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December 28, 2012

Marlene H. Dortch, Secretary, Federal Communications Commission

Washington, DC 20554

RE: Petition For Reconsideration In Docket 99-25 (Low Power FM)

Dear Ms. Dortch, FCC Commissioners and Relevant FCC Staff:

Enclosed are 14 copies, and a signed original, of a Petition For Reconsideration in FCC Docket 99-25 (expansion of the Low Power FM Radio Service). A copy of this Petition is being filed electronically -- in the 99-25 Docket File of the Electronic Comment Filing Service (ECFS) portion of the FCC's Web Site at www.fcc.gov

I had planned to file this Petition before Christmas. However, I lost some time due to a medical emergency involving a loved one. I apologize for the delay this caused.

The Petitioner calls upon the FCC to reverse its "LP100s only" licensing policy in "urban core" areas of the Top 100 Arbitron Markets. To increase the otherwise minimal number of LPFM stations in these areas, LPFM licenses in these areas should be limited to stations below 50 watts. LPFM licensing, under the October 2013 filing window, should proceed as planned -- *except* in the "urban core" areas, which comprise only 1% of the land area of the United States.

This Petition is being filed by a newly formed citizens' group, LET THE CITIES IN!! The group is composed of aspiring LPFM licensees in the referenced "urban core" areas … radio listeners in the same "urban core" areas … and concerned parties everywhere.

Sincerely,

Don Schellhardt, Esquire

LET THE CITIES IN!! PETITION FOR RECONSIDERATION

FCC DOCKET 99-25

December 27, 2012

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UNITED STATES OF AMERICA

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, DC 20554

Creation Of A Low Power Radio Service) FCC Docket 99-25

PETITION FOR RECONSIDERATION BY **LET THE CITIES IN!!**

A. THE PETITIONER IS A NEWLY FORMED CITIZENS' GROUP

This Petition is being filed by a citizens' group, LET THE CITIES IN!! (LTCI) The 15 Members include aspiring LPFM licensees in "urban core" areas of the Top 100 Arbitron Markets … radio listeners in the same areas … and concerned parties everywhere.

LTCI urges the FCC to end its "LP100s only" licensing policy in "urban core" areas within 18 miles of the center of the Top 20 Arbitron Markets … 12 miles of the center of Arbitron Markets 21-50 … and 6 miles of the center of Arbitron Markets 51-100. To increase the otherwise minimal number of LPFM stations inside these areas, the Petitioner advocates limiting LPFM licenses in these "urban core" areas to stations below 50 watts.

The phrase "stations below 50 watts" is deliberately flexible, embracing "LP10s only", "LP50s only" or a variant. Most LTCI Members prefer "LP10s only" (which maximizes the number of stations), but all view any urban LPFM stations below 50 watts as an improvement.

The Petitioner also asks the FCC to allow overall LPFM licensing, under the October 2013 filing window, to proceed as planned -- except in the referenced "urban core" areas, which comprise only 1% of the land area of the United States.

Assisting the group are two professionals who have been active at the FCC for decades. Don Schellhardt, Esquire KI4PMG of Connecticut -- a Government Relations lawyer, and ciirrent President of THE AMHERST ALLIANCE -- is the group's attorney. Nick Leggett N3NL of Virginia, a technology analyst and an inventor who holds 3 patents, is the group's Technology Advisor. In `1997, these two men filed the Petition For Rulemaking, in Docket RM-9208, which triggered the FCC deliberations that led to the establishment of LPFM in 2000.

LTCI notes for the record that the attorney for the group, Don Schellhardt, apprised the Commission, back in May of 2012, that a Petition For Reconsideration would be filed unless the FCC's final rule permitted stations below 50 watts in "urban core" areas.

In May 21, 2012 personal Reply Comments (supplemented by an *Erratum* Notice of May 22, 2012), this statement was made:

"I am a lawyer. My resume is Attached.

"If the FCC does not permit LPFM stations below 50 watts in center city areas, I will file a Petition For Reconsideration. If the Petition For Reconsideration does not succeed, I will attempt to raise funds for litigation -- including an injunction [to suspend the issuance of licenses to *all* new radio stations in affected urban areas, LPFM and otherwise, until the courts have settled the challenge to the ban on LPFM stations below 50 watts]."

The same declaration of intent was made by Don Schellhardt in personal Reply Comments of May 28, 2012 and November 27, 2012. An entire section of the November 27 filing was devoted to a fairly detailed discussion of this topic: "I Will File A Petition For Reconsideration If LP50s Are Not Allowed In 'Urban Core' Areas", on pages 9 through 13.

To the best of our knowledge, neither the Commission's final rule nor the Commission's November 30 discussion addressed in any manner -- or even acknowledged -- the fact that a licensed and experienced Government Relations attorney has declared repeatedly, On The Record, that the FCC's continuation of "LP100s only" urban licensing will invite litigation.

B. ACTION IN "URBAN CORE" AREAS CANNOT WAIT UNTIL 2014

All of the nation's major LPFM advocacy groups have officially supported the licensing of stations below 50 watts in highly urban areas. However, *some* LPFM advocacy groups have so far declined to support LTCI's Petition, as a specific initiative. They report to us their *tactical* concern that reconsideration of the final rule, for virtually *any* reason, might delay implementation of the long-awaited LPFM filing window past October 2013.

:

LTCI is well aware that another newly formed citizens' group -- THE POWER BOOST COALITION (PBC), currently led by John Gutierres of Colorado (John@conexus.fm) -- has decided *not* to file a Petition For Reconsideration in its campaign for licensing of LP250 stations in rural areas and small towns. Because the group wishes to avoid any risk of disrupting the October 2013 filing window, it plans to file a Petition For Rulemaking in *2013,* asking for Commission action in *2014* that would allow selected LP100 stations to upgrade to LP250 status. Through this approach, a new round of Commission debate on LP250 stations can be delayed beyond completion of the October 2013 filing window.

However, LTCI does not believe that PBC's planned approach is a satisfactory model for bringing LP10s (and/or, perhaps, LP50s) to the very different world of highly urban areas. We have two reasons for our determination.

First, there is still much unclaimed spectrum in numerous rural locations, but *"the clock is ticking", fast, in the cities.* Most of the extra spectrum there is gone. The little spectrum that is left is likely to be completely claimed, by stations not in the LPFM Radio Service, if aspiring LPFM broadcasters have to wait until 2014 for permission to use lower wattage.

Thus, for many cities, 2013 is the last chance to establish a significant LPFM presence -- unless, of course, a decision is made in the future to allow displacement of current stations with low "social value" (such as 24/7 "satellators") by new stations with higher "social value" (such as LPFMs and translators which offer substantial local programming).

Second, LP250 licenses, even if limited to rural areas and small towns, would still be available throughout much of the country's land area. Therefore, as a practical matter, a "pause" by the Commission to reconsider LP250s would probably require suspension of the October 2013 filing window.across most or all of the country.

By contrast, *the LTCI Petition seeks only the licensing of LP10s (and/or LP50s) in the most urban 1% of the nation's Lower 48 land area.* Consequently, suspension of the October 2013 filing window will only be necessary in the most urban 1% of the nation's land area.

C. RECONSIDERATION COULD *MULTIPLY* THE NUMBER OF LPFM FREQUENCIES IN OUR LARGEST CITIES

In an earlier version of the LPFM rule, the FCC contemplated the licensing of LP250 stations (101 to 250 watts), which had been proposed for small towns and rural areas by THE AMHERST ALLIANCE of Connecticut and THE CATHOLIC RADIO ASSOCATION of South Carolina. At the same time, the FCC proposed to prohibit licensing of such stations in certain crowded geographical areas -- where a single LP250 station can block the licensing of multiple lower wattage stations.

The areas in question were the "urban cores" at and near the center of the Top 100 Arbitron Markets. These areas cover roughly 1% of the land area in the Lower 48 States.

In the final rule, however, the FCC adopted a policy of "LP100s only" in essentially *all* locations, including the referenced urban areas. The Petitioner advocates reserving new LPFM licenses in the referenced "urban core" areas -- *the most urban 1% of America* -- exclusively for stations below 50 watts. We further advocate suspending implementation of the October 2013 filing window, during action on this Petition, *only* in the referenced "urban core" areas. Since the other 99% of the Lower 48 States is unaffected by this Petition, the general filing window should proceed as planned.

Allowing new LPFM stations to become smaller, selectively, will *multiply* the number of frequencies which are available for LPFM stations in America's larger cities.

For example, an early 2012 study by Michelle Eyre (mae@recnet.com) of REC NETWORKS in Maryland (http://www.rec.net/lpfm), found that a policy shift, in Los Angeles and San Francisco alone, would lift those cities from 3 LP100 stations to 13 LP10 stations. That is: LPFM frequencies would more than *quadruple.*

On The Other Hand, the FCC's failure to modify the FCC's current "LP100s only" policy, in order to accommodate the very special circumstances in highly urban areas, means that New York City, Detroit and San Jose will have *no* new LPFM stations *at all.*

Boston and Pittsburgh are being cut to one station apiece.

Cities at the core of the Top 5 Arbitron Markets -- New York City, Los Angeles, San Francisco, Chicago and Dallas -- are held to 9 new LPFM stations between them. Meanwhile, the rest of the country will have *thousands.*

We conservatively estimate that at least 40 million Americans will be denied LPFM coverage, severely or *completely,* unless the FCC ends "LP100s only" in highly urban areas.

D. THE FCC WAS UNDER-INFORMED WHEN IT MANDATED "LP100s ONLY" IN HIGHLY URBAN AREAS

During the November 30 Commission meeting at which the LPFM final rule was adopted, Chairman Julius Genachowski made the following statement:

"These stations are fantastic things, but now only a handful of low power FM stations operate in large markets. With today's vote, *we are fully realizing the vision* of creating an opportunity to bring the diverse voices of community radio to *Americans across the country, including those in large urban areas."* (Emphasis added.)

These do not sound like the words of a man who knows that he has just voted to deny even one LPFM station to New York City, Detroit and San Jose. He seems totally unaware of the extent to which the FCC's "LP100s only" policy has *crippled* LPFM in highly urban areas.

At the same November 30 meeting, Representatives Lee Terry (R-NB) and Michael Doyle (D-PA) -- the two leading sponsors of the Local Community Radio Act (LCRA) in the U.S. House of Representatives -- were present. Commissioner Mignon Clyburn addressed the legislators with these words:

"Congressman Michael Doyle and Congressman Lee Terry -- special thanks are due to you, for none of this would have been possible without your tireless efforts. Now, your constituents in Pittsburgh and Omaha may have their voices heard, and their interests expressed …

"When this Order frees up broadcast space in 'the Steel City' and 'the Gateway to the West', I'm sure your constituents will join us in praising you."

Commissioner Clyburn has been a sincere and fervent friend of LPFM, but her statement is only halfway correct. Under the final rule, with its "LP100s only" policy for highly urban areas, Omaha will have 13 LPFM stations -- but Pittsburgh will have only one.

LTCI speculates that some confusion may have resulted from the fact that the FCC *did* provide a spectacular boost to urban LPFM in *some* areas.

Due to the FCC's decision to allow second adjacent channel spacing waivers, LPFM stations became possible in cities that would have had *no* LPFM stations otherwise. Notable examples include Seattle (with 9 stations) and Philadelphia (with 3). In addition, the waiver decision *amplified* LPFM coverage: Phoenix went from 3 LPFM stations to 11, Omaha went from 3 to 13 and Houston went from 2 to 13.

Elsewhere, however, the waivers alone were not enough to assure major penetration of a major city by LPFM stations. Without the *additional* step of authorization for stations below 50 watts, the waivers brought *some* LPFM stations -- but not enough -- to Los Angeles (2 stations), Chicago (2), San Francisco (2), Washington, D.C. (2), Boston (1), Pittsburgh (1), San Diego (1) and Denver (1). New York City, Detroit and San Jose still have no new stations.

The quoted statements suggest, strongly, that Chairman Genachowski and Commissioner Clyburn, on November 30, were well aware of the boost to urban LPFM from spacing waivers, but were *un*aware of the remaining gaps in urban LPFM coverage. That is: It appears FCC Commissioners had not been adequately briefed on the final rule which had been placed before them for a vote. As a former advisor to (and ghostwriter for) Congressional legislators, EPA decision makers, CEOs and corporate Vice Presidents, LTCI's attorney knows the signs.

In this regard, LTCI also incorporates by reference a letter sent to all 5 Commissioners by THE AMHERST ALLIANCE, and placed in Docket 99-25, on March 7. The letter corrects a flatly inaccurate public statement, concerning LP10s, that was made by a key member of the FCC staff.

We also incorporate by reference the multi-colored frequency availability map, prepared by the FCC for the Home Page of its own Web Site (www.fcc,gov) All the white space, where no frequencies are present, conveys why LTCI is so agitated by the ban on LP10s and/or LP50s.

LTCI further incorporates by reference REC NETWORKS' "My LPFM Channel Search Tool" (www.recnet,com) and the two Reply Comments filed on November 27, 2012 by THE AMHERST ALLIANCE and Don Schellhardt, respectively. The Appendices of both filings contain a study entitled "Dealing With Spectrum Scarcity In LPFM Licensing".

E. THE FCC IGNORED CLEARLY EXPRESSED LEGAL CONCERNS

At various points during the deliberations on LCRA implementation, Don Schellhardt, Nick Leggett and THE AMHERST ALLIANCE raised 3 basic legal concerns regarding the FCC's "LP100s only" policy for highly urban areas. In discussing these concerns, LTCI is extremely hindered by the FCC's 15-page limit on Petitions For Reconsideration -- but we can provide more information to the Commission as the process unfolds.

First, *contrary to the Administrative Procedure Act (APA), the FCC never permitted commenters to address its reason(s) for abandoning the planned licensing of LP10 stations.* The FCC denied commenters this right by repeatedly refusing to reveal its motivations.

In 2002, the FCC announced that it would be issuing LP10 licenses after it finished a round of licensing for LP100 stations. However, once the LP100 licensing round had been completed, the Commission never initiated the promised licensing round for LP10s. Nor did the Commission ever,.*once*, explain the reason(s) for its inaction. Despite polite but repeated requests by THE AMHERST ALLIANCE for an explanation, and the eventual submission of a Petition For Rulemaking on LP10s by Don Schellhardt and Nick Leggett in 2005, *the FCC maintained an unbroken and inexplicable wall of silence regarding LP10s.*

10 years later, when the FCC issued its proposed rule on LPFM implementation, it proposed the formal elimination of LP10s. However, it still offered absolutely *no* explanation of *why* it wanted to eliminate LP10s. It stated that no LP10s should be licensed because no LP10s had ever been licensed: a *non sequitir* which recited an effect as if it were a cause.

The Commission's unbroken silence had two effects on at least some LPFM advocates, notably including Members of THE AMHERST ALLIANCE (which has now helped to start up the LTCI organization). For one thing, the silence made us suspicious of the FCC's internal workings -- since most of us have learned that people who act like they have something to hide usually do. For another thing, the absence of an explanation has undercut our rights as commenting parties. *We could not address the Commission's concerns about LP10s because the Commission refused to tell us what those concerns were.* Nor could we effectively draw up a counterproposal to the Commission's policy -- because the Commission has never once told the general public what was *really* bothering it about LP10s.

In short: The FCC forced commenting parties, such as Amherst, into "playing a guessing game" about the Commission's *true* concerns and motivations. Does the APA really countenance requiring citizens to attempt telepathy as the basis for their Comments?

Finally, *after* its action to adopt the final rule, the Commission has explained its supposed reservations regarding LP10s. *Now*, after more than 10 years of silence, including 2 years of LCRA implementation, the Commission has revealed that its actual concerns about urban LP10s are the technical and financial viability of such stations. For this we had to wait 10 years?

Of course, "it just so happens" that the general public's 10 years of waiting led us to a point at which the general public can no longer question, discuss or debate the Commission's stated rationale during a rulemaking process. That's because the rulemaking process is over.

Ironically, then, the Commission has indirectly *compelled* THE AMHERST ALLIANCE and others to band together in LET THE CITIES IN!!

We literally *have* to file this Petition For Reconsideration because -- due to the FCC's own decisions -- formal Reconsideration is now the *only* way that the FCC's "official" case against LP10s can be debated Out In The Open, On The Record, In Front Of The Public.

Incidentally, as the next section in this Petition will attest, LTCI thinks the FCC's "technical" arguments are flimsy. They do not stand up to scrutiny. So we wonder whether the technical contentions which have finally surfaced are a "smokescreen" for something else.

We also wonder why the FCC licenses 10 watt *translator* stations in New York City.

Second, the Commission's "LP100s only" policy, when applied to highly urban areas, is directly counter to the mandate of Congress in Section 5 of the Local Community Radio Act.

LCRA Section 5 reads as follows:

"*The Federal Communications Commission, when licensing* new FM translator stations, FM booster stations, and low-power FM stations, *shall ensure that*—

"(1) *licenses are available to* FM translator stations, FM booster stations, and *low-power FM stations;*

"(2) *such decisions are made based on the needs of the local community;* and

"(3) FM translator stations, FM booster stations, and low power FM stations remain equal in status and secondary to existing and modified full-service FM stations." [Emphasis added.]

Congress may have been silent regarding *how* the FCC should reach these goals, but it was unambiguous that these goals must be reached. Yet the end result of the Commission's deliberations, in *some* of America's highly urban areas, has been abject failure to attain LPFM availability. The FCC's final rule is absolutely wonderful for at least four fifths of the country's population. However, it leaves the most urban Americans (who need LP10s) *and* the most rural Americans (who need LP250s) hanging in the wind.

On LPFM wattage, the final rule is a monument to unreasoning standardization.

As we have said, New York City -- and, apparently, many of its suburbs -- will continue to have translators, but will have *no* new LPFM stations at all. Not one. For the nation's largest city. Detroit and San Jose will not be allowed to have an LPFM station, either.

Surely this is *not* the result that Congress intended the Commission to produce!

Yet, since 2002, the FCC has had a tool -- the urban LP10 license -- which could have literally *multiplied* the number of LPFM frequencies available in our largest metropolitan areas. From 2002 until November 30, 2012, the FCC never once explained its refusal to use this tool. That is: It never explained its refusal to take a step that was clearly necessary to meet a clear Congressional mandate. Now -- *after* having rejected (without much explanation) even the less helpful alternative tool of the urban LP50 license, and *after* having waited long enough to deny commenting parties any chance to debate the FCC's case against LP10s in a rulemaking process -- the FCC has stated it has "technical" concerns about LP10s. To us, as we discuss below, the "technical" concerns seem overstated at best and manufactured at worst: far from solid enough to justify a clear disregard for a clear directive from Congress.

Third, *the FCC's long-delayed explanation for blocking LP10s is nowhere near solid enough to justify the racially disparate impact of the "LP100s only" policy.*

Let's review, once again, some of the "bottom line" consequences of the FCC's "LP100s only" policy in highly urban areas. *Zero* LPFM stations in New York City, Detroit and San Jose. (That's roughly 10 million people right there) *One* LPFM station apiece for Boston, Pittsburgh, San Diego and Denver. (That's another 3 million people, roughly) Only *two* LPFM stations apiece in Los Angeles, Chicago, San Francisco and Washington, DC. (That's about 8 million people more) So a total of 21 million Americans, in 11 cities, will have grossly restricted LPFM coverage -- or no LPFM coverage at all. Add in some underserved *suburbs* of those cities, plus similarly underserved metropolitan areas in smaller Arbitron Markets, and we estimate at least 40 million metropolitan Americans will be LPFM "have nots".

Meanwhile, the country as a whole will have *thousands* of frequencies for new LPFMs.

Because racial and ethnic minorities tend to be disproportionately concentrated in and near our cities, an LPFM licensing policy which leaves out the cities will also have a disproportionately negative impact on members of racial and ethnic minorities. Members of these groups will suffer a disproportionate adverse impact as radio listeners (*avoidably* deprived of community radio listening choices that are available elsewhere) *and also* as aspiring LPFM broadcasters (*avoidably* deprived of frequencies that LP10 licenses and/or LP50 licenses would have made available).

We doubt that this racially discriminatory outcome was intended by the Commission, but it is still a reality. This "bottom line" *result* is contrary to the FCC's *stated* goal of using LPFM to increase diversity on the airwaves -- and it is also contrary to the FCC's *stated* goal of promoting radio station ownership by members of racial and ethnic minority groups.

How is diversity being encouraged on *urban* airwaves -- and how is station ownership by members of racial and ethnic minorities being facilitated -- when an "LP100s only" policy wipes out *at least two thirds* of the urban LPFM stations that would exist under an "LP10s only" policy?

Most importantly, the FCC's current policy violates the Equal Protection Of The Laws Clause of the United States Constitution (and perhaps some individual civil rights statutes). The core principle of the Equal Protection Clause, as interpreted by the court, is that the Federal Government may not practice certain forms of discrimination -- especially *racial* discrimination -- without a good to excellent reason that justifies the disparate treatment.

Over the decades, courts have "sliced and diced" this principle in various ways. Application of the Clause has been expanded so that State and local governments, *as well as* the Federal Government, can now be held accountable for certain forms of discrimination. A hierarchy of different forms of discrimination has been established -- with racial discrimination viewed as the worst, gender discrimination viewed as the next worst and some forms of discrimination (such as discrimination based on age or developmental disabilities) viewed as less harmful, or even permissible. At the same time, courts have also established a hierarchy of consequences (with discrimination that violates "fundamental rights", such as voting or the pursuit of employment, ranked as the worst).

What the Commission has done, with its "LP100s only" policy in highly urban areas, stands near the top of the courts' discrimination scale. The policy has a *racially* discriminatory impact, on a major scale. In addition, that impact hinders the exercise of "*fundamental* rights": the right to pursue a career in radio broadcasting, which is a derivative of the "fundamental" right to pursue employment, and the right to pursue maximum media coverage of political or cultural viewpoints, which is akin to the "fundamental" right of voting).

Given a *government* action with a *racially* discriminatory impact that hinders the exercise of *fundamental* rights, case law holds that the government's action may stand only if the government can cite "a *compelling* state interest" which makes the discrimination necessary.

The FCC's disclosure of "technical" concerns may be an improvement over 10 years of providing *no* justification for the ban on urban LP10s at all, but we don't believe the late-arriving rationale is a *"compelling"* justification for racial discrimination on a massive scale. We doubt a court would find that the claimed *marginal* technical improvements in LPFM stations, whose authenticity is *vigorously questioned* by many of those who hope to operate the stations, are of more "compelling" importance than the rights of tens of millions of urban Americans.

Both Don Schellhardt and Nick Leggett acknowledge that they learned much of what they know about the Equal Protection Clause from the late Professor Clement E. Vose -- who taught Constitutional Law to both of them when they were students at Wesleyan University.

F. "TECHNICAL" CONCERNS DO NOT JUSTIFY FCC POLICY

Nickolaus E. Leggett N3NL (leggett3@gmail.com), Technology Advisor to LET THE CITIES IN!!, wrote the material set forth below. Dating back to his days as a teenager engaged in "ham" radio, Nick has operated radios in both highly urban areas and exurban communities.

"First, *it is a major error for the FCC to declare that LP10 stations are inefficient.*

"Many two-way communications services operate on the very high frequency (VHF) spectrum, near the FM broadcast band. These services use low power FM transceivers that communicate well in urban areas, despite the higher 'noise floor'. Even with output power levels below 10 watts and simple omnidirectional antennas, these transceivers communicate well over ranges up to a few miles. Even hand-held units, with whip antennas, can be quite effective.

"The low power transceivers work well due to differences between amplitude modulation (AM) and frequency modulation (FM). AM sends information by changing the strength of the carrier wave. In addition, most radio frequency (RF) 'noise' consists of spikes of RF energy (basically an AM source). FM operates by shifting the carrier frequency of the transmitter and each FM receiver has a limiter circuit which limits any pulses of energy in the received channel. As a result, FM communications are much more resistant to RF noise than AM communications.

"An urban LP10 will not deliver a perfect signal, but it will be practical for neighborhood news, announcements, local sports events and local musicians. Ask any 'pirate' broadcaster!

"To cite one example: In the days before LPFM stations were licensed, RADIO MUTINY operated as a 'pirate' radio station in Philadelphia. With 20 watts, it covered most of the city, remaining On Air for years. When the FCC finally shut it down, the 'tiny' 20 watt station had acquired the resources and the reputation to transmute itself into a nationally influential non-profit group. We know it as THE PROMETHEUS RADIO PROJECT.

"Second, *the FCC has ignored the existence of innovative ways in which the basic efficiency of LP10s can be improved.*

"You can use a directional transmitting antenna. For example: A Yagi antenna, which is similar in size to a TV antenna, can be used to transmit an LP10's signal to a densely populated neighborhood and/or used to improve the *reception* of an LP10's signal at individual residences.

"As another innovation, several LP10s can be 'dense packed' on the same channel in a neighborhood. Each receiver's 'capture effect' selects the strongest station for each listener.

"Third, *the FCC has grossly overestimated the level of fund raising needed to sustain an LP10 station financially.*

"The FCC apparently assumes that LP10 operations, as an economic activity, are essentially a scale model of National Public Radio operations. However, with reasonable technical regulations, an LP10 broadcast station can be a compact desktop machine that is readily affordable for a neighborhood organization. A well-designed LP10 station should cost less than $1,000 to purchase and almost nothing to operate. Also, a base level of community subsidies may be offered, on top of donations, and/or station operators may self-subsidize.

"You can find Part 15 stations which have operated at a fraction of a single watt, on a Band that is less friendly to signal quality than FM, but remained On Air for decades.

"Finally, *if LPFM stations are viable at 10 watts, they are viable at 50 watts also."*

G. CONCLUSIONS

For the reasons set forth herein, the Petitioner urges the FCC to revisit the LPFM final rule for the purposes we have indicated, in the manner we have indicated.

Respectfully submitted,

Don Schellhardt, Esquire KI4PMG

Attorney For **LET THE CITIES IN!!**

Co-Petitioner, RM-9208

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