

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Digital Audio Broadcasting Systems	)	MM Docket No. 99-325
And Their Impact On the Terrestrial Radio	)	
Broadcast Service	)	
	)	

**COMMENTS OF  
THE NATIONAL ASSOCIATION OF BROADCASTERS**

The National Association of Broadcasters (NAB)<sup>1</sup> hereby submits comments in the above-referenced docket to make the following points in opposition to various filings<sup>2</sup> objecting to the Media Bureau's authorization of higher digital power levels for FM stations.<sup>3</sup>

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<sup>1</sup> NAB is a nonprofit trade association that advocates on behalf of local radio and television stations and also broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

<sup>2</sup> Application for Review of Jonathan E. Hardis, MM Docket No. 99-325 (filed April 8, 2010) ("Hardis Application for Review"); Application for Review of Prometheus Radio Project, MM Docket No. 99-325 (filed May 10, 2010) ("Prometheus Application for Review"); Application for Review and Request for Stay of Press Communications, MM Docket No. 99-325 (filed May 10, 2010) ("Press Application for Review"); Petition for Reconsideration of Mullaney Engineering, Inc., MM Docket No. 99-325 (filed May 10, 2010) ("Mullaney Petition"); Petition for Reconsideration of Peter and John Radio Fellowship, Inc., MM Docket No. 99-325 (filed May 10, 2010) ("Peter and John Petition") (collectively, "Applications and Petitions"; "various filings").

First, contrary to the contentions contained in the Applications and Petitions, the Media Bureau appropriately concluded, on the basis of a well-developed and lengthy record,<sup>4</sup> that authorization of increased digital power for FM broadcasters of 6 dB and, in certain circumstances, of up to 10 dB was justified and important to the continued implementation of digital radio. Rather than not adequately considering the objections of applicants and petitioners as they claim, the Bureau, based on the record before it, simply disagreed with the objectors' arguments. For example, the Bureau did not ignore the question of interference to analog reception from a boost in digital power. This issue was central to the question at hand. The Bureau addressed this concern and decided, on the basis of the record as a whole, including many complaint-free higher power experimental operations, that an increase in digital power was appropriate for all FM stations except super-powered FM stations.<sup>5</sup> It specifically stated that "[w]e are convinced . . . that the record establishes that the digital

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<sup>3</sup> *In the Matter of Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service, Order*, MM Docket No. 99-325, 25 FCC Rcd. 1182 (2010) (Media Bureau) ("*Order*").

<sup>4</sup> For a description of the public record here, See *Opposition of National Public Radio to Application for Review*, MM Docket No. 99-325 (filed April 23, 2010) at 7 ("*NPR Opposition*").

<sup>5</sup> *Order* at 14-15, 23, fn. 38. The Bureau pointedly disagreed with one applicant that further testing is necessary. *Id.* at fn. 38.

power limits set forth in this order will provide the necessary protection to analog FM stations.”<sup>6</sup>

Second, the Media Bureau was under no obligation to seek specific comment on the final NPR Study,<sup>7</sup> which was completed and posted in the docket some two and a half months before the *Order* was released. In fact, several parties commented on the NPR Study, and these comments were also publicly available in the docket. The record reflects a lively debate on this subject. The Bureau was entitled to consider that study in its decision making, as well as the subsequent filing in the public record by NPR and iBiquity, without specifically seeking additional comment.<sup>8</sup>

Third, the specific, limited action taken by the Bureau here was not dependent on resolution of other issues raised in earlier, pending petitions for reconsideration of the *Second Report and Order* that established certain service and operational rules for interim digital radio operations.<sup>9</sup> Those earlier petitions

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<sup>6</sup> *Id.* at 23. The *Order*, moreover, established interference remediation procedures to address quickly any instances of interference that might occur. *Id.* at 24-30. See also, *id.* at 21-22, for an extensive discussion and rejection of extending interference protection rights to secondary services from digital power operations.

<sup>7</sup> NPR Labs Advanced IBOC Coverage and Compatibility Study, MM Docket No. 99-325 (filed November 4, 2009) (“final NPR Study”).

<sup>8</sup> See NPR Opposition, *supra*, at 8-9. NPR argues that further notice and comment was and is not warranted to justify a more modest digital power increase than originally proposed and supported by most of the interested parties and the record.

<sup>9</sup> *In the Matter of Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service, Second Report and Order, First Order on*

for reconsideration concerning the specifics of that report and order are simply not relevant to the limited action the Bureau has taken here.<sup>10</sup>

For these reasons, the applications and petitions filed here with regard to the Media Bureau's *Order* are insufficient to warrant reconsideration or modification of the Bureau's authorization of a power increase for FM digital radio, much less justify an abrupt delay in the continued implementation of digital radio, as several of the filings request.<sup>11</sup>

NAB submits that the Bureau's action on the power increase request was appropriate, justified by a well-developed record and important to the continued implementation and success of digital radio. We respectfully request that objections to the contrary be dismissed.

Respectfully submitted,



**NATIONAL ASSOCIATION OF  
BROADCASTERS**

Jane E. Mago  
Jerianne Timmerman  
Valerie Schulte  
1771 N Street, NW  
Washington, DC 20036

May 25, 2010

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*Reconsideration and Second Further Notice of Proposed Rulemaking, 22 FCC Rcd 10344 (2007) ("Second Report and Order").*

<sup>10</sup> See NPR Opposition at 10-11. See erroneous claims to the contrary in Hardis Application for Review, *supra*, at 21-25 and Prometheus Application for Review, *supra*, at 8.

<sup>11</sup> See Hardis Application for Review, *supra*, at i, 2, 25; Prometheus Application for Review, *supra* at i, 1, 13; Press Application for Review, *supra*, at 2, 18. See *also*, NPR Opposition, *supra*, at 12, arguing against disrupting the digital radio transition.

## CERTIFICATE OF SERVICE

I, Patricia Jones, hereby certify that a copy of the foregoing Comments of the National Association of Broadcasters, was sent this 25<sup>th</sup> day of May, 2010 by first class mail, postage prepaid to the following:

Jonathan E. Hardis  
356 Chestertown Street  
Gaithersburg, MD 20878-5724

Alan W. Jurison  
545 Grant Boulevard  
Syracuse, NY 13203

James P. Riley  
Daniel A Kirkpatrick  
Peter & John Radio Fellowship, Inc.  
Fletcher, Heald & Hildreth, PLC  
1300 North 17<sup>th</sup> Street  
11<sup>th</sup> Floor  
Arlington, VA 22209

Parul P. Desai  
Media Access Project  
1625 K Street, N.W.  
Suite 1000  
Washington, DC 20006

*Prometheus Radio Project  
National Federation of Community  
Broadcasters  
New America Foundation*

Robert A. Mazer  
Vinson & Elkins LLP  
1455 Pennsylvania Avenue, N.W  
Suite 600  
Washington, DC 20004-1008

*Counsel for iBiquity Corporation*

Steven A. Lerman  
Leventhal Senter & Lerman, PLLC  
2000 K Street, N.W.  
Suite 600  
Washington, DC 20006

*Counsel for American Public Media  
Backyard Broadcasting, LLC  
Beasley Broadcast Group, Inc.  
Bonneville International Corp.  
Black Crow Media Group, LLC  
Emmis Communications Corporation  
Entercom Communications Corp.  
Harris Corporation  
Journal Broadcast Corporation  
Broadcast Electronics, Inc.  
Commonwealth Broadcasting Corp.  
Continental Electronics Corp  
Cox Radio, Inc  
Lincoln Financial Media Company  
Nassau Broadcasting Partners, LP  
Nautel Maine, Inc.  
NRG Media, Inc.  
Sacred Heart University, Inc.  
CBS Radio, Inc.  
Greater Media, Inc.  
Commonwealth Broadcasting Corp.*

Jeff Littlejohn  
Clear Channel Communications, Inc.  
8044 Montgomery Road  
Suite 650  
Cincinnati, OH 45236

Educational Information Corporation  
c/o Deborah S. Proctor  
P.O. Box 828  
Wake Forest, NC 27588-0828

Donald G. Everist  
Cohen, Dippell and Everist, P.C.  
1300 L Street, N.W.  
Suite 1100  
Washington, DC 20005-4183

Marshfield Broadcasting Company, Inc.  
130 Enterprise Drive  
Marshfield, MA 02050

Michael Couzens  
Michael Couzens Law Office  
P.O. Box 3642  
Oakland, CA 94609

*Counsel for Nevada City Community  
Broadcast Group, Inc.*

Jeffrey D. Southmayd  
Southmayd & Miller  
4 Ocean Ridge Boulevard South  
Palm Coast, FL 32137

*Counsel for Augusta Radio Fellowship  
Institute, Inc.*

Jeffrey D. Southmayd  
Southmayd & Miller  
4 Ocean Ridge Boulevard South  
Palm Coast, FL 32137

*Counsel for Houston Christian  
Broadcasters, Inc.*

Paul Dean Ford, P.E.  
18889 North 2350<sup>th</sup> Street  
Dennison, IL 62426-2523

John Wells King  
Garvey Schubert Barer  
1000 Potomac Street, N.W.  
Fifth Floor  
Washington, DC 20007

*Counsel for Rhode Island Public Radio*

David Noble  
International Association of Audio  
Information Services  
2323 W. 14<sup>th</sup> Street  
Tempe, AZ 85281

Communications Center of Minnesota  
State  
Services for the Blind  
2200 University Avenue West  
Suite 240  
St. Paul, MN 55114

John Joseph McVeigh  
J.J. McVeigh, Attorney at Law  
16230 Fall Road  
P.O. Box 128  
Butler, MD 21023-0128

*Counsel for Talley Broadcasting  
Corporation*

Association of Public Radio  
Engineers, Inc.  
c/o Dan Mansergh  
KQED Public Radio  
2601 Mariposa Street  
San Francisco, CA 94110

George R. Borsai, Jr.  
Borsari & Paxson  
4000 Albemarle Street, N.W.  
Suite 100  
Washington, DC 20016

*Counsel for National Translator  
Association*

Peter Tannenwald  
Fletcher, Heald & Hildreth, PLC  
1300 N. 17<sup>th</sup> Street, 11<sup>th</sup> Floor  
Arlington, VA 22209-3801

*Counsel for Brown Broadcasting  
Service, Inc.*

Mark D. Humphrey  
P.O. Box 307  
Exton, PA 19341

The Livingston Radio, Co.  
(WHMI-FM)  
P.O. Box 935  
Howell, MI 48844-0935

David D. Oxenford  
Davis Wright Tremaine LLP  
1919 Pennsylvania Avenue, N.W.  
Suite 200  
Washington, DC 20006-3402

*Counsel for Educational Media  
Foundation*

John J. Mullaney  
Mullaney Engineering, Inc.  
9049 Shady Grove Court  
Gaithersburg, MD 20877

Charles Keiler  
6711 NW 26 Way  
Fort Lauderdale, FL 33309

Mitzi T. Gramling  
Minnesota Public Radio  
480 Cedar Street  
Saint Paul, MN 55101

Jeffrey D. Southmayd  
Southmayd & Miller  
4 Ocean Ridge Boulevard South  
Palm Coast, FL 32137

*Counsel for the Moody Bible Institute  
Of Chicago*

Jamie Hedlund  
Consumer Electronics Association  
1919 South Eads Street  
Arlington, VA 22202

Stephen Shultis  
WNYC Radio  
160 Varick Street  
New York, NY 10013

BMW of North America  
P.O. Box 1227  
Westwood, NJ 07675-1227

Robert B. Jacobi  
Cohn and Marks, LLP  
1920 N Street, N.W.  
Suite 300  
Washington, DC 20036

*Counsel for Mt. Wilson FM  
Broadcasters, Inc.*

Ford Motor Company  
20300 Rotunda Drive  
Building 5, Room 2G055  
Dearborn, MI 48124-3900

Paul S. Lotsof  
Box 18899  
Tucson, AZ 85731

Executive Director  
WDIY-FM Radio  
Lehigh Valley Community Broadcasters  
Association (WDIY-FM)  
301 Broadway  
Bethlehem, PA 18015

Julian H. Booker  
Delmarva Broadcasting Company  
P.O. Box 7492  
Wilmington, DE 19803

Edgar C. Reihl, P.E.  
1715 Illinois Road  
Northbrook, IL 60062

Leigh Robartes  
124 S. Polk Street  
Moscow, ID 83843

Gammon & Grange, PC  
8280 Greensboro Drive  
7<sup>th</sup> Floor  
McLean, VA 22102-3807

*Counsel for Radio Training Network, Inc.*

Hampton Roads Educational  
Telecommunication Association, Inc.  
5200 Hampton Boulevard  
Norfolk, VA 23508

Brian Kirby  
2222 Wellington Ct  
Lisle, IL 60532

Robert M Fiocchi  
303 W. Prospect Street  
Rhineelander, WI 54501

Jeff Johnson  
301 Landrum  
Northern Kentucky University  
Highland Heights, KY 41099

Bernard Wise  
1306 River Street  
Valatie, NY 12184

Ralph J. Carlson  
Carlson Communications, International  
P.O. Box 57760  
Salt Lake City UT 84157

Brian J. Henry  
1414 Hill Avenue  
Napa, CA 94559-1528

WOLF Radio, Inc.  
401 W. Kirkpatrick Street  
Syracuse, NY 13204

Douglas L. Vernier  
V-Soft Communications, LLC  
721 W. First Street  
Suite A  
Cedar Falls, IA 50613

John W. Haralson  
420 S. Marion Parkway, No. 1401  
Denver, CO 80209-2549

William Cordell  
866 N. Wilcrest  
Houston, TX 77079

Cary S. Tepper, PC  
Booth, Freret Implay & Tepper, PC  
7900 Wisconsin Avenue  
Suite 304  
Bethesda, MD 20814-3628

*Counsel for Seton Hall University  
(WSOU-FM)*

Clayton Roberts  
Mars Hill Broadcasting Co., Inc.  
4044 Makyes Road  
Syracuse, NY 13215

Barry D. McLarnon  
2696 Regina Street  
Ottawa, ON, Canada K2B 6Y1  
Ottawa, DC 00000

H. Donald Messer  
6425 31 Place, NW  
Washington, DC 20015

Aaron Read  
300 Pulteney Street  
Geneva, NY 14424-2482

Tim Houser  
10908 N. Thornydale Road  
Tucson, AZ 85742

Robert D. Young, Jr.  
33 S. Main Street, Apt. 2B  
Millbury, MA 01527-3170

Ann Lynch  
5624 Wood Street  
Port Orange, FL 32127

Chris Kantack  
1353 Sudden Valley  
Bellingham, WA 98229

Brian Gregory  
10035 Kendale Road  
Potomac, MD 20854

Brian Gregory  
7448 Cinnabar Terrace  
Gaithersburg, MD 20879

Sid Shumate  
Givens & Bell, Inc.  
1897 Ridge Road  
Haymarket, VA 20169

Robert R. Hawkins  
6623 W. State Road 252  
Edinburgh, IN 46124

Broadcaster Traffic Consortium, LLC  
2000 K Street, NW  
Suite 600  
Washington, DC 20006-1809

David Burnett  
Good Shepherd Radio Incorporated  
825 Washington Street  
Columbus, TN 47201

Michael Gehring  
1974 Sherman Drive  
Columbus, OH 47203

James S. Bumpous  
Yellow Dog Radio  
Big Bend Broadcasting  
306 West Broadway  
Silver City, NM 88061

WFCR, Amherst  
131 County Circle  
University of Massachusetts  
Amherst, MA 01003-9257

Robert E. McAllan  
Press Communications, LLC  
1329 Campus Parkway  
Neptune, NJ 07753

Edward Czelada  
3302 N. Van Dyke Road  
Imlay City, MI 48444

James Davis  
4325 62<sup>nd</sup> Court  
Vero Beach, FL 32967

Leroy C. Granlund  
7455 Ridgeview Lane  
Penryn, CA 95663-9537

James M. Wilhelm  
10 Matthew Drive  
Fairmont, WV 26554

V-Soft Communications, LLC  
401 Main Street  
Suite 213  
Cedar Falls, IA 50613

Peter Tannenwald  
Fletcher, Heald & Hildreth, PLC  
1300 N. 17<sup>th</sup> Street  
11<sup>th</sup> Floor  
Arlington, VA 22209-3801

*Counsel for American University  
(WAMU)*

John Joseph McVeigh  
J.J. McVeigh, Attorney at Law  
16230 Falls Road  
P.O. Box 128  
Butler, MD 21023-0128

*Counsel for Klein Broadcast  
Engineering, LLC*

Jeffrey Freeland Nelson  
American Public Media Group  
480 Cedar Street  
Saint Paul, MN 55101

Cavell, Mertz & Associates, Inc.  
7839 Ashton Avenue  
Manassas, VA 20109

Tom Godell  
WUKY Public Radio  
340 McVey Hall  
University of Kentucky  
Lexington, KY 40506-0045

Barry A. Friedman  
Thompson Hine LLP  
1920 M Street, NW  
Suite 800  
Washington, DC 20036

*Counsel for Entravision Holdings, LLC*

University Station Alliance (Craig Beeby)  
1017 W. Brooke Hollow Ct  
Stillwater, OK 74075

James W. Anderson  
253 North 500 West  
Provo, UT 84601-2689

Public Radio Regional Organizations  
c/o KPLU, Pacific Lutheran University  
Takoma, WA 98447

Steven A. Lerman  
Lerman Senter PLLC  
2000 K Street, NW  
Suite 600  
Washington, DC 20006-1809

*Counsel for Charles River Broadcasting  
Company, a subsidiary of Greater  
Media Inc. (WKLB-FM)*

Wisconsin Public Radio  
821 University Avenue  
Madison, WI 53706  
Attn: Steve Johnston

Henry Ruhwiedel  
5317 W 133<sup>rd</sup> Avenue  
Crown Point, IN 46307

Delmarva Broadcasting Company  
P.O. Box 7492  
Wilmington, DE 19803

Cary S. Tepper  
Booth Freret Imlay & Tepper, PC  
7900 Wisconsin Avenue  
Suite 304  
Bethesda, MD 20814-3628

*Counsel for Positive Alternative Radio*

Cary S. Tepper  
Booth Freret Imlay & Tepper, PC  
7900 Wisconsin Avenue  
Suite 304  
Bethesda, MD 20814-3628

*Counsel for Creative Educational  
Media Corp., Inc.*

Daniel Houg  
Chief Engineer  
KAXE-FM  
260 NE 2<sup>nd</sup> Street  
Grand Rapids, MN 55744

Roy H. Fisk  
P.O. Box 545  
Twain Harte, CA 95383-0545

John A. Buffaloe  
118 Clark Place  
Memphis, TN 38104

Gregory Smith  
7448 Cinnabar Terrace  
Gaithersburg, MD 20853

Kevin Redding  
530 Asher Loop  
Adamsville, TN 38310

The Livingston Radio Co. (WHMI)  
P.O. Box 935  
Howell, MI 48844-0935

Joyce Slocum  
Gregory A. Lewis  
National Public Radio  
635 Massachusetts Avenue, NW  
Washington, DC 20001

Cary S. Tepper  
Booth Freret Imlay & Tepper, PC  
7900 Wisconsin Avenue  
Suite 304  
Bethesda, MD 20814-3628

*Counsel for Calvary Chapel of Twin  
Falls, Inc.*

G. Craig Hanson  
Simmons Media Group, LLC  
515 S. 700 E. #1C  
Salt Lake City, UT 84102

Steven Glenn Daniel  
551 Rugby Road  
Brooklyn, NY 11230

Aaron Read  
20 Leeward Lane  
Canandaigua, NY 14424-2482

Albert Shuldiner  
iBiquity Digital  
6711 Columbia Gateway Drive  
Suite 500  
Columbia, MD 21046



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Patricia Jones