

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

In re )  
 )  
Petition to Amend Title 47 of ) RM-11599  
The Code of Federal Regulations )  
Section 73.99 Concerning Pre- )  
Sunrise Service Authorizations )  
for Class D Stations in the AM )  
Broadcast Service )

TO: Honorable Marlene H. Dortch  
Secretary of the Commission

ATTN: The Commission

**COMMENTS OF BUSTOS MEDIA HOLDINGS, LLC**

Bustos Media Holdings, LLC (Bustos), by its attorney, and pursuant to the ***Public Notice, Petitions for Rulemaking Filed, Report No. 2906***, released March 26, 2010, hereby respectfully submits its Comments on the "Petition for Rulemaking" filed by Richard F. Arsenault (Arsenault). In so doing, the following is shown:

1. Bustos supports the concept advanced by Mr. Arsenault to amend Section 73.99 of the Commission's Rules to permit Class D AM stations (better known as "AM daytimers") to commence pre-sunrise authority (PSRA) operations at 5:00 a.m. local time, in lieu of the current PSRA start time of 6:00 a.m. local time.

2. However, Bustos requests that the Commission not limit the scope of this rule amendment to AM daytimers operating on regional channels, but rather permit all AM daytimers on all channels to be able to commence PSRA at 5:00 a.m. local time.

3. Bustos is the licensee of three AM stations on so-called "clear channels": KZSJ(AM), 1120 kHz, San Martin, California (San Jose radio market); KREH(AM), 900 kHz, Pecan Grove, Texas (Houston radio market); and KTXV, 890 kHz, Mabank, Texas (Dallas-Fort Worth radio market). Each of these stations serves a unique niche in that they provide broadcasts in the Vietnamese language to otherwise underserved ethnic populations in each of the three markets<sup>1</sup>.

4. As the Commission is well aware, the need for an early morning start for many commuters has caused prominent local radio stations in the Washington-Baltimore area to start weekday morning radio programs at 5:00 a.m., rather than at the traditional 6:00 a.m. For example, WMAL(AM), 630 kHz, Washington, DC, starts the "Grandy and Andy Morning Show" at 5:00 a.m. WBAL(AM), 1090 kHz, Baltimore, Maryland,

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<sup>1</sup>According to the 2000 Census, 146,613 persons of Vietnamese origin resided in the San Francisco-San Jose Metropolitan Statistical Area (MSA); 63,924 persons of Vietnamese origin resided in the Houston MSA; and 47,090 persons of Vietnamese origin resided in the Dallas-Fort Worth MSA, the second, third and fourth highest concentrations of Vietnamese persons in the nation. See study by Mark E. Pfeifer, Ph.D., <http://hmongstudies.com/PfeiferReviewofVietnameseStudies2001.pdf>

starts its "Maryland's Morning News with Dave Durian" program at 5:00 a.m. National Public Radio affiliate WAMU(FM), 88.5 MHz, Washington, DC, commences its "Morning Edition" program at 5:00 a.m.

5. Therefore, daytime AM stations which sign on at 6:00 a.m. or later simply cannot effectively compete with their full-time AM counterparts who start live local programming at 5:00 a.m. They must have a presence on the air in their local communities at 5:00 a.m.

6. Given the multitude of media choices available in 2010 which did not exist 35 years ago, radio consumers in the United States are far less reliant on clear channel radio stations which required "non-dominant" co-channel stations to sign off at sunset and remain silent until local sunrise. Furthermore, as the need for media diversity has increased due to the growth of people from Vietnam and Latin America into the United States, AM radio provides an economical means for minority entrepreneurs such as Bustos to provide service to minority communities, and a low cost means for minority media consumers to receive news, information and entertainment in their native languages.

7. Therefore, the Commission through the Arsenault petition has the opportunity to make daytime AM radio stations more competitive and more relevant by permitting such stations to commence broadcasting at a meaningful power level at 5:00 a.m. local time. There is no real reason to discriminate between AM daytimers on "regional channels" and AM daytimers on "clear channels". For example, KPNW(AM), Eugene, Oregon, the "dominant" station in the western United States on 1120 kHz, will not experience a loss of listenership outside the Eugene radio market should KZSJ(AM) be permitted to broadcast with 500 watts between 5:00 a.m. and local sunrise. The deserving Vietnamese community in the San Jose-South Bay area will receive improved local service, which is in the public interest, convenience and necessity. The same will hold true for Bustos' stations in the Houston and Dallas-Fort Worth markets.

**WHEREFORE**, Bustos Media Holdings, LLC urges the Commission to amend Section 73.99 of the Commission's Rules to permit all Class D AM Stations, regardless of frequency, to commence operations at 500 watts at 5:00 a.m. local time.

Respectfully submitted,

**BUSTOS MEDIA HOLDINGS, LLC**

By   
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Its Attorney

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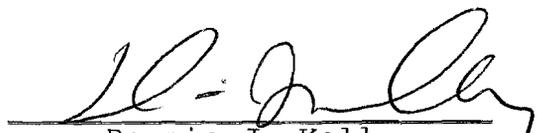
DATED AND FILED: April 22, 2010

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**CERTIFICATE OF SERVICE**

It is hereby certified that a true copy of the foregoing "Comments of Bustos Media Holdings, LLC" was served by first-class mail, postage prepaid, on this 22<sup>nd</sup> day of April, 2010 upon the following:

Mr. Richard F. Arsenault  
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Dennis J. Kelly