

BEFORE THE
Federal Communications Commission
WASHINGTON, D. C. 20554

In the Matter of)	
)	
Amendment of Service and Eligibility Rules for)	MB Docket No. 07-172
FM Broadcast Translator Stations)	RM-11338
)	
TO: Honorable Marlene H. Dortch)	
Secretary)	
)	
ATTENTION: The Commission)	

COMMENTS OF HOLSTON VALLEY BROADCASTING CORPORATION

I. INTRODUCTION

1. Holston Valley Broadcasting Corporation (Holston) hereby presents its Comments on the Commission’s Notice of Proposed Rulemaking in the above-referenced Docket, which was adopted on August 7, 2007.

2. On July 14, 2006, the National Association of Broadcasters (“NAB”) filed a Petition for Rulemaking proposing that the Commission amend its rules to allow the programming of AM broadcast stations to be carried on FM translator stations. As will be detailed herein, Holston is in agreement with almost every facet of the NAB proposal and with the Rulemaking as proposed by the Commission.

II. BACKGROUND

3. Holston has been the licensee of two FM translators since the early 1980’s and last year constructed a third, “building out” a construction permit it acquired from another local broadcast licensee. The licensee of one AM station since 1966, Holston has since acquired three others (in 1989, 1996, and 1998). By Special Temporary Authority (STA’s) granted by the

Commission the programming of three of Holston's four AM stations is now being relayed respectively by the three FM translators, which serve the respective AM stations' home communities and environs. A proponent of allowing the programming of AM stations to be carried by FM translators since long before the NAB petition was filed in mid-2006, Holston's president was the first chairman of the Association's "AM on FM Translator" Sub-committee and hereby wishes to emphasize the fact that a large amount of time and intense effort went into formulation of the NAB proposal every aspect of which was carefully and painstakingly debated.

4. Holston's practical experience with "AM on FM" Translators began in May of last year when W249AK (now W250BG) began simulcasting the programming of its WOPI(AM), 1490 kHz, a Class C AM station serving Bristol, TN/VA. In the fall of last year W231BO and W249AH began simulcasting Holston's WKPT(AM); 1400 kHz, Kingsport, TN, and WKTP(AM), 1590 kHz, Jonesborough respectively. The enhancement of reception of the programming of these three AM stations in and around their home communities, especially during nighttime hours, has been substantial. Listeners outside the small interference-free nighttime contours of the respective AM stations are now able to hear the AM stations' local news and play-by-play sports broadcasts of the home high school teams of the respective communities as well as the stations' other varied programming ----- excellent reception in areas where it had not been available in many decades in the cases of pioneer AM stations WKPT and WOPI and never in the case of WKTP (whose highly directional nighttime signal first became available in the late 1970's).

5. Likewise daytime reception, which has been increasingly plagued in the past several years by such interferers as power lines; computers, televisions, and other electronic equipment; fluorescent and neon lighting and dimmers used for incandescent lighting; electric motors, traffic signal sensors, RF egressing from cable television systems; and even certain types of medical

equipment, has been enormously enhanced through simulcast of the AM stations' programming on their respective FM translators. (It is noted that interference to AM signals resulting from lighting devices has increased substantially of late and will in the coming years increase even more due to the widespread use of compact "screw in" fluorescent bulbs designed to replace conventional incandescent bulbs.)

III. NOTICE OF PROPOSED RULE MAKING

6. Holston's experience in 2007 with actual carriage of the programming of three of its AM stations on co-owned FM translators located in the primary coverage areas of the respective AM stations has only served to bolster its previously-expressed opinion in favor of allowing such practice on a regular basis. Holston favors the criteria set forth in the NAB proposal (i.e., the 60 dBu contour of the FM translator must fall within the 2 millivolt per meter (mV/m) contour of the AM station and also be within 25 miles of the AM station's transmitter). Although Holston went to some expense to modify the coverage of one of its existing FM translators in order to meet these criteria, it still favors allowing *de minimis* overlap whereby the translator's 60 dB contour may slightly exceed the AM station's 2 mV/m contour. When dealing with complex directional AM patterns, it can be practically impossible to prevent such *de minimis* overlap without "pulling in" substantially the pertinent translator contour ----- much further than required in other directions.

7. Holston believes that AM station licensees should not only be allowed to own the FM translators, which relay the programming of their AM stations, but should also be allowed to broker time on non-co-owned FM translators so long as the coverage contour and distance criteria are met. Similarly, Holston has no objection to and indeed supports allowing the

brokerage of time on LPFM stations by AM licensees so long as the coverage criteria and programming criteria for LPFM stations are both met. (For example, the AM programming relayed by an LPFM station should meet the definition for non-commercial programming so long as LPFM stations continue to be restricted from broadcasting commercial programming. Such practices will maximize the fill-in service AM stations can provide within their primary coverage areas even in cases in which the such AM licensees cannot secure an actual license for a low-powered FM transmitting facility

8. Holston does not favor allowing the programming of commercial AM stations to be carried on FM translators licensed on frequencies within the reserved 88 to 92 MHz non-commercial FM band. AM stations operated non-commercially, however, should have such rights. Holston believes the listening public is well aware that the lower four megaHertz of the FM broadcast band is utilized for non-commercial services and has the right to expect that practice will continue.

9. Holston believes the impact on the existing full power FM and LPFM services should be minimal in the event the NAB proposal is adopted. The full power FM service has been little affected by several thousand construction permits granted following the last translator filing “window” some years ago. As a practical matter “the cat was allowed out of the bag” as a result of that window, and the number of opportunities for additional FM translators in populated areas will be severely limited once the remaining grants resulting from that filing window are finally made. A great many of those 15,000 or so applications were mutually exclusive (MX’d). Once the applicants who filed such “MX’d” applications are given the opportunity to work out compromises in order to eliminate the “MX” problems, Holston believes thousands more applications resulting from the last filing window will likely be granted. These must meet the current translator licensing criteria. Full power FM stations are protected by the fact that both

FM translators and LPFM stations are co-equal secondary services while full power FM stations are a primary service.

10. Holston very firmly asserts that the equal secondary status now shared by FM translators and LPFM stations must remain unchanged. Should LPFM's be given status "more primary" than that of translators, prospective LPFM operators would enjoy an everlasting open season "hunting license" to stalk and kill FM translators usurping those translators' hard won frequencies. Such prospective LPFM operators could take aim at existing FM translators and destroy them by simply filing LPFM applications for similar facilities. On the other hand, Holston has absolutely no objection to allowing prospective LPFM operators to purchase existing FM translator stations or FM translator construction permits so long as following any necessary modifications the resulting LPFM station meets all of the power, channel spacing, and other criteria set forth in the Commission's LPFM rules. Given the number of existing FM translator applications from the last filing window, which are currently "MX'd," but which will ultimately be modified and granted, allowing prospective LPFM licensees to purchase (and modify as necessary) FM translator stations or construction permits should actually have a positive effect on the burgeoning LPFM service.

11. As set forth in its previous briefs filed in this docket, Holston firmly believes that all AM licensees should have an equal right to begin utilizing FM translators to relay the programming of their AM stations under the criteria set forth in the NAB proposal. As a practical matter, we believe most situations will involve small market AM operations. Whether the licensee's subject AM station is big or small, a "daytimer" or a "fulltimer," and whether or not the AM licensee is also an FM licensee should make no difference. Many of the situations will involve AM/FM licensees whose AM operations are unprofitable, but whose AM stations

nevertheless provide the types of meritorious programming the Commission accurately detailed in its description of the AM service in the NPRM.

12. Again Holston asserts that the NAB proposal to base technical criteria on the subject AM's daytime 2 mV/m contour is appropriate. Some AM "daytimers" have nighttime authority to operate with only a couple of watts. There seems to be no question about considering programming broadcast at night by such stations operating at "flea power" and carried on an FM translator as "the rebroadcast of AM programming" ---- not origination of programming on the FM translator. As a practical matter, any AM operator, even one with no formal nighttime operating authority at all (or any citizen for that matter) has the right to unlicensed program origination with a few milliwatts on the AM band at night.

13. Holston believes that the technical criteria governing the carriage by FM translators of the programming of AM stations should be uniform throughout the states, district, commonwealth, and territories, under the Commission's jurisdiction.

14. With regard to the determination of the 2 mV/m contour of a given AM station for purposes of the proposed rules (i.e., measured or predicted), the criteria historically used by the subject AM station for establishment of its 2 mV/m contour should be applied. Perhaps if an AM station licensee is allowed to move from the use of predicted contours to measured contours, an appropriate waiting period (e.g., five years) should be established before a measured 2 mV/m contour could be used for the purpose of expanding the area in which "AM on FM" translator coverage could be expanded.

IV. OTHER ISSUES

15. Although not directly referenced in the NPRM, as asserted in the briefs previously filed by Holston in this docket, Holston believes it is important that any viable methodology be

allowed for the audio link between a subject AM station's studio and a subject FM translator. Such methodologies should include, but not be limited to, telephone lines, aural microwave STL or intercity relay links, ancillary audio channels on television microwave STL's, FM SCA sub-carriers, IBOC (high definition) digital FM multicasts, analog television station secondary audio program (SAP) channels, auxiliary audio channels on digital television stations, and the internet. Minor delays of up to a few seconds, which result from various forms of digital transmission, should be considered synonymous with "simultaneous."

16. Also as stated in Holston's previous filings, enhancements technically possible on the FM translator signal, but not present or practical on the AM signal, should be allowed on any FM translator carrying AM programming. Presently these include, for example, stereophonic transmission, enhanced radio broadcast data service ("RBDS" or "RDS"), subsidiary communications authorizations (SCA subcarriers), and in band on channel digital (IBOC or High Definition) operation.

17. Finally, Holston asks that Commission staff carefully review the language of the proposed rule changes set forth in Appendix A of the NPRM. Not only is it Holston's hope that such items as those suggested in paragraphs 15 and 16 above be incorporated, but Holston is unclear regarding the intent of some other language in the Appendix. For example, in the proposed revision of Section 74.1201 of the rules, definition (b) Commercial FM translator seems to be in error. In the Appendix, it is defined as "An AM or FM broadcast translator which rebroadcasts the signals of a commercial FM broadcast station." Holston assumes the definition should read instead as follows: "An FM broadcast translator which rebroadcasts the signals of a commercial AM or FM broadcast station."

V. CONCLUSION

18. Holston firmly endorses the original NAB proposal to allow carriage of the programming of AM broadcast stations by FM translators. In its comments in the current NPRM Holston not only expresses its opinions on several sub-issues upon which the Commission seeks comments, but also asks that the Commission consider refining the proposed rules in a number of areas including brokerage of time by AM stations on both FM translators and LPFM stations, the purchase of FM translators and FM translator construction permits by prospective LPFM operators and the conversion of FM translators to LPFM stations under certain criteria, allowable technical means for linking AM studios to FM translator sites, and allowable enhancements to the signal of an FM translator, which carries an AM station's programming (enhancements not present or in some cases technically possible on the AM station).

Respectfully submitted,

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