

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

August 6, 2012

Re: Notice of *Ex Parte* Presentation
MM Docket No. 99-25 – Creation of a Low Power Radio Service

Dear Ms. Dortch:

On Thursday, August 2, 2012, Brandy Doyle and Cheryl Leanza of the Prometheus Radio Project met with Matthew Berry, Chief of Staff for Commissioner Ajit Pai, to discuss issues in the above-mentioned docket.

Ms. Doyle first summarized the history of the FM translator applications pending from Auction 83, and outlined the market specific translator processing plan adopted by the Commission in the March 19, 2012 *Fourth Report and Order*. Ms. Leanza explained that translator processing must be largely completed prior to an LPFM window, and she therefore expressed Prometheus' support for a speedy release of the forthcoming Order on Reconsideration.

Ms. Doyle then reiterated Prometheus' support for adopting a second-adjacent frequency waiver standard for LPFM stations modeled after the rules used by FM translators. She noted that a strict reading of the "no interference" standard laid out by Congress in the Local Community Radio Act ("LCRA") supports this interpretation,¹ as does the LCRA's "equal in status" language requiring parity between translators and LPFM stations.² Ms. Doyle explained that there is no valid technical argument against second adjacent waivers, because translators, which operate at higher power, are regularly licensed on second adjacent frequencies. Furthermore, LPFM stations licensed on second adjacent frequencies will be required to shut down if causing interference to full power stations at any distance. Ms. Doyle argued that second adjacent interference has proven infrequent in the translator service, so the risk of LPFM stations shutting down nonetheless remains reasonably low, and the Commission should not disallow waivers on the basis of this risk to LPFMs. Rather, waivers should be granted to LPFM stations as long as proposed LPFM stations are not predicted to cause interference.

¹ "Notwithstanding paragraph (1), the Federal Communications Commission may grant a waiver of the second-adjacent channel distance separation requirement to low-power FM stations that establish, using methods of predicted interference taking into account all relevant factors, including terrain-sensitive propagation models, that their proposed operations will not result in interference to any authorized radio service." Local Community Radio Act, Pub. L. No. 111-371, 124 Stat. 4072 (2011), § 3(b)(2)(a).

² Local Community Radio Act, § 5(3)

Ms. Doyle and Ms. Leanza expressed Prometheus' support for a final order in the LPFM docket in the near future and for a reasonable time frame between an LPFM order and LPFM filing window, to give organizations ample time to prepare their applications. Prometheus has also proposed that the Commission employ two or more filing windows, to allow greater participation and to ease the burden on consulting engineers supporting applicants.

Finally, Ms. Doyle emphasized Prometheus' support for a locally originated programming mandate for new LPFM stations. Ms. Leanza argued that such a mandate passes constitutional muster and enables the LPFM service to fulfill its intended goals of prioritizing locally-originated programming and would implement the Local Community Radio Act's localism mandate. Ms. Doyle explained that a mandate would be based on origination, not on the subject matter or content of programming. She also noted that a limited requirement of twenty hours per week would not be overly burdensome for volunteer-run stations.

Respectfully Submitted,

/s/

Brandy Doyle
Policy Director, Prometheus Radio Project