

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of:	}	
	}	
Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations	}	MB Docket 07-172 RM-11338
	}	
	}	

TO: The Commission

**COMMENTS OF
RADIO BROADCASTERS ASSOCIATION OF PUERTO RICO**

The Radio Broadcasters Association of Puerto Rico (the "Association"),¹ by and through its attorneys, hereby submits the following comments in the above-referenced proceeding in response to the Notice of Proposed Rulemaking ("NPRM")² released by the Federal Communications Commission ("FCC" or "Commission") on August 15, 2007 concerning proposed rules permitting the use of FM translators by AM stations. The NPRM would adopt rule amendments proposed by the National Association of Broadcasters ("NAB") in a Petition for Rulemaking ("Petition") filed on July 14, 2006. The amended rules would allow AM broadcast stations to operate FM translator stations to retransmit their signal as a fill-in service, so long as the FM translator's 60 dBu contour does not exceed the lesser of: (a) a 25-mile radius from the AM transmitter site; or (b) the 2 mV/m daytime contour of the AM station. The Association respectfully requests the adoption of these proposed rule changes,

¹ The Radio Broadcasters Association of Puerto Rico represents approximately 90% of the AM and FM broadcasters in the Commonwealth of Puerto Rico and its members operate 72 AM stations.

² *In re* Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations, *Notice of Proposed Rulemaking*, MB Dkt. No. 07-172 (Aug. 15, 2007) ("NPRM").

including permitting nighttime program origination over FM translators by AM daytime-only stations.

I. Introduction

The amended rules proposed by the NAB in its Petition and supported by an “overwhelming majority”³ of the commenters in this proceeding represent a viable and necessary solution to many of the problems facing AM stations throughout the United States and the Commonwealth of Puerto Rico. As illustrated by the Commission in its NPRM, the already significant technical problems suffered by AM stations became even worse when Congress extended Daylight Savings Time last year.⁴ By adopting the rules proposed in the NPRM, the Commission would not only alleviate these problems, but would promote localism and diversity while easing its regulatory burden. Allowing AM daytime-only stations to originate programming through the use of FM translators would result in a dramatic increase in community-responsive programming, particularly in rural areas where local media alternatives are sparse. The adoption of the rule amendments proposed in the NPRM would provide an extremely valuable service to the public interest.

³ *Id.* at para. 1.

⁴ While Puerto Rico operates on Atlantic Standard Time and thus has not been directly affected by the change, the vast majority of AM stations have been significantly impacted. As discussed in the NPRM, daylight savings time was extended to begin three weeks earlier and end one week later, resulting in daytime-only stations either completely losing one hour of early morning drive-time programming or be forced to operate at a very low power during that period. *Id.* at para. 3.

II. The Use of FM Translators and Permission to Originate Programming at Night Would Alleviate Topographical and Interference Problems Unique to AM Stations

As described in the Petition and acknowledged in the NPRM, the AM band has long suffered from propagation characteristics which place it at a significant disadvantage to competing media alternatives. This is especially true on the island of Puerto Rico. The Petition emphasized that, in particular, the effect of skywave propagation at night requires many AM stations to reduce power or go silent between sunset and sunrise in order to avoid interference. Similarly, regional land features and local infrastructure cause loss of coverage in areas within an AM station's daytime contour. The expansion of Daylight Savings Time in 2007 exacerbated this problem and as the NPRM details, the AM band technical problems are not limited to nighttime service issues.⁵

The Association is intimately familiar with the considerable geographical obstacles faced by AM stations. The territory of Puerto Rico includes a main island and smaller outlying islands, all forming a part of the Greater Antilles chain, comprised also of Jamaica, Cuba, and at a distance of only 75 miles from its western coast, Hispaniola (Dominican Republic and Haiti). A central mountain range transects the main island from east to west, with approximately 60% of the island's entire surface covered by mountainous terrain. As stated in the Petition,

⁵ The Commission acknowledged that, "[d]uring all hours of operations, increasing electromagnetic interference to AM transmissions emanates from power lines, electronics equipment such as computers and televisions, fluorescent and neon lighting and dimmers used for incandescent lighting, electric motors, traffic signal sensors, RF from cable lines and equipment, and certain kinds of medical equipment." *Id.* at para. 4.

mountains and rocky areas can obstruct an AM signal significantly, causing holes in its coverage.

Additionally, Puerto Rico's proximity to the countries situated in the same island chain, as well as its location near the northern countries of South America causes its AM stations to be subject to a great deal of interference from international stations. In fact, the President of the Association reports that when many of its members' AM stations must reduce power at night, they are subject to regular and overpowering interference from broadcasts from Venezuelan, Columbian and Dominican stations.

Given these geographical challenges, the Association feels that the Commission's proposed amendments are an appropriate step to assist AM stations in providing valuable service at nighttime. By allowing the use of FM translators during nighttime hours for daytime-only AM licensees to originate programming, the Commission would be eliminating a serious technical challenge while providing the public a significant boost in local public service.

III. Amended Rules Would Promote Localism, Foreign Language Programming and Other Content Aimed at Niche Audiences

Allowing daytime-only AM stations to originate local programming at night through the use of FM translators would directly and immediately increase the amount of local content produced by many AM licensees. Like most markets, the majority of live local events in Puerto Rico, such as sports and musical performances, occur during the evening. However, international interference continually prevents listeners from hearing those broadcasts, depriving residents of a means of participation in their local community. Through the use of FM

translators, AM stations would be provided a means to broadcast live coverage of local events held at night.

The use of FM translators would have an immediate impact on the variety of programming available to Puerto Rican citizens. The NPRM reports that 91.5% of all news/talk formats are over AM stations,⁶ and that is certainly evident in Puerto Rico. Religious broadcasting and talk radio providing listeners news of local worship services and stories of interest are predominantly found on AM stations in Puerto Rico.

The elimination of interference with the use of FM translators would also help AM stations combat the increasing number of media sources battling for audiences. AM stations, including many in Puerto Rico, are mediums that provide specialized, niche programming addressing particular local needs and interests. These stations typically provide cultural, educational and entertainment services to multi-ethnic populations that often do not have access to competing forms of media such as satellite radio. In markets outside Puerto Rico where Spanish is not the primary language, free Spanish-language stations provide a critical role in keeping the public informed and involved in community affairs. This is aptly demonstrated by the growth of broadcast stations providing this programming. The number of existing Spanish-language stations alone totaled 755 at end of 2007 and new stations continue to appear in markets across the country.⁷ Allowing the use of FM translators would improve the ability of AM licensees to overcome the technical limitations inherent to the AM band, and would enhance the ability of the stations to

⁶ *Id.* at para. 5.

⁷ See, e.g., Josh Robbins, *Sports-Talk Radio's Fate Gets Fuzzier After Format Switch*, ORLANDO SENTINEL, Dec. 26, 2007, at D1.

compete with alternative media sources. Such competition, in turn, drives creativity, ingenuity and attentiveness to the needs of the public in the marketplace as a whole.

IV. Adopting the Amended Rules Would Ease Regulatory Burden of Considering STAs on Case-by-Case Basis

The adoption of the proposed rules would not only serve the public interest, it would help ease the workload of a backlogged and already over-burdened FCC staff that under the current rules, must consider each request from an AM station to use an FM translator with special temporary authority ("STA") on a case-by-case basis. According to the NPRM, the Media Bureau has granted rule waivers to allow FM translators to rebroadcast AM station signals in 11 cases.⁸ One such waiver was granted to WAMB(AM), Nashville, Tennessee, which by its counsel, requested an STA to duplicate its signal on an FM channel because severe interference from a Cuban broadcast station operating on a co-channel essentially destroyed its local service at night.⁹ The Commission's response considered the feasibility of other methods of addressing the problem and found that, because of the need for continued protection of other AM and FM stations, the proposed retransmission best served the public interest.¹⁰ The NPRM indicates that the Commission has granted similar waivers in at least 10 other cases, and will continue to consider STA requests on a case-by-case basis while this proceeding is pending (subject to the

⁸ NPRM, *supra* note 2, at note 19.

⁹ See *Letter by Donna Searcy to Ann Bavender, Esquire*, 8930-MER (rel. Sept. 24, 1990).

¹⁰ As noted on page 4, *supra*, Puerto Rico's location makes it equally if not more susceptible to interference from international stations than many of the AM stations that have received waivers, such as WAMB(AM).

outcome of the proceeding).¹¹ The adoption of the amendments proposed in this proceeding would promote a more efficient process by alleviating the Media Bureau's burden of considering each request individually.

V. FM Translator Rebroadcasts Will Help Maintain the Viability of the Many AM Stations Unable to Transition to Digital Radio

As referenced in the NPRM, the amended Daylight Savings Time is not the only change that will lead to additional problems for AM stations. The establishment of In-Band, On-Channel ("IBOC") digital radio broadcast transmissions will soon create increased interference for AM listeners.¹² The establishment of IBOC affects AM radio both positively and negatively. It boosts the audio quality and robustness of the AM service under conditions of impulse noise and adjacent channel interference for those stations that implement hybrid analog/digital operation.¹³ However, AM IBOC also presents challenges that limit its beneficial impact. Broadcasting in hybrid mode requires significantly more bandwidth to accommodate the digital signal than does broadcasting in analog mode alone.¹⁴ That, in turn gives rise to a greater threat of interference. Indeed, concern about such interference led the Commission to limit the use of hybrid mode operation by AM stations to daytime hours only. Additionally, many stations in Puerto Rico simply do not have the available resources to invest into digital conversion technology.

¹¹ NPRM, *supra* note 2, at note 19.

¹² *Id.* at para. 4.

¹³ See *Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Broadcast Service*, 17 FCC Rcd 19990, ¶¶ 22-23 (2004).

¹⁴ See *id.* at ¶19.

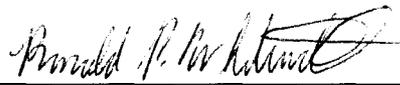
The use of FM translators with AM stations, as discussed above, would improve the consistency and robustness of coverage available to AM licensees. For AM stations limited from adopting IBOC due to cost and performance concerns, retransmission onto the FM band will protect their service and offer a safeguard against the comparative strength of and interference from AM IBOC stations.

VI. Conclusion

For the reasons provided above, the Association respectfully requests the adoption of the rule amendments proposed in the NPRM.

Respectfully submitted,

**RADIO BROADCASTERS ASSOCIATION OF
PUERTO RICO**

By: 

Francisco R. Montero
Ronald P. Whitworth

Fletcher, Heald & Hildreth PLC
1300 North 17th Street – 11th Floor
Arlington, Virginia 22209
703-812-0400 – Telephone
703-812-0486 – Telecopier

Its Attorneys

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