

REPLY COMMENTS OF DELTA STAR RADIO OF FLORIDA,
TALK RADIO OF PAHRUMP,
MID-ATLANTIC ENGINEERING SERVICE
AND MATTHEW MURILLO
TO EX PARTE WRITTEN COMMENTS OF THE
EDUCATIONAL MEDIA FOUNDATION (EMF)

All of the undersigned parties currently plan to seek Low Power FM (LPFM) radio licenses when the new LPFM filing window finally opens. Some of us are already running Internet broadcasting operations. *All* of us will be seeking LPFM licenses in rural areas or, in the case of DELTA RADIO, the small city of Tallahassee.

Given our status, we are both motivated enough -- *and* informed enough -- to challenge the following assertion made on page 2 of the October 16, 2012 Ex Parte Written Comments of EDUCATIONAL MEDIA FOUNDATION (EMF), a fundamentalist Christian broadcasting network:

“There is not a spectrum shortage for translators in rural areas, and there is also likely to be less demand for LPFM applications outside of the metropolitan areas, an area of agreement between EMF and Prometheus in their settlement agreement from 2010. See, revised settlement agreement between EMF and Prometheus Radio Project, filed in this Docket on September 22, 2010, at Item 1(1) of the Memorandum of Agreement. Thus, any forced dismissal of translator applications outside of the major markets does not significantly advance LPFM opportunities, but instead just denies service to listeners who desire the service that EMF provides.”

We view EMF’s statement as a *non sequitur*: an illogical chain of reasoning in which the conclusion (dismissing fewer translators in rural areas and small cities would not adversely affect licensing chances for LPFM applicants) “does not follow” from the premise (there is more spectrum available in rural areas and small cities than there is in large cities).

In a nutshell: *More* spectrum for competing applicants to share does not automatically equal *enough* spectrum for all competing applicants. In affected areas, increasing the total pool of applicants, by dismissing fewer translators, will reduce the odds for a typical LPFM applicant.

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From our own perspective, as individual aspiring LPFM licensees in rural areas and one small city, we can report that we *do* expect to face competition for licenses in our service areas. We *would* experience an adverse impact if fewer translators are dismissed by the FCC.

EMF is correct to the extent that there *are* probably *some* rural areas, and possibly even *some* small cities, where enough radio spectrum exists to accommodate all pending translator applications *plus* all of the likely new LPFM applicants. Even in the least populated areas, however, we won't know this for sure until the filing window opens and the new LPFM applications roll in. The hunger across the nation for truly *local* programming may turn out to be greater than anyone expects.

In any event, EMF presents *zero* spectrum scarcity as the national norm -- "outside of the major markets" -- when, in fact, it is more of an exception to the rule.

We certainly do not expect zero spectrum scarcity to be the norm in *our* proposed service areas, far as they may be from "the major markets" mentioned by EMF.

We add that the FCC's currently adopted approach to this matter reflects careful and lengthy deliberations, resulting in a delicate balancing of interests between pending translator applicants and new LPFM applicants. We urge the FCC not to upset this delicate balance -- which has won widespread acceptance, including general approval by those Congressional legislators who were primary co-sponsors of the Local Community Radio Act (LCRA).

As for the purported endorsement of EMF's approach by PROMETHEUS RADIO PROJECT of Pennsylvania, we are far from certain that EMF has correctly reported the views of Prometheus -- as supposedly reflected in the 2010 statement that EMF has cited. For a detailed discussion of this point, we refer the Commission to the October 25, 2012 Reply Comments of THE AMHERST ALLIANCE.

However, even *if* EMF has reported the views of Prometheus correctly, the fact remains that Prometheus is not the only nationwide advocacy group for LPFM. It appears to have more resources than any other LPFM advocacy group, but it does not begin to represent all of the national LPFM community.

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Other major LPFM advocacy groups -- *none* of which has signed any joint proposal with EMF -- are THE AMHERST ALLIANCE of Connecticut, REC NETWORKS of Maryland, COMMON FREQUENCY of California, CHRISTIAN COMMUNITY BROADCASTERS of Georgia, NEXUS LPFM ADVOCACY of Colorado and NEXUS BROADCAST of Texas. *All* of these LPFM advocacy groups should carry weight with the FCC.

An Important Caveat

Some of the undersigned parties have had positive experiences in the past when working with EMF. Therefore, we have no desire to "demonize" that organization. Nevertheless, we believe that EMF is gravely mistaken on the facts, is standing in the way of Congressional intent and is attempting to de-stabilize a politically fragile balancing of competing interests.

Conclusion

In general, the undersigned parties -- all of whom hope to obtain licenses for LPFM service to areas far from "the major markets" mentioned by EMF -- urge the FCC not to upset the just but delicate balance it has struck between pending translator applicants and new LPFM applicants. In particular, we urge the Commission not to accept EMF's recommendation for dismissal of fewer translator applicants in small cities and rural areas.

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Respectfully submitted,

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Notification

An electronic copy of this document has been E-Mailed to David Oxenford, Esquire, of Wilson Barker Knauer LLP in Washington, DC, attorney for EMF, and Brandy Doyle of PROMETHEUS RADIO PROJECT in Philadelphia, PA.