

DRAFT

UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

Notice Of Inquiry)
On Broadcast Localism) **FCC Docket 04-223**
Localism Task Force) **FCC Docket RM-10803**

**MOTION OF THE AMHERST ALLIANCE,
THE LPAM TEAM, MICHIGAN MUSIC IS WORLD CLASS!,
JAMRAG MAGAZINE, TUNETRACKER SYSTEMS, WSJL-AM,
[INSERT OTHERS]
FOR IMMEDIATE DOCKETING OF
THE BAUMGARTNER PETITION
TO ESTABLISH A LOW POWER AM RADIO SERVICE**

THE AMHERST ALLIANCE is a Net-based, nationwide citizens' advocacy group for Low Power Radio in particular and media reform in general. [INSERT Material Describing The Other Signatory Parties]

THE AMHERST ALLIANCE, and the other undersigned parties, thank the Federal Communications Commission for initiating its ongoing Localism Task Force proceedings in FCC Docket RM-10803. Amherst and others have actively participated in that Docket.

We also thank the FCC for initiating, in FCC Docket 04-233, a Notice Of Inquiry (NOI) on ways to promote broadcast localism.

In particular, we commend the FCC for explicitly soliciting public comments, in FCC Docket 04-223, on translator reform. This is a matter of profound importance to the Low Power Radio community and the owners and/or operators of truly local translators.

Currently, members of both community-focused groups are forced to compete on an equal footing with satellite-fed translators (aka "satellators") and other long distance translators which undercut, rather than advance, the cause of broadcast localism.

We also thank the FCC for making an open-ended solicitation of public comments on "other issues" which affect Low Power Radio and/or other forms of community-focused broadcasting.

This certainly makes it in order for commenting parties to address, in this Docket, options such as the following:

Assigning Primary Service Status to all Low Power FM stations, including LP10 stations
Assigning Primary Service Status for all Class D educational stations
Establishing a new Low Power *AM* Radio Service

And

Implementing "damage mitigation measures" to protect existing stations from disruptive interference caused by iBiquity's In Band On Channel (IBOC) Digital Radio technology

Having said this, we add that we are in strong agreement with each of the statements made by FCC Commissioners Jonathan Adelstein and Michael Copps when this NOI was issued. Each Commissioner expresses the view, in a separately authored statement, that *some* of the issues addressed in this NOI should have been the subject of a proposed rule instead. On some issues, they rightly contend, time should not be spent on further, largely redundant investigation -- while some adversely affected parties desperately require Commission *action* to provide relief.

One such issue is the establishment of a new, Low Power *AM* Radio Service.

Existence Of A 2003 Petition For Rulemaking To Establish A Low Power *AM* Radio Service

The FCC has already received -- more than a year ago -- a detailed proposal for establishing a Low Power AM Radio Service. This detailed proposal is found in a Petition For Rulemaking filed by FREDERICK M. BAUMGARTNER, C.P.B.E. of Colorado. The Baumgartner Petition, dated "June 2003", was filed with the FCC's Office of the Secretary. However, the Petition has not been Docketed, nor even placed in one of the FCC's electronic "holding tanks" (PRM03ET or PRM03MB).

On October 22, 2004, having seen no visible response from the FCC's Office of the Secretary, Frederick Baumgartner, joined by NICKOLAUS E. LEGGETT N3NL of Virginia, placed the Baumgartner Petition For Rulemaking into the record of the FCC's Localism Task Force (in FCC Docket RM-10803).

Thereafter, the Baumgartner Petition became the subject of numerous public comments in FCC Docket RM-10803.

Particularly noteworthy were the December 5, 2003 Written Comments filed by THE LOW POWER AM TEAM, under the leadership of KYLE DRAKE of Minnesota. This group, an independent affiliate of THE AMHERST ALLIANCE, reflected the views of aspiring LPAM broadcasters across the nation, both inside and outside of Amherst.

As a result, in its Written Comments, THE LOW POWER AM TEAM was able to propose several detailed modifications of the Baumgartner Petition, collectively constituting a consensus of most aspiring LPAM broadcasters in the country.

In addition, MICHIGAN MUSIC IS WORLD CLASS! (MMWC) of metropolitan Detroit and COMMONWEALTH BROADBAND COALITION of metropolitan Boston filed important statements in this Docket, on December 22, 2003 and January 20, 2004, respectively. The former filing included a specialized report on frequency availability in metropolitan Detroit, prepared for MMWC by REC NETWORKS of metropolitan Phoenix. REC also filed its own independent Written Comments, addressing LPAM and numerous other issues, on December 16, 2003. Collectively, these filings indicate that, in some major metropolitan areas, second adjacent channel spacing of Low Power FM stations will open few new frequencies, if any, for Low Power Radio stations.

LPFM channel spacing reform -- as endorsed by the FCC and proposed in S. 2505, the bill introduced by Senate Commerce Committee Chairman John McCain, R-AZ, and Senator Patrick Leahy, D-VT -- is *necessary*, but not *sufficient*, to establish a meaningful presence for *urban* Low Power Radio. In some urban areas, including metropolitan Detroit and metropolitan Boston, LPFM channel spacing reform may open up *no* additional frequencies -- and even Low Power AM may open up only a few.

Thus, in some urban areas, *both* forms of Low Power Radio are needed to place even *one or two* Low Power Radio stations on the dial. In other urban areas, with slightly less congested spectrum, LPFM channel spacing reform might bring could 2 or 3 Low Power Radio stations, at best, while *adding* LPAM to it could boost the total to 5, 10 or more.

Therefore:

In light of the proposals and evidence which have already addressed the Baumgartner Petition in FCC Docket RM-10803, we see no reason why the FCC should wait for the conclusion of Dockets RM-10803 and 04-223 before it solicits input on a proposed rule to establish a Low Power AM Radio Service.

THE MOTION ITSELF

The undersigned parties move that the Federal Communications Commission, while continuing toward completion of its deliberations in FCC Docket 04-223 and FCC Docket RM-10803:

(1) Simultaneously Docket as a proposed rulemaking the provisions of the Petition For Rulemaking by FRED BAUMGARTNER, C.P.B.E., to establish a Low Power AM Radio Service;

As modified by

(2) The recommendations of THE LPAM TEAM, as set forth in its Written Comments in FCC Docket RM-10803.

Conclusions

For the reasons set forth herein, we urge the Commission to act expeditiously to grant the Motion we have submitted today.

Respectfully submitted,

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[INSERT The Names Of Other Signatories]

Dated: _____
July 14, 2004