

November 21, 2012

Ms. Marlene H. Dortch, Secretary

Federal Communications Commission

445 12 St. SW

Washington, DC 20554

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

Dear Ms. Dortch:

On Monday, November 19, Brandy Doyle of Prometheus Radio Project and Laura Moy of the Institute for Public Representation (collectively “Prometheus representatives”) met with Commission staff to discuss issues in the above-referenced docket. In three separate meetings on that day, Prometheus representatives met with Alex Hoehn-Saric of Commissioner Rosenworcel’s office, Matthew Berry of Commissioner Pai’s office, and Erin McGrath of Commissioner McDowell’s office.

In each meeting, Prometheus representatives explained that for LPFM advocates, the availability of second-adjacent frequency waivers is the most important question in the implementation of the Local Community Radio Act. They explained that a fair waiver standard is necessary to allow low power radio stations in urban areas. As in the FM translator service, LPFM stations should be allocated on the second adjacent frequency if they will not cause interference to existing full-power stations. They explained that FM translators are routinely licensed on the second adjacent frequency without incident, and LPFM stations are technically identical to FM translators, except insofar as they must operate at lower power levels and height. Furthermore, LPFM stations are co-equal in status to translators under the Local Community Radio Act. For these reasons, LPFM applicants should not be burdened with additional requirements in seeking second adjacent frequency waivers beyond those applied to FM translators.

Prometheus representatives also reiterated their support for rules that prioritize truly local stations with the capacity to serve their communities on the air. Prometheus has long advocated for a locally originated programming

mandate for new LPFM stations. In the past, national organizations have subverted Commission localism rules by persuading local organizations to apply for licenses merely to repeat national programming, with no local presence. Prometheus believes that a mandate would disincentivize national organizations from participating in LPFM licensing. In lieu of a requirement, Prometheus also supports the existing preference for applicants who pledge local programming, as well as a preference for applicants who will operate a main studio with a meaningful staff presence in the community.

Should the Commission rely on a preference system rather than a local programming requirement, Prometheus requests that the Commission lay out a plan by which licensees who have not met their pledges can be held accountable. For example, stations operating in a voluntary or involuntary timeshare should be able to alert the Commission if their timeshare partners have not kept their pledges, revoking the license and allowing the remaining time to revert to the other timeshare participants. Clear language on enforcement prior to the window would help to prevent unethical applicants from “gaming” the pledge system. In regard to a main studio preference, Prometheus representatives expressed concern that such a preference be awarded only to applicants pledging to maintain *station* staff, rather than staff conducting unrelated business on behalf of the licensee.

In regard to national and local translator caps, Prometheus representatives reiterated their support for the Commission’s original order, including a 50-application cap on translator applicants along with a one-per-market cap and the market-based LPFM availability tests. However, Prometheus representatives also emphasized their support for moving the LPFM items forward quickly to ensure a speedy filing window. They noted that with appropriate safeguards, a limited increase in the per-market cap would not be as harmful to the public interest.

Prometheus representatives also explained their support for a 50 watt LPFM service to allow stations in spectrum-crowded urban areas, as well as a 250 watt service to create a more viable rural LPFM service. They asked that if the Commission does not adopt a 250 watt service at this time, the Commission express its intent to address the question more fully soon after the LPFM filing window.

When meeting with Mr. Berry, Prometheus representatives also expressed support for translator-LPFM cross-ownership, a preference point for Tribal

entities, and improved involuntary timeshare rules. Specifically, any involuntary timeshare schedule should fairly allocate more and less desirable hours each week. One way to do so would be to distribute the hours into three equal blocks: 6pm-2am, 2am-10am, and 10am-2pm. This would split up desirable “drive time” slots as well as less-desirable overnight slots among timeshare participants. This improves upon the reverse schedule (6am-2pm, 2pm-10pm, and 10pm-6am) because such a schedule leaves one participant (whose schedule starts at 10pm) with a notably worse slot than the other two.

Finally, in each meeting Prometheus representatives requested that the Commission announce a date for the LPFM filing window when releasing the LPFM order. With a date announced, LPFM advocates will be able to effectively educate press and potential LPFM applicants to mobilize and prepare for a filing window.

Respectfully Submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
Brandy Doyle  
Policy Director, Prometheus Radio  
Project

cc: Matthew Berry  
Alex Hoehn-Saric  
Erin McGrath