



PUBLIC NOTICE

Federal Communications Commission
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Washington, D.C. 20554

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DA 09-1127
May 22, 2009

MM Docket No. 99-325

COMMENT SOUGHT ON SPECIFIC ISSUES REGARDING JOINT PARTIES' REQUEST FOR FM DIGITAL POWER INCREASE AND ASSOCIATED TECHNICAL STUDIES

Comment Date: [21 days after date of publication in the Federal Register]

Reply Comment Date: [35 days after date of publication in the Federal Register]

By this *Public Notice*, the Media Bureau solicits public comment on four issues relevant to recent filings in the pending digital audio broadcasting proceeding, MM Docket No. 99-325,¹ and establishes deadlines for filing these comments.

On October 23, 2008, the Media Bureau released a public notice (the "October 23, 2008, *Public Notice*")² soliciting comment on a request filed June 10, 2008, asking the Commission to modify the technical specifications for FM digital audio broadcasting ("DAB"), as well as on two related technical studies. The request was filed by a group consisting of 18 broadcasters that operate over 1200 commercial and noncommercial educational ("NCE") FM radio stations throughout the United States and the 4 largest manufacturers of broadcast transmission equipment, collectively identifying themselves as the "Joint Parties." The Joint Parties requested that the Commission increase the maximum permissible digital operating power of FM stations from the current level of 1 percent of a station's authorized analog power (-20 dB) to a maximum of 10 percent of a station's authorized analog power (-10 dB) (the "Joint Parties' Request"). Filed concurrently with and in support of the Joint Parties' Request was a technical report prepared by iBiquity Digital Corporation ("iBiquity"). In addition, National Public Radio ("NPR") submitted on July 18, 2008, its Corporation for Public Broadcasting ("CPB")-supported research on digital radio coverage and interference. The October 23, 2008, *Public Notice* sought comment on the Joint Parties' Request and these related technical studies.

Developments since the release of the October 23, 2008, *Public Notice* prompt today's solicitation of public comment on four issues. Specifically, in response to the October 23, 2008, *Public Notice*, the Media Bureau has received comments and reply comments both supporting and opposing the Joint Parties' Request. The Joint Parties have urged the Commission to move expeditiously on its request to ameliorate the coverage shortfalls and reception difficulties that result from digital transmissions at currently authorized power levels. NPR has announced the commencement of additional CPB-supported

¹ See *Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service*, Second Report and Order, First Order on Reconsideration and Second Further Notice of Proposed Rulemaking, 22 FCC Rcd 10344 (2007) (prior history omitted).

² *Comment Sought on Joint Parties Request for FM Digital Power Increase and Associated Technical Studies*, MM Docket No. 99-325, Public Notice, DA 08-2340 (MB rel. Oct. 23, 2008).

testing of FM DAB.³ NPR states that its additional testing will result in a recommendation of the amount of power increase needed to improve digital radio coverage while also protecting analog FM signals, including subcarrier transmissions, from interference. The study also proposes to consider the minimum spacing distances needed to protect analog signals from higher powered digital operations. NPR states that the findings of its study will be presented in September 2009.⁴ In light of the record before the Commission, as well as NPR's plans for additional testing of FM DAB, the Media Bureau solicits further comment on the previously submitted iBiquity and NPR technical studies and on the following issues:

1. Whether the Bureau should defer consideration of the Joint Parties' requested power increase until the completion of and comment on the further NPR studies?
2. Whether the record in this proceeding, the real-world experience gained from over 1,400 FM stations operating for several years in the hybrid mode and the record of experimental authorizations at higher digital power levels warrant an increase in maximum digital operating power as proposed by the Joint Parties or support a provisional power increase of some lesser extent than that requested by the Joint Parties?
3. If the Commission does adopt a power increase, whether it should also establish standards to ensure the lack of interference to the analog signals of stations operating on first adjacent channels? Should such standards apply to, i.e., require the protection of, LPFM stations operating on first adjacent channels?
4. Finally, if the Commission does adopt a power increase, whether it should also establish more explicit procedures to resolve digital-into-analog interference complaints?

The Joint Parties request and the iBiquity and NPR technical studies are available electronically at http://fjallfoss.fcc.gov/prod/ecfs/comsrch_v2.cgi under MM Docket No. 99-325, or from the Commission's duplicating contractor, Best Copy and Printing, Inc. ("BCPI"), 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, 1-800-378-3160.

By this notice, comment is sought on the four issues identified above. Interested parties may submit comments on or before 21 days after date of publication of a summary of this *Public Notice* in the Federal Register, and reply comments on or before 35 days after date of publication of this *Public Notice* in the Federal Register. Comments and reply comments should specifically reference this *Public Notice* and MM Docket No. 99-325, and must be submitted in MM Docket No. 99-325.

Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) paper copies.⁵

³ NPR, *NPR Labs Launches CPB-Funded Study on Power Increase for HD Radio* (press release), <http://www.npr.org/about/press/2009/040209.CPBLabs.html>, Apr. 2, 2009. See also NPR *ex parte* filings, MM Docket No. 99-325.

⁴ Letter from Gregory A. Lewis, Counsel for NPR, to Marlene H. Dortch, Secretary, FCC, Attach. (Mar. 30, 2009).

⁵ See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Red 11322, 11326, para. 8 (1998).

Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.

For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal service mailing address, and the applicable docket number: MM Docket No. 99-325. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message: "get form". A sample form and instructions will be sent in response.

Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554.

Ex parte status: This is a "permit-but-disclose" rulemaking proceeding for purposes of the Commission's *ex parte* rules. *See generally* 47 C.F.R. §§ 1.1200-1.1216. As a result of the permit-but-disclose status of this proceeding, *ex parte* presentations will be governed by the procedures set forth in Section 1.1206 of the Commission's rules applicable to non-restricted proceedings.⁶

Copies of the reports and any subsequently filed documents in this matter may be obtained electronically at <http://www.fcc.gov/e-file/ecfs.html>, and on paper from BCPI during normal business hours in the Commission's Reference Information Center located at 445 12th Street, SW, Room CY-A257, Washington, DC, 20554.

Alternate formats of this Public Notice (computer diskette, large print, audio recording, or Braille) are available to persons with disabilities by contacting the Consumer and Governmental Affairs Bureau at (202) 418-0530 or (202) 418-7365 (TTY).

For additional information, contact Peter Doyle of the Audio Division at (202) 418-2700.

By: Chief, Media Bureau

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⁶ *See* 47 C.F.R. § 1.1206