

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
AM Radio Stations Use of) RM - 11338
FM Translators)

To: The Commission

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AUG 16 2006

Federal Communications Commission
Office of Secretary

COMMENTS
OF
BROADCAST TOWERS, INC.

BROADCAST TOWERS, INC. ("BTI"), by Counsel, pursuant to *Public Notice Report No. 2782 (released July 25, 2006)*, hereby submits these Comments in the above-captioned rule making proceeding regarding a proposal submitted by the National Association of Broadcasters ("NAB") to permit AM stations to use FM translators. In support hereof, BTI submits the following:

1. BTI is not the owner or operator of an AM daytimer radio station, but is nonetheless interested in this proceeding as BTI is the licensee and permittee of numerous FM translator stations in Florida, California and Nevada. BTI's principals are keenly aware of the frustrations and problems that AM daytimers have with trying to provide adequate radio coverage to the community of license on a full-time basis. And, BTI is in a position to help should NAB's proposal be accepted. Accordingly, hereinbelow BTI provides responsive comments to the rule making proposal proffered by NAB.

2. BTI agrees that AM daytimer stations are at a competitive disadvantage, and generally cannot provide good nighttime service to their communities of license. BTI believes that AM daytimers should be afforded the opportunity to apply for translator service on FM frequencies to improve their coverage, or rebroadcast on appropriately located FM translator stations already

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licensed to other parties such as BTI, and that such FM translators should be permitted to operate both during the day and at night with strict simulcasting requirements.

3. Fifteen years ago, within the context of reviewing technical proposals to improve the AM broadcast service, the Commission stated the following:

Over the years ... channel congestion and interference, both radio- and environmentally-induced, have dramatically increased in the AM band. Coincident with this growth has been a decline in the fidelity of AM receivers. As a consequence, during the last twenty years there has been a well-documented shift of AM listeners to newer mass media services that offer higher technical quality and better aural fidelity. This shift in listenership has clearly dulled the competitive edge of this once vital service.

Nonetheless, we believe that AM radio continues to hold a valuable place on the communications landscape. AM service provides a significant number of outlets that contribute to the vital diversity of viewpoints and programming available to Americans. Indeed, AM often offers the only radio service to listeners in a variety of circumstances, particularly those living in and traveling through rural areas. In view of the undisputed public importance of the AM service, we believe that innovative and substantial regulatory steps must be taken to ensure its health and survival.

For the past several years, the Commission has made an intensive effort to identify the service's most pressing problems and, where relevant and feasible, to adapt the regulatory environment for AM stations that will ameliorate those problems. *Review of the Technical Assignment Criteria for the AM Broadcast Service, 6 FCC Rcd. 6273 at paras. 2-4 (1991) (footnotes omitted).*

Despite the Commission's encouraging words almost half a generation ago, it is accurate to say that the more things have changed, the more they have stayed the same. Much effort has been expended to identify the problems of the AM broadcast service, but much more effort is needed to fix those problems. In reality, the AM broadcast service has continued to have significant nighttime service problems. But, now there is an opportunity to provide some reasonable

relief.

4. BTI submits that any use of FM translators by AM broadcasters should be awarded to the most deserving AM broadcasters -- namely those with nighttime service issues. There is a basic administrative reasons why this is necessary. As with any communications service today, there is fierce competition among competing interests for use of frequencies. However, should the FCC ultimately permit the rebroadcasting of AM stations on existing appropriately located FM translators, the commencement of this new rebroadcast service could be expedited. BTI submits that it is in the public interest to provide this much-needed relief to AM Daytimers as soon as possible, so use of existing appropriately located FM translator stations should be permissible without question.

5. The use of FM translators by AM broadcasters should generally be to provide nighttime service to the community of license only. Therefore, BTI believes that the usable area in which to locate these FM translator stations should be generally limited to an area within the AM station's daytime city-grade service contour at any optimum location.¹ BTI proposes that any FM translator station associated with an AM station be permitted to operate with a maximum ERP of 250 watts, without regard to HAAT, provided that the added power is used to add service within the AM station's 5 mV/m contour and creates no interference to other FM services.

6. BTI acknowledges, as does NAB in footnote number 10 of its petition, that the Commission has been asked in the past for policy and rule changes similar to that which has been requested by NAB in this proceeding.

¹ BTI believes that AM daytimers should not be required to locate their FM translators on their AM towers.

Regardless of the Commission's actions in the past, the FCC must be flexible enough to react to changing times. For almost two decades now, AM daytimers have been promised relief to provide better service. But, there have been no material changes. BTI submits that, if satellite radio providers such as XM Satellite Radio were permitted to apply for and license terrestrial repeaters to supplement their satellite service/², AM daytimers should be able to supplement their traditional radio service, too.

7. Although many people in the industry argue that the perils of AM daytimer broadcasting will solve itself as more and more AM radio stations go dark, this "survival of the fittest" theory has not panned out. For every AM station that goes dark, a daytimer adds nighttime power or increases power, or a new rimshot allocation is shoe-horned in someplace. The number of AM radio stations in the United States has remained almost constant during the past two decades. Even in the face of high HD Radio conversion costs and the inability of many smaller AM radio stations to afford implementing HD Radio, the number of AM radio stations is not likely to drop fast enough to permit significant interference mitigation or a rebirth of the AM radio service with full-time HD Radio.

8. As the Commission is well aware, most AM stations are not bothered by interference from other stations during the day, but maintaining their coverage at night is heavily undermined by the onslaught of skywave. Even AM radio stations that have decent daytime market coverage find that their nighttime coverage shrinks significantly. As a result, its ability to compete with FM radio stations is severely compromised.

9. Although HD Radio deployment is progressing nicely for the FM radio

² See, e.g., *Order, DA 01-2383 (released October 15, 2001)*.

service, few AM broadcasters have stepped up and made commitments to HD Radio. So long as there remains the risk that nighttime AM radio service can cause interference, thereby forcing a reduction of operating power at night, HD Radio will not be the answer for AM daytimers.

10. The Commission should be reminded that, in other limited circumstances, AM radio stations have been authorized to utilize FM translators in the past. For example, the Commission has approved the use of FM translators for certain radio and TV stations in Alaska. See, *Wrangell Radio Group*, 75 FCC 2d 404 (1980). Also, in 1990, the Commission approved the use of an FM translator during nighttime hours for Radio Station WAMB-AM at Donelson, Tennessee in response to severe interference arising from the operation of a Cuban AM radio station. WAMB-AM proved that there were no other viable solutions, and the Commission granted special authority based, in part, on Section 303(g) of the Communication Act, which "mandates the Commission to provide for experimental uses of frequencies, and generally encourage the larger and more effective use of the radio in the public interest."/³

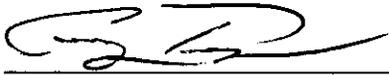
11. BTI agrees with the NAB that the proposal now before the Commission is simple, technically feasible, pro-competitive and in the public interest. The use of FM translators by AM broadcast stations is clearly a logical extension of the Commission's long-standing efforts to support and improve the AM broadcast service.

³ See, *Letter by Donna Searcy*, September 17, 1990, to Ann Bavender, Esquire. Therein, the Commission cited three other Florida AM radio stations which had authority to operate FM translators in conjunction with its AM service.

WHEREFORE, the foregoing premises considered, BTI urges the Commission to adopt the NAB proposal.

Respectfully submitted,

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By: 
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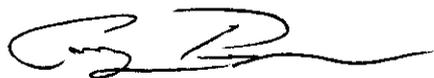
(301) 718-1818

August 16, 2006

CERTIFICATE OF SERVICE

I, Cary S. Tepper, Esquire, hereby certify that on this 16th day of August, 2006, I have served a copy of the foregoing "**Comments of Broadcast Towers, Inc.**" first-class, postage-prepaid, on the following:

Lawrence A. Walke
National Association of Broadcasters
1771 N Street, NW
Washington, D.C. 20036

A handwritten signature in black ink, appearing to read 'Cary S. Tepper', written over a horizontal line.

Cary S. Tepper, Esq.