Comments of The Livingston Radio Company in Response to the Commission's Request of May 22, 2009 for Comments on Specific Issues Regarding Joint Parties' Request for FM Digital Power Increase and Associated Technical Studies in MM Docket No. 99-325

In December of 2008, I filed comments in this docket which I feel are even more appropriate today in responding to the Commission's Public Notice of May 22, 2009, seeking comments on specific issues regarding Joint Parties' request for FM digital power increase and associated technical studies:

> As the owner-operator of WHMI-FM (Howell, Michigan, Class A, 93.5 mHz, 5.2 kW, 354' HAAT), a station that operates on a first-adjacent channel to WBCT (Grand Rapids, Michigan, Class B, 93.7 mHz, 320 kW, 780' HAAT, grandfathered), I am already acutely aware of the interference that can be caused by a high-powered neighbor on the dial – in this instance, a station operating with analog and digital power **12 dB in excess of Class B limits!** In other words, WBCT is already operating at a digital power level in excess of the increased power level proposed in this proceeding. If this proposal finds favor at the Commission, I would strongly suggest that digital power levels for **all stations** in no case exceed -10 dB **referenced to class limits.**
>
> The interference that WHMI now receives is probably indicative of the level of interference that a majority of stations would receive if the proposed digital power increase were to become a reality, and one might think that I would automatically

> be against this proposal. I see it, however, from two distinct points of view. First, the increase would greatly improve digital reception; building penetration would approach that of the analog signal, mobile coverage would exceed that of analog, and dropouts due to buffering would be far less frequent. The digital signal would have a chance to become "real" – something it now decidedly is not. In a scenario where digital radio is accepted by and widely used by the public, the trade-off of increased interference to the analog service might still look good in a cost-benefit analysis. On the other hand, in today's reality where digital radio is a non-event (the opinions of the NAB, iBiquity, the HD Radio Alliance and the Commission notwithstanding), the cost-benefit analysis doesn't look so good. The jury is still out on digital radio, with the likelihood of its acceptance by the public dropping every day. The uncertainties surrounding digital radio (including this proceeding) make the purchase of equipment by broadcasters and the public highly questionable investments. To make matters worse, the current economic and regulatory climates place the long-term viability of the entire radio industry in question. Only time will tell.

With the passing of six months, I feel that waiting for the results of the additional NPR studies makes sense. Digital radio is still languishing, and a hasty digital "fix" that harms the legacy analog FM service that serves over 200 million Americans quite well every day doesn't pass my cost-benefit analysis.

As described above, my station is first-adjacent to a grandfathered, super-powered station that is operating with a digital signal that is **on** my station's channel and **2 dB stronger**

than the increased digital power level requested by the Joint Parties. If the result of this proceeding is a finding by the Commission that an increase in digital power is warranted, I believe that the limit should be -10 dB, or whatever lesser level the Commission approves, **referenced to class limits** and applicable to **all** FM stations. My position departs from the Joint Parties' proposal which would grandfather existing digital signals that exceed these levels. I do not believe that the grandfathering of an analog station on a first-adjacent channel should extend to an equally grandfathered digital signal that is actually co-channel. I recognize that my position would require approximately twenty-five stations (22 in CA, 2 in MI, 1 in NY) to **reduce** digital power, if currently operating at maximum power levels.

The proposal as it now stands favors big corporate stations to the severe detriment of small community stations, operated by small businesses, which, sometimes, like my own, are locally-owned, stand-alone, and the only station in the community or county providing local news and information. Jeopardizing these community signals and their ability to inform the public and warn of emergencies, by subjecting them to new levels of interference that is far from trivial, seems highly contrary to the public interest.

If a researched, appropriate digital power increase is adopted, secondary services like LPFMs and translators, should not require protection beyond what they are afforded in the analog world. Special treatment of secondary services would create an administrative nightmare as would overly complicated procedures to resolve interference complaints among full-power stations. A secondary service must remain secondary. If the Commission wants to change that, it should do so in the context of a rulemaking to

reclassify some stations as primary and not chip away at the fundamental principal and end up with a hybrid entity that is neither fish nor fowl.

If digital radio is ever to have a chance, a power increase is likely necessary. The real question, I fear, is whether digital radio will ever be a mainstream medium. We may very well be discussing which color to paint the deck of the Titanic.

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