

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

In the Matter of )  
 )  
Creation of a Low ) MM Docket No. 99-25  
Power Radio Service )  
 )

To: The Commission

**COMMENTS OF  
NATIONAL PUBLIC RADIO, INC.**

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## Summary

NPR continues to support the LPFM service and the Commission's efforts to ensure that it remain true to its original ideals. LPFM stations can play an important role as outlets of community expression, a role public radio stations have long served. As the Commission considers how to improve the LPFM service and achieve this objective, however, it must not lose sight of its broader responsibility to manage the broadcast spectrum in the public interest.

Notwithstanding its promise, the LPFM service was created to complement a well-established system of full power broadcasting. The Commission recognized that full power broadcast stations are the most efficient means of using the broadcast spectrum but that LPFM stations could provide localized service to areas otherwise unable to accommodate a full power station. The LPFM service, like the FM translator service, was established as a secondary service so as to give way to new full power stations where such stations could be sited and to existing full power stations when such stations could be modified to improve service. This policy rationale reconciled the LPFM service with longstanding Commission spectrum policy codified in the Commission's rules, at least until the recent actions of the Commission in this proceeding.

While the Commission may change regulatory course in appropriate circumstances, the Commission is required to explain the change and, in this case, it must do so in the context of the Commission's broadcast spectrum policy. It is not enough to elevate LPFM stations to primary status because the Commission failed to appreciate the risk of LPFM station displacement by primary full power stations. Rather, the Commission must either reconcile its proposed new approach with longstanding spectrum policy or establish and explain a new spectrum policy. This, the Commission has not done. Nor, do we believe the Commission can justify authorizing

multitudes of low powered facilities at the expense of full powered ones.

We therefore urge the Commission to reconsider the course on which it has ventured. In particular, the Commission should withdraw, or at least limit, its proposals to (1) waive the second adjacent channel distance separations, (2) deny full power station applications due to LPFM interference, and (3) require full power stations to bear the cost of LPFM station interference. Especially for public radio, the Commission's proposals threaten substantial harm to the mission of delivering the highest quality news, information, and cultural programming to the public.

Of equal significance, the Second Further NPRM again raises the question whether to alter the current spectrum priorities afforded LPFM and FM translator stations. Rather than a "better record," resolving the issue only requires the Commission to accept the extensive record established over the course of several years and multiple proceedings. That record establishes the fundamental importance of FM translators in providing public radio service to the public, particularly in rural areas. That record also contains abundant evidence of support at the Federal, state, and local level for maintaining and extending public radio translator services.

With respect to the specific questions posed in the Second Further NPRM, employing satellite technology to relay a signal to an FM translator station is not inherently contrary to the public interest. Indeed, it can play a crucial role in extending service in rural areas. Nor is an arbitrary number of FM translators necessarily anathema to good public service. The answer depends on the particular circumstances involved. Accordingly, we urge the Commission not to adopt a categorical rule change that would downgrade the priority status of FM translator stations and threaten the important public service provided by public radio translator stations. We also urge the Commission to reject any proposal that would accord LPFM stations spectrum priority **over** full power stations, whether used as an origination service or as part of an NCE network.

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**Introduction**

Pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, National Public Radio, Inc. ("NPR") hereby submits its Comments in response to the Second Further Notice of Proposed Rulemaking ("Second Further NPRM") in the above-captioned proceeding proposing changes to the rules governing the Low Power FM ("LPFM") radio service.<sup>1</sup>

NPR is a non-profit membership corporation that produces and distributes noncommercial educational ("NCE") programming through more than 800 public radio stations nationwide. In addition to broadcasting award winning NPR programming, including *All Things Considered*<sup>®</sup> and *Morning Edition*<sup>®</sup>, NPR affiliated stations are significant producers of local, regional, and national news, information, and cultural programming. NPR also operates the Public Radio Satellite Interconnection System and provides representation and other services to its Member stations.

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<sup>1</sup> In the Matter of Creation of A Low Power Radio Service, Third Report and Order and Second Further Notice of Proposed Rulemaking, MM Docket No. 99-25, 22 FCC Rcd. 21912 (2008) [hereinafter "Third Report and Order" and/or "Second Further NPRM," as appropriate].

**I. The Commission's Proposals Elevating The LPFM Service To Co-Equal Status With Full Power Stations Are Contrary To Sound Spectrum Policy And, If Adopted, Will Further Degrade The FM Band, Contrary To The Public Interest**

In its own terms, the Third Report and Order adopted "a series of wide-ranging changes" with the purpose of strengthening and promoting the LPFM service.<sup>2</sup> A number of these changes concerned the LPFM eligibility and service rules, including reinstating the original local ownership requirements, which NPR supported.<sup>3</sup> With respect to those changes, we applaud the Commission's efforts to ensure that the LPFM service remains true to the purpose for which it was originally established. Other changes concern the relative spectrum priority of the LPFM and full power services, and those changes, which are the subject of the Second Further NPRM, are a different matter, representing a profound departure from longstanding spectrum policy. The Commission has not explained, let alone justified, these fundamental changes, and NPR urges the Commission to reconsider the course on which it has ventured.

In establishing the LPFM service, the Commission reconciled the new low power service with well established spectrum policy, long codified in the Commission's table of allocations and other broadcast regulations and predicated on the understanding that low power service is a relatively inefficient use of the broadcast spectrum. Thus, after initially sidestepping the issue,<sup>4</sup> the Commission announced that LPFM stations were intended to serve where full power stations

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<sup>2</sup> Third Report and Order, 22 FCC Rcd. at 21942.

<sup>3</sup> See Comments of National Public Radio, Inc., MM Docket No. 99-25, at 2-5 (filed Aug. 22, 2005).

<sup>4</sup> See In the Matter of Creation of a Low Power Radio Service, Report and Order, 15 FCC Rcd 2205, 2321 (2000) (dissenting statement of Commissioner Furchtgott-Roth) ("Notably, the rationale for the 100-watt minimum was efficiency in spectrum distribution. It was thought inefficient, unwise, and unmanageable to license radio stations at operating powers any less than this. Today's Order never comes to terms with the Commission's clear statements about the need for the 100-watt floor.") (citation omitted) [hereinafter "Report and Order"].

could not.<sup>5</sup>

In the past we have struck the balance in favor of licensing higher powered stations to ensure that large audiences were served. Now, when radio service is widely available throughout the country and very little spectrum remains available for new full-powered stations, we conclude that licensing very low powered stations will fill in the gaps in the spectrum that would otherwise go unused. This will maximize the use of the available spectrum, rather than create the inefficiencies we sought to avoid in the past.<sup>6</sup>

By making the LPFM service secondary to full power stations, moreover, the Commission ensured that full power stations could be proposed or existing stations modified to increase service, notwithstanding the presence of an LPFM station.<sup>7</sup>

The Commission reaffirmed this policy in the Further Notice of Proposed Rulemaking which led to the recent Third Report and Order. The Commission rejected a request that it deny a full service station's modification application if it would reduce the coverage area of an LPFM station. The Commission did so on the grounds that such a proposal "effectively would provide primary status to LPFM stations with respect to subsequently filed applications for new or modified full service station facilities," citing the original Report and Order in this proceeding.<sup>8</sup> While the Commission requested public comment on whether it should alter the obligation of LPFM stations to remedy interference caused to subsequently authorized full power stations

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<sup>5</sup> As the Commission observed, "we are creating an LPFM service that is designed to allow small stations to operate **where full powered stations cannot.**" In the Matter of Creation of A Low Power Radio Service, Memorandum Opinion and Order, 15 FCC Rcd 19208, 19237 n.93 (2000) (emphasis added) [hereinafter "Memorandum Opinion and Order"].

<sup>6</sup> Id. at 19236.

<sup>7</sup> Report and Order, 15 FCC Rcd. at 2231.

<sup>8</sup> In the Matter of Creation of a Low Power Radio Service, Second Order on Reconsideration and Further Notice of Proposed Rulemaking, 20 FCC Rcd. 6763, 6780 (2005) [hereinafter "Further NPRM"].

under Section 73.809 of the Commission's Rules, it made no attempt to reconcile such a change with its policy rationale for the LPFM service as a secondary service, filling in coverage gaps between full power stations.<sup>9</sup>

In the Third Report and Order, the Commission adopted the proposed change to Section 73.809 as well as changes which it had not previously proposed, affecting the distance separation requirements set forth in Section 73.807 and the secondary status of LPFM stations in certain circumstances when a new or modified full power station would displace an LPFM station. Apart from the manner in which these latter changes were adopted,<sup>10</sup> all the changes are flawed in at least three important respects.

First, the Commission justifies each of the changes based on a single motivating factor: a rule change permitting a station to change its community of license as a minor amendment of its license.<sup>11</sup> Yet, the rule changes are not limited to situations involving a community of license change. Rather, the changes would apply to **any** new full power station and **any** modification of an existing full power station.<sup>12</sup> While the rule change permitting the streamlined processing of community of license changes may have increased the number of such changes, there are no

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<sup>9</sup> Further NPRM, 20 FCC Rcd. at 6780-81.

<sup>10</sup> See Third Report and Order and Second Further NPRM, 22 FCC Rcd at 21973 (Statement of Commissioner McDowell)

<sup>11</sup> See, e.g., id., 22 FCC Rcd 21938 ("Increased [community of license modification] filings under the new Rules and arguments of LPFM advocates persuade us that the Commission should put policies in place to address current and future LPFM station displacement threats.")

<sup>12</sup> See, e.g., id., 22 FCC Rcd at 21939 ("The following procedures will be limited to those situations in which implementation of the full-service new station or modification, **including community of license, proposal** would result in the full-service and LPFM stations operating at less than the minimum distance separations set forth in Section 73.807 of the Rules.") (emphasis added).

other "[c]ircumstances [that have] changed considerably" to justify a fundamental change in the spectrum priority accorded LPFM stations.<sup>13</sup>

Second, while the Commission continues to claim that interference from an LPFM station is likely to occur only in the immediate vicinity of the station's transmitter,<sup>14</sup> it has yet to consider the cumulative impact of multiple LPFM station transmitters operating within a full power station's principal service area. Will a multitude of LPFM stations, providing both localized service and localized interference to full power stations, better serve the public interest? One can speculate, but there is no indication that the Commission has considered the matter.

Finally, the Second Further NPRM simply ignores the Commission's longstanding policy determination that full power service is the most efficient use of the broadcast spectrum, such that the LPFM service is appropriate as a secondary service, serving areas unserved by full power stations. Indeed, the present inquiry is limited to whether the changes adopted in the Third Report and Order should be extended or limited in some specific fashion.<sup>15</sup> There is simply no attempt to consider, let alone explain, how the changes or their possible modification fit within or are justified as a departure from longstanding spectrum policy codified in the Commission's broadcast regulations.<sup>16</sup> Nor can the Commission point to a broader

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<sup>13</sup> Id., 22 FCC Rcd. at 21938.

<sup>14</sup> Id.

<sup>15</sup> Id., 22 FCC Rcd at 21942-44.

<sup>16</sup> See, e.g., In the Matter of Revision of FM Broadcast Rules, Particularly as to Allocation and Technical Standards, First Report and Order, 40 FCC 662, at ¶ 29 (1962) (rejecting a plan proposing the "'squeezing in' or numerous assignments operating with near-minimum facilities -- an inefficient use of channels, especially those designed for use by medium and higher-power

reevaluation of spectrum policy outside the context of this proceeding.<sup>17</sup>

At a minimum, therefore, the Commission must address the broader implications of the proposed changes to its policy and rules for managing the broadcast spectrum. While a Federal regulatory agency may revisit its rules in appropriate circumstances, it must first explain and justify the change in regulatory course.<sup>18</sup> Thus, assuming the Commission were free to alter the spectrum priority of LPFM stations,<sup>19</sup> it still must justify the change in spectrum policy.

This, the Commission has not done.

It may be one thing to "squeeze in" secondary low power facilities into a mature broadcast service, it is quite another to reverse decades of Commission policy and rules favoring higher powered broadcast facilities by elevating LPFM stations to co-equal status with full

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stations.") [hereinafter "Revision of FM Broadcast Rules"].

<sup>17</sup> While the Commission has undertaken an ongoing reevaluation of spectrum policy, that endeavor has focused on increasing marketplace considerations in lieu of command and control-type regulation in the licensing and operation of spectrum use. See Federal Communication Commission, Strategic Plan 2006-2011, at 10-12 (2005), *available at* [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-261434A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-261434A1.pdf). With respect to broadcast spectrum policy in particular, no fundamental changes have been recommended. See Spectrum Policy Task Force Report, ET Docket No. 02-135, at 44-45 (2002).

<sup>18</sup> See Chevron U.S.A. Inc. v. NRDC, 467 U.S. 837, 863 (1984). See also Motor Vehicle Mfg. Ass'n. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 41-42 (1983) ("A settled course of behavior embodies the agency's informed judgment that, by pursuing that course, it will carry out the policies committed to it by Congress. There is, then, at least a presumption that those policies will be carried out best if the settled rule is adhered to.") (internal quotation marks omitted).

<sup>19</sup> By proposing to permit LPFM stations to continue to operate despite causing interference to full power stations, NPR questions whether the Commission is free to make the changes it has pursued. See The Making Appropriations for the Government of the District of Columbia for FY2001 Act, Pub. L. No. 106-553, § 632, 114 Stat. 2762, 2762-A-111 (2000). As the legislative history underlying that statute explains, "LPFM stations which are authorized under this section, but cause interference to new or modified facilities of a full-power station, would be required to modify their facilities or cease operations." H.R. Rep. No. 567, 106th Cong., 2d Sess. 7 (2000).

power stations. We further contend that the Commission's existing spectrum policy remains the correct one. The laws of physics have not changed, and a system of full power broadcast stations serves many more listeners with less interference compared to low power broadcasting.<sup>20</sup> While LPFM stations may advance the interests of localism and diversity, the Commission cannot assume that LPFM service is inherently better than full power service; any comparison requires consideration of the specific stations involved.

To the extent the Commission is motivated by the desire to prevent the loss of LPFM stations,<sup>21</sup> we also regret a community's loss of a valued public service, but the risk is inherent in the secondary nature of the LPFM service. The risk is also not unique to LPFM stations. As demonstrated below and more extensively in prior NPR comments, public radio translators provide a no less valuable public service to their communities.<sup>22</sup> Such translators are often built through a combination of Federal financial support, fundraising campaigns by the community of service, and years of planning. They too can be, and often are, displaced by full power stations.

Of course, we appreciate Commission's informal efforts to maintain existing services, whether LPFM or translator, when a new full power station or existing station modification proposal presents a potential interference issue. We encourage the Commission to avoid any such displacements by providing the affected station with an opportunity to modify its facilities to minimize or avoid the interference. Prospectively, the Commission should also explore authorizing displaced stations to utilize channel 200 (87.9) of the FM band, which is currently

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<sup>20</sup> Revision of FM Broadcast Rules, 40 FCC at ¶ 49 ("Because of the pressure to 'squeeze in' stations, the result has been to clutter up many of these channels with a number of small-scale facilities, making for inefficient channel use.")

<sup>21</sup> Third Report and Order and Second Further NPRM, 22 FCC Rcd. at 21913.

<sup>22</sup> See notes <sup>40-42</sup>, infra, and accompanying text.

used by a only few Class D FM stations.

We also applaud the voluntary efforts of full power station applicants and licensees to avoid interference to or from LPFM stations. As fellow NCE broadcasters, NPR's member stations are willing to assist and cooperate with their LPFM colleagues to the extent their financial and other resources permit.

We part ways with the Commission, however, with respect to proposals extending the circumstances in which LPFM stations will be permitted to cause interference to full power stations. Absent a compelling justification for altering fundamental spectrum policy to favor LPFM stations at the expense of full power service, the Commission should reverse, or at least limit, the changes to Section 73.807 and 73.809 adopted in the Third Report and Order.

Thus, the Commission should not extend the second-adjacent channel waivers to co- and first-adjacent channel situations.<sup>23</sup> As the Commission long ago recognized, co-channel and first adjacent channel operations create interfering signals over much greater distances, "thus creating islands of service in the midst of seas of interference."<sup>24</sup> In addition, any second-adjacent channel waivers should be granted only upon a showing that no interference will occur due to lack of population, terrain, or other factors<sup>25</sup> and upon the condition that the LPFM station resolve all actual interference complaints.<sup>26</sup>

In any event, no circumstances justify requiring full power NCE stations to bear the

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<sup>23</sup> See Third Report and Order and Second Further NPRM, 22 FCC Rcd. at 21943.

<sup>24</sup> Revision of FM Broadcast Rules, 40 FCC at ¶29.

<sup>25</sup> Third Report and Order and Second Further NPRM, 22 FCC Rcd. at 21943. This standard is based on the Commission's translator rules. 47 C.F.R. § 1204(d).

<sup>26</sup> Third Report and Order and Second Further NPRM, 22 FCC Rcd. at 21942-43.

financial and other costs associated with distance separation waivers or other measures to accommodate interfering or interference-affected LPFM stations. It is the very purpose of public radio stations to serve the educational, informational, and cultural needs of their communities, and radiofrequency interference from LPFM or other sources prevents public radio stations from achieving that mission. As governmental entities or non-profit entities, public radio stations also possess limited financial resources, the bulk of which are obtained from tax sources or through voluntary charitable donations.<sup>27</sup> With all due respect, the Commission has no place demanding that one NCE station reallocate its scarce resources to another, unrelated one, no matter how deserving the Commission believes the latter may be.

We also oppose the suggestion that NCE stations assume certain technical, financial, and notice obligations specifically when implementing a new or modified station proposal that could impact an LPFM station.<sup>28</sup> Public radio stations, as noted above, possess limited resources and serve an important public service mission. They are required to monitor the FCC's public notices and bear the brunt of Commission actions that may adversely affect their operations. If the Commission perceives a special need to alert LPFM stations to potentially significant Commission actions or provide other accommodation, the Commission itself should take on those tasks.

Indeed, the Commission's concern for the capacity of LPFM stations to operate

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<sup>27</sup> See Public Broadcasting Revenue Reports, <http://www.cpb.org/stations/reports/revenue/>. For instance, the report for fiscal year 2005 shows 43.7% of all public broadcasting revenue is attributable to tax-based sources. See Public Broadcasting Revenue Fiscal Year 2005, at 6, <http://www.cpb.org/stations/reports/revenue/2005PublicBroadcastingRevenue.pdf>. Much of the remainder includes tax-deductible charitable contributions from individual station members and individual, foundation, and business underwriters.

<sup>28</sup> Third Report and Order and Second Further NPRM, 22 FCC Rcd. at 21943-44.

autonomously calls into question the Commission's tentative decision to permit a contour-based methodology in siting such stations.<sup>29</sup> If LPFM stations are overwhelmed by the task of monitoring and responding to regulatory and external licensing developments, is it realistic to expect them to comply with other routine regulatory matters, including avoiding and addressing improper broadcast operations? If the Commission adopts a contour-based approach to licensing LPFM stations, we agree that requiring stations that elect such an approach to resolve all actual interference complaints or cease operations.<sup>30</sup> Such stations, in particular, also should not require special financial or technical assistance or notice from other broadcast stations.

## **II. The Commission Should Not Alter The Relative Spectrum Priorities of LPFM And Translator Stations**

The Second Further NPRM again raises the question whether the Commission should revisit the relative spectrum priorities of LPFM and FM translator stations. The Commission first raised the issue in its localism proceeding,<sup>31</sup> in response to which NPR and others filed extensive comments demonstrating the continuing need to preserve the existing spectrum priority accorded the FM translator service.<sup>32</sup> The Commission next raised the issue in the Further Notice of Proposed Rulemaking in this proceeding.<sup>33</sup> Again, NPR and others, including

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<sup>29</sup> See id., 22 FCC Rcd at 21945.

<sup>30</sup> See id.

<sup>31</sup> In the Matter of Broadcast Localism, 19 FCC Rcd. 12425, 12443 (2004).

<sup>32</sup> See Comments of National Public Radio, MM Docket No. 04-233, at 25-33 (filed Nov. 1, 2004) [hereinafter "NPR Localism NOI Comments"]; Reply Comments of National Public Radio, MM Docket No. 04-233, at 4-6 (filed Jan. 3, 2005). See also Comments of Educational Media Foundation, MM Docket No. 04-233, at 2-5 (filed Nov. 1, 2004).

<sup>33</sup> Further NPRM, 20 FCC Rcd. at 6777-78.

many public radio interests, filed extensive comments opposing the downgrading of FM translator stations as contrary to the public interest.<sup>34</sup> As the Commission now concedes, because of the important programming that both FM translator and LPFM stations provide to their communities, the Commission remains unable to justify altering the status quo.<sup>35</sup>

While the Commission hopes that a "better record" will provide additional clarity, we believe the existing extensive record clearly demonstrates the importance of preserving the FM translator service and its current spectrum priority. That record establishes a number of critical facts.

- ⇒ Since FM translator service was first established in 1970, it has evolved as an important means by which public radio stations extend their services, particularly in rural areas.<sup>36</sup>
- ⇒ Substantial Federal funding, principally through the National Telecommunications Information Administration ("NTIA") of the Department of Commerce and its Public Telecommunications Facilities Program ("PTFP"), has been instrumental in constructing public radio translator stations.<sup>37</sup>
- ⇒ State governmental support has helped stations establish translator service to unserved and under-served areas. The West Virginia statewide public radio network, WLRN-FM, Miami, FL, and Minnesota Public Radio have all received state funds in

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<sup>34</sup> Comments of National Public Radio, MM Docket No. 99-25, at 5-14 (filed Aug. 22, 2005) [hereinafter "NPR Further LPFM NPRM Comments"]; Reply Comments of National Public Radio, MM Docket No. 99-25, at 2-13 (filed Sept. 21, 2005). See also Comments of Public Radio Regional Organizations, MM Docket No. 99-25, at 5-21 & Appendix A (filed Aug. 22, 2005) [hereinafter "PRRO Further LPFM NPRM Comments"].

<sup>35</sup> Third Report and Order and Second Further NPRM, 22 FCC Rcd. at 21932.

<sup>36</sup> See Report and Order in Docket No. 17159, 20 RR 2d 1538 (1970); NPR Localism NOI Comments 25-28.

<sup>37</sup> See NPR Further LPFM NPRM Comments at 6-7. Since the last comment cycle in this proceeding, NTIA has awarded additional grants for public radio translator projects, including one to Indiana University for the construction of FM translators in French Lick/West Baden Springs and Greensburg, Indiana. These facilities will provide first public radio service to about 14,669 people. See <http://www.ntia.doc.gov/ptfp/projects/2006/grants.cfm>

support of their FM translator stations.<sup>38</sup>

- ⇒ Support for the construction of public radio translators almost always derives from the community itself. In NPR's prior comments, we cited numerous examples in which a community raised substantial funds to support the construction of translators to extend the signal of a public radio station.<sup>39</sup>
- ⇒ Even when a translator is used to reach a community some distance from the station's community of license, public radio stations localize their services by ascertaining and addressing issues of particular interest to the community served by the translator station. Public radio licensees include feature material, traffic and weather reports, community calendar reports, and public service announcements relevant to the translator community in the service that the translator retransmits.<sup>40</sup>
- ⇒ Translator stations provide the only public radio service in many communities.<sup>41</sup>
- ⇒ Translator stations provide critical emergency information.<sup>42</sup>
- ⇒ Because many public radio station licensees, including statewide public radio networks, utilize "daisy chains" of translator stations to extend service economically over wide geographic areas, the displacement of a single translator could eliminate the service provided by a number of translators beyond that point.<sup>43</sup>
- ⇒ Public radio translator stations are more likely to be displaced by an LPFM station than by a full power station because the former will tend to serve sparsely populated areas unable to sustain a full power station, which is where FM translator station perform a critical role.

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<sup>38</sup> See PRRO Further LPFM NPRM Comments at 7-8.

<sup>39</sup> NPR Further LPFM NPRM Comments at 7-8. See PRRO Further LPFM NPRM Comments at 8-9.

<sup>40</sup> See NPR Further LPFM NPRM Comments at 8.

<sup>41</sup> See PRRO Further LPFM NPRM Comments at 11.

<sup>42</sup> See *id.*s at 11. For instance, KUSP-FM, Santa Cruz, California, serving Monterey County coastal communities via a translator station, provides the only local radio service, and an essential one during fires, winter storms and other emergency conditions. NPR Further LPFM NPRM Comments at 8.

<sup>43</sup> The Commission previously recognized this problem when it revised the original LPFM rules to protect the inputs of translator stations. Memorandum Opinion and Order, 15 FCC Rcd. at 19224.

With the intention of building a better record, the Second Further NPRM specifically inquires whether the Commission should distinguish between translators that are “fed” by satellite and those “fed” terrestrially.<sup>44</sup> As we have demonstrated previously, a satellite-fed translator or booster does not necessarily mean the retransmitted service is not “local” or otherwise valuable<sup>45</sup> In a rural state, such as Montana, satellite technology and FM translators are important means of maintaining a statewide public radio network.<sup>46</sup> The services these facilities provide are no less important because they are provided with the aid of satellite technology. Absent some practical and meaningful way of distinguishing among satellite-fed translators, Commission should not seek to diminish the protection afforded all such translators.

The Commission also asks whether downgrading FM translator stations in relation to LPFM stations could adversely affect established translator signal delivery systems and listening patterns.<sup>47</sup> Such a change in spectrum priorities would have both consequences. As noted above, public radio stations rely on extensive “daisy chains” of translators, particularly in rural areas, to serve sparsely populated areas and to relay a signal for further retransmission. A single LPFM station could disrupt an entire translator network merely by displacing one link in a translator daisy chain. Likewise, millions of Americans receive public radio service by means of FM translator stations. In many cases, an FM translator station provides the sole means of public radio service. Displacing these translators would deprive listeners who may have few other

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<sup>44</sup> Third Report and Order and Second Further NPRM, 22 FCC Rcd. at 21946.

<sup>45</sup> See NPR Localism NOI Comments at 31-32.

<sup>46</sup> See id.

<sup>47</sup> Third Report and Order and Second Further NPRM, 22 FCC Rcd. at 21946.

listening options of access to public radio's distinctive local, regional, and national news and cultural programming.

Finally, the Second Further NPRM solicits comment on a proposed numerical limit on the number of translators that could be protected from displacement from a subsequently authorized LPFM station.<sup>48</sup> The 25 translator station limit proposed is without any apparent policy rationale, and it is too low to accommodate the needs of licensees challenged with serving large rural areas. We also question the radical suggestion that the Commission afford LPFM stations priority over full power stations used as part of a network.<sup>49</sup> The policy considerations favoring full power service are even more compelling in this context because the proposal would elevate LPFM stations to a **greater** spectrum priority compared to full power stations. Such an approach is also unworkable administratively because a full power station licensee can elect at any time and without notice to the Commission to alter the manner in which it programs a full power stations or “feeds” an FM translator station.

For all these reasons, NPR once again urges the Commission to maintain the current spectrum priorities accorded LPFM and FM translator stations.

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<sup>48</sup> Id., 22 FCC Rcd. at 21946.

<sup>49</sup> Id.

## Conclusion

NPR urges the Commission to reconsider and withdraw or limit proposals elevating LPFM stations to co-equal status with full power stations and refrain from downgrading the spectrum priority accorded FM translator stations.

Respectfully Submitted,



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