



Corporation
for Public
Broadcasting

September 22, 2016

Gregory P. LaPorta
President
Las Vegas Public Radio Inc.
P.O. Box 34313
Las Vegas, NV 89133-4313

Dear Mr. LaPorta:

On September 14, Representative Joe Heck requested that we respond directly to you regarding your inquiry as to why “the Corporation for Public Broadcasting never updated its [sic] framework to suspend public funding in 2011 to exiting [sic] stations that were financially sound when the Local Community Radio Act was signed into federal law so LPFM stations would be the primary grantees.” We are pleased to provide you with information regarding the Local Community Radio Act of 2010 and further elaborate on the Corporation for Public Broadcasting’s (“CPB”) Community Service Grant (“CSG”) policy.

The Local Community Radio Act of 2010 provided the Federal Communications Commission (“FCC”) more flexibility in assigning channels to Low Power FM (“LPFM”) stations, thereby increasing the number of low power radio stations on the airwaves. The Act further provided LPFM and full service FM stations steps to “ensure effective remediation of broadcast interference.” The Act does not modify or impact the provisions of the Public Broadcasting Act of 1967, nor does it establish funding policy for LPFM stations.

More broadly to your concerns about how CPB funds public radio stations, CPB sets Community Service Grant policy pursuant to the Public Broadcasting Act through a formal process of consultations with the public radio system. The aim of the consultative process is to develop a funding policy structure that will support a broad and diverse system of radio stations. The CSG program has numerous criteria stations must meet in order to be accepted into the program and maintain their annual eligibility to receive a grant. Three primary criteria are: Non-federal Financial Support (“NFFS”) (financial sustainability), Audience Service Criteria (“ASC”) (level of community service/value to the community); and staffing (adequate resourcing). These criteria help CPB distribute its limited grant dollars to stations whose communities show listening and financial support for them.

NFFS is a key principle in the national-local funding partnership envisioned in the legislation establishing CPB funding. NFFS is also a practical measurement of a station’s value in its community and a critical component of diverse funding necessary for long-term viability. The minimum level of NFFS required for CSG-eligible stations is \$300,000. However, the NFFS requirement is reduced to \$100,000 for minority audience service stations operating in rural

communities or stations with predominantly minority audiences (75% or greater). CPB's analysis shows that KIOF-LP did not meet this criteria.

In addition to NFFS, stations must also meet specific audience service criteria in order to qualify for CPB support. The ASC goals are based on peer performance, meaning that stations are measured against other stations with similar formats and coverage area populations. Under the peer performance review, a station must meet either a community financial support goal or a listening goal. Specifically, a station has to raise a certain amount of direct revenue from its community through membership, underwriting, foundations and the like relative to the population covered by its signal or it must have a certain level of measurable listening relative to the population covered by its signal. CPB's analysis shows that KIOF-LP did not meet the Audience Service Criteria.

Finally, in KIOF-LP's application, it characterized itself as a Sole Service station to gain admittance into the CSG program. Sole Service stations are defined as stations that operate the only primary broadcast service (radio or television, commercial or non-commercial) within a 50-mile radius from the station's transmitter. Our review found that KIOF-LP does not operate the only primary broadcast service within a 50-mile radius from the station's transmitter, and therefore, it does not meet the Sole Service designation.

KIOF-LP is welcome to re-apply to the CSG program during a future open enrollment period when it believes it meets all program requirements.¹ Open enrollment periods are generally held each spring. We would be happy to further discuss any of the CSG program's requirements with you as the station works towards eligibility.

Thank you for your interest in public broadcasting. You may contact me at 202-879-9646 or at ABrachman@cpb.org if you have any additional questions.

Sincerely,



Anne Brachman
Vice President, Government Affairs
Corporation for Public Broadcasting

Enclosure: The Local Community Radio Act of 2010

¹ The station also did not meet the Full-Time Employee requirements.

One Hundred Eleventh Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Tuesday,
the fifth day of January, two thousand and ten*

An Act

To implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Local Community Radio Act of 2010”.

SEC. 2. AMENDMENT.

Section 632 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 (Public Law 106-553; 114 Stat. 2762A-111), is amended to read as follows:

“SEC. 632. (a) The Federal Communications Commission shall modify the rules authorizing the operation of low-power FM radio stations, as proposed in MM Docket No. 99-25, to—

“(1) prescribe protection for co-channels and first- and second-adjacent channels; and

“(2) prohibit any applicant from obtaining a low-power FM license if the applicant has engaged in any manner in the unlicensed operation of any station in violation of section 301 of the Communications Act of 1934 (47 U.S.C. 301).

“(b) Any license that was issued by the Federal Communications Commission to a low-power FM station prior to April 2, 2001, and that does not comply with the modifications adopted by the Commission in MM Docket No. 99-25 on April 2, 2001, shall remain invalid.”

SEC. 3. MINIMUM DISTANCE SEPARATION REQUIREMENTS.

(a) IN GENERAL.—The Federal Communications Commission shall modify its rules to eliminate third-adjacent minimum distance separation requirements between—

(1) low-power FM stations; and

(2) full-service FM stations, FM translator stations, and FM booster stations.

(b) RESTRICTION.—

(1) IN GENERAL.—The Federal Communications Commission shall not amend its rules to reduce the minimum co-channel and first- and second-adjacent channel distance separation requirements in effect on the date of enactment of this Act between—

(A) low-power FM stations; and

(B) full-service FM stations.

(2) WAIVER.—

(A) IN GENERAL.—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 predicting 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.

(B) REQUIREMENTS.—

(i) SUSPENSION.—Any low-power FM station that receives a waiver under subparagraph (A) shall be required to suspend operation immediately upon notification by the Federal Communications Commission that it is causing interference to the reception of an existing or modified full-service FM station without regard to the location of the station receiving interference.

(ii) ELIMINATION OF INTERFERENCE.—A low-power FM station described in clause (i) shall not resume operation until such interference has been eliminated or it can demonstrate to the Federal Communications Commission that the interference was not due to emissions from the low-power FM station, except that such station may make short test transmissions during the period of suspended operation to check the efficacy of remedial measures.

(iii) NOTIFICATION.—Upon receipt of a complaint of interference from a low-power FM station operating pursuant to a waiver authorized under subparagraph (A), the Federal Communications Commission shall notify the identified low-power FM station by telephone or other electronic communication within 1 business day.

SEC. 4. PROTECTION OF RADIO READING SERVICES.

The Federal Communications Commission shall comply with its existing minimum distance separation requirements for full-service FM stations, FM translator stations, and FM booster stations that broadcast radio reading services via an analog subcarrier frequency to avoid potential interference by low-power FM stations.

SEC. 5. ENSURING AVAILABILITY OF SPECTRUM FOR LOW-POWER FM STATIONS.

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.

SEC. 6. PROTECTION OF TRANSLATOR INPUT SIGNALS.

The Federal Communications Commission shall modify its rules to address the potential for predicted interference to FM translator

input signals on third-adjacent channels set forth in section 2.7 of the technical report entitled “Experimental Measurements of the Third-Adjacent Channel Impacts of Low-Power FM Stations, Volume One—Final Report (May 2003)”.

SEC. 7. ENSURING EFFECTIVE REMEDIATION OF INTERFERENCE.

The Federal Communications Commission shall modify the interference complaint process described in section 73.810 of its rules (47 CFR 73.810) as follows:

(1) With respect to those low-power FM stations licensed at locations that do not satisfy third-adjacent channel spacing requirements under section 73.807 of the Commission’s rules (47 CFR 73.807), the Federal Communications Commission shall provide the same interference protections that FM translator stations and FM booster stations are required to provide as set forth in section 74.1203 of its rules (47 CFR 74.1203) as in effect on the date of enactment of this Act.

(2) For a period of 1 year after a new low-power FM station is constructed on a third-adjacent channel, such low-power FM station shall be required to broadcast periodic announcements that alert listeners that interference that they may be experiencing could be the result of the operation of such low-power FM station on a third-adjacent channel and shall instruct affected listeners to contact such low-power FM station to report any interference. The Federal Communications Commission shall require all newly constructed low-power FM stations on third-adjacent channels to—

(A) notify the Federal Communications Commission and all affected stations on third-adjacent channels of an interference complaint by electronic communication within 48 hours after the receipt of such complaint; and

(B) cooperate in addressing any such interference.

(3) Low-power FM stations on third-adjacent channels shall be required to address complaints of interference within the protected contour of an affected station and shall be encouraged to address all other interference complaints, including complaints to the Federal Communications Commission based on interference to a full-service FM station, an FM translator station, or an FM booster station by the transmitter site of a low-power FM station on a third-adjacent channel at any distance from the full-service FM station, FM translator station, or FM booster station. The Federal Communications Commission shall provide notice to the licensee of a low-power FM station of the existence of such interference within 7 calendar days of the receipt of a complaint from a listener or another station.

(4) To the extent possible, the Federal Communications Commission shall grant low-power FM stations on third-adjacent channels the technical flexibility to remediate interference through the colocation of the transmission facilities of the low-power FM station and any stations on third-adjacent channels.

(5) The Federal Communications Commission shall—

(A) permit the submission of informal evidence of interference, including any engineering analysis that an affected station may commission;

(B) accept complaints based on interference to a full-service FM station, FM translator station, or FM booster

station by the transmitter site of a low-power FM station on a third-adjacent channel at any distance from the full-service FM station, FM translator station, or FM booster station; and

(C) accept complaints of interference to mobile reception.

(6) The Federal Communications Commission shall for full-service FM stations that are licensed in significantly populated States with more than 3,000,000 population and a population density greater than 1,000 people per one square mile land area, require all low-power FM stations licensed after the date of enactment of this Act and located on third-adjacent, second-adjacent, first-adjacent, or co-channels to such full-service FM stations, to provide the same interference remediation requirements to complaints of interference, without regard to whether such complaints of interference occur within or outside of the protected contour of such stations, under the same interference complaint and remediation procedures that FM translator stations and FM booster stations are required to provide to full-service stations as set forth in section 74.1203 of its rules (47 CFR 74.1203) as in effect on the date of enactment of this Act. Notwithstanding the provisions of section 74.1203, no interference that arises outside the relevant distance for the full-service station class specified in the first column titled “required” for “Co-channel minimum separation (km)” in the table listed in section 73.807(a)(1) of the Commission’s rules (47 CFR 73.807(a)(1)) shall require remediation.

SEC. 8. FCC STUDY ON IMPACT OF LOW-POWER FM STATIONS ON FULL-SERVICE COMMERCIAL FM STATIONS.

(a) **IN GENERAL.**—The Federal Communications Commission shall conduct an economic study on the impact that low-power FM stations will have on full-service commercial FM stations.

(b) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Federal Communications Commission shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives on the study conducted under subsection (a).

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(c) LICENSING NOT AFFECTED BY STUDY.—Nothing in this section shall affect the licensing of new low-power FM stations as otherwise permitted under this Act.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*