power ceiling of 100 watts is enough for some rural areas, but not enough for others. Therefore, since 1999, The Amherst Alliance has consistently advocated the establishment of LP250 stations in such areas.

Over the intervening seven years, we have revised our proposed definition of “rural areas” more than once, in continuing pursuit of a balance between precision and administrative simplicity. Amherst’s currently proposed definition is the most administratively simple one to date: we propose to allow LP250 stations, on the FM Band, in any area that falls completely outside of an MSA or an MMSA. As noted earlier, LP250 coverage would be limited to one out of eight Americans at the most.

The Importance of Establishing LPAM

If Congress adopts adjacent channel spacing reform, and the Commission adopts meaningful translator reform, the presence of LPFM in small to medium-sized urban areas, and also in small towns and the newly designated “micro” Metropolitan Areas, will increase substantially.

There may also be some increase in the number of LPFM stations in truly rural areas, due primarily to meaningful translator reform rather than adjacent channel spacing reform. However, the previously referenced LP250 category is still needed to optimize any increased presence in rural areas.

THE AMHERST ALLIANCE
FCC Docket No. 06-119
Page Five

In any case, even with all of these important reforms, the impact upon LPFM frequency availability in large urban areas, with highly congested

spectrum, will be negligible. As noted, the implementation of LP10 “filing windows” will create modest openings for LPFM stations in such areas. However, before large urban areas can even approach parity with the LPFM presence in less populated areas, the FCC must either displace some existing full power stations or look beyond the limits of the FM spectrum.

This is where the concept of a Low Power AM -- LPAM -- comes in.

In Docket RM-11287, the FCC recently sought and received Written Comments and Reply Comments on the concept of LPAM. These proceedings were initiated in response to a Petition For Rulemaking by 5 parties: The Amherst Alliance, MICHIGAN MUSIC IS WORLD CLASS! (MMWC), THE LPAM NETWORK of upstate New York, Don Schellhardt, Esquire of Virginia and Nickolaus E. Leggett of Virginia.

The original Petition, filed on August 19, 2005, proposed a multi-tiered system of power ceilings for the new LPAM stations. Later, as a response to formal and informal feedback that the original Petition had been too administratively complex, and its supporters too divided on certain details, all of the nationally visible advocates of LPAM submitted a revised proposal. This amended proposal, filed on April 28, 2006, urged the Commission to adopt a nationally uniform power ceiling, set at 10 watts -- with the current Travelers’ Information Service (TIS) stations serving as a starting point for the technical parameters of the new LPAM stations. Both proposals were placed in Docket RM-11287, the public record of which Amherst incorporates by reference.

Earlier, research by REC NETWORKS, conducted for MMWC, showed that metro Detroit areas offer more frequencies for potential LPAM stations than for current LPFM stations. REC’s December 21, 2003 study, which we incorporate by reference, was submitted to the FCC by MMWC, in Docket RM-10803, on December 22, 2003.

The analysis by REC NETWORKS found absolutely no openings in metro Detroit for the currently standard 100 watt LPFM stations.

These findings confirmed the FCC's own conclusions about the shortage of frequencies for LP100 stations in metro Detroit -- as well as in metro Boston, the metro Twin Cities and other large urban areas.

However, REC's basic findings held true even when potential urban frequencies for LPAM stations were compared to potential urban frequencies for 10 watt LPFM stations, as opposed to the currently standard 100 watt LPFM stations. In its study of metro Detroit, REC found only one possible opening for an LP10 station on the FM Band, compared to four openings for potential LPAM stations.

Reports from Amherst Members and allies confirm that similar situations prevail in metro Boston, the metro Twin Cities and other areas with highly congested FM spectrum. Aspiring Low Power Radio broadcasters in such large urban areas have told us that opening LP10 "filing windows" might add an LPFM station or two, at the most, in their areas -- while the establishment of LPAM stations could add several locally based, and locally focused, radio stations.

It is already clear that currently licensed LP100 stations, on the FM Band, were helpful in easing the problems caused by Hurricane Katrina. Think of the potential increase in locally based, locally focused emergency communications capability if 10-watt LPFM stations and 10-watt LPAM stations -- sized to fit the broadcasting spectrum in places like New Orleans -- had been added to the regional mix.

The Importance of Boosting Power Levels for Part 15 AM Stations

Amherst also commends to the Commission's attention a Petition For Rulemaking which was filed, on November 17, 2006, by RADIO READY TO GROW (RRTG) of Washington State. It was placed in Docket RM-11287 on the same date.

The newly established group, founded on November 14, 2006, is composed exclusively of current and former Part 15 AM broadcasters.

THE AMHERST ALLIANCE
FCC Docket No. 06-119
Page Seven

RRTG seeks opportunities for Part 15 AM stations to: (a) grow into LPAM stations, once such stations have been licensed; and/or (b) increase their current service areas by boosting current Part 15 AM power ceilings.

RRTG's Petition For Rulemaking proposes to increase, to a full watt, the power ceilings for the legally unlicensed Part 15 AM stations. The Petition has not yet been Docketed, but it holds the potential to establish new emergency communications links on the scale of individual neighborhoods. It also offers a path for bringing additional locally based, locally focused radio stations into areas with the most densely congested spectrum -- where even 10 watt LPFM stations and 10 watt LPAM stations cannot find more than a few frequencies for themselves.

Even a smaller increase in power ceilings -- for example, to half a watt -- would still be large enough to make a major difference for the better.

REPLY TO THE WRITTEN COMMENTS OF HAMS FOR ACTION

For several years, The Amherst Alliance has strongly supported the concept of overriding current bans on Amateur Radio antennas by Homeowners' Associations (HOAs) and/or restrictive covenants.

With 40% of the nation's neighborhoods now being controlled by HOAs, and an even higher percentage prevailing in newer housing developments with typically younger residents, we do not see how today's Amateur Radio operators -- whose ability to assist disaster areas is legend -- are going to replace themselves in adequate numbers.

Given that future natural disasters will almost certainly include, sooner or later, geological nightmares on an enormous scale -- such as "The Big One" earthquake in Southern California, the Cascadia Subduction Zone earthquake and tsunami in the Pacific Northwest and the New Madrid Fault earthquake in the nation's heartland -- we need

ALLIANCE

No. 06-119

Page Eight

THE AMHERST

FCC Docket

more Amateur Radio operators, not fewer.

This need will be even greater if we encounter possible man-made catastrophes, such as a terrorist atomic bomb that decimates mid-town Manhattan or a terrorist hydrogen bomb that decimates all of metropolitan Washington, D.C.

Overriding HOA/covenant antenna bans will make it easier to recruit younger Americans into the Amateur Radio Service. Overriding the bans will also make it easier for those who are already Amateur Radio operators to practice their craft.

Regarding the details of the HAMS FOR ACTION Petition, and Written Comments, Amherst Members have not yet voted on whether we prefer the HFA proposal over H.R. 3876. The latter proposal is a Congressional bill -- introduced by Representative Steven Israel, D-NY, and

Representative Mike Ross, D-AR -- which the American Radio Relay League (ARRL) has endorsed.

In one sense, H.R. 3876 is broader than HFA's proposal. H.R. 3876 would override HOA/covenant bans on behalf of all Amateur Radio licensees, while the HFA proposal would limit the overrides to Amateur Radio licensees who have been trained and certified as emergency communicators.

H.R. 3876 is also broader than the HFA proposal in another respect. H.R. 3876 requires HOAs and/or restrictive covenants to provide for "reasonable accommodation" of Amateur Radio antennas, but it leaves "reasonable accommodation" to be defined through case-by-case litigation. By contrast, the HFA proposal attempts to establish a "middle ground" of compromise in advance. For single family homes and townhomes, the HFA proposal creates a "rebuttable presumption" in favor of Amateur Radio antennas whose height is 20 feet or less. The other side of the coin, of course, is a rebuttable presumption against Amateur Radio antennas which exceed that height.

In one sense, however, H.R. 3876 is narrower than the HFA proposal.

H.R. 3876 overrides only those ham antenna bans which are imposed by HOAs and/or restrictive covenants. The HFA proposal would override those bans, subject to

ALLIANCE

No. 06-119

Page Nine

THE AMHERST

FCC Docket

the limitations described above, but it would also override -- subject to the same limitations -- ham antenna bans which are imposed by landlords.

Amherst has strongly supported H.R. 3876, and its earlier versions, since 2003. As we indicated earlier, however, the Members of Amherst have

not yet voted on whether or not they prefer the alternative that has been offered by Hams For Action.

Still, it is very clear that Members of The Amherst Alliance vigorously oppose the total prohibition of Amateur Radio antennas by HOAs and/or restrictive covenants, or by landlords. Therefore, while The Amherst Alliance is not in a position to rank either of these proposals in order of preference, we can say without hesitation that either H.R. 3876 or the HFA proposal would be a vast improvement over the status quo.

CONCLUSION

For the reasons we have stated herein, The Amherst Alliance urges the Federal Communications Commission to adopt final regulations which are consistent with our recommendations in these Reply Comments. Further, given what is at stake here, we urge the Commission to adopt such regulations expeditiously.

Respectfully submitted,

Stephanie Loveless
President
THE AMHERST ALLIANCE
P.O. Box 20076
Ferndale, Michigan 48220

Dated: August 21, 2006

ALLIANCE

No. 06-119

THE AMHERST

FCC Docket

Page Ten

On behalf of THE AMHERST ALLIANCE, I hereby certify that copies of these Reply Comments are being sent to the following parties:

PROMETHEUS RADIO PROJECT of Pennsylvania
HAMS FOR ACTION (HFA) of Virginia
REC NETWORKS (REC) of Arizona
MICHIGAN MUSIC IS WORLD CLASS! (MMWC)
AMERICAN RADIO RELAY LEAGUE (ARRL) of Connecticut

ALLIANCE

Stephanie Loveless
President
THE AMHERST

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