

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	RM-_____
Petition for Rulemaking of the)	MB Docket No. _____
National Association of Broadcasters to Permit)	
AM Radio Stations' Use of FM Translators)	

**PETITION FOR RULEMAKING OF THE
NATIONAL ASSOCIATION OF BROADCASTERS**

The National Association of Broadcasters (“NAB”), pursuant to Section 1.401(a) of the Commission’s rules, 47 C.F.R. § 1.401(a), hereby petitions the Commission to initiate a rulemaking proceeding to amend its rules to allow AM broadcast stations to operate FM translator stations. Specifically, NAB requests that AM stations be permitted to license and/or use FM translators to retransmit their AM service as a fill-in service, so long as no portion of the 60 dBu contour of the FM translator exceeds the lesser of either the 2 mV/m daytime contour of the AM station or a circle with its center at the AM transmitter site and a radius of 25 miles. This relief would help AM stations to provide consistent service throughout their daytime operating contour. NAB requests that the Commission modify 47 C.F.R. §§ 74.1231, 74.1232, 74.1233, 74.1263, 74.1283, and 74.1284, as appropriate, to effectuate grant of this Petition.

I. Statement of Interest

NAB is a nonprofit trade association that advocates on behalf of more than 8,300 free, local radio and television stations and also broadcast networks before Congress, the Commission and the Courts. NAB’s members include AM broadcast licensees that would be impacted by grant of this Petition.

II. Introduction

AM radio service has long been an integral part of American life. In 1991, the Commission praised the contributions of AM service:

AM radio was this country's first national medium of electronic mass communications and, for more than a half century, its contribution to daily life in America was unquestioned. The AM service was a unifying force throughout the country, providing a wealth of news, information, entertainment, education, and political dialogue readily accessible to virtually all Americans. In the process, it literally revolutionized the fabric of our daily lives, our dialogue and our democracy.¹

AM radio clearly has fulfilled the Communications Act's mandate that the nation's airwaves be used to "serve the public interest and necessity."² AM radio formats often focus on local, community-responsive issues to distinguish themselves in an increasingly competitive market. All-news, all-sports, 24-hour talk radio and religious programming formats are common in this band,³ as are discussions of local public affairs and politics, traffic announcements, and broadcasts of local high school ballgames. Indeed, 91.5% of all news/talk formats are on the AM band.⁴

AM radio is characterized by its diversity of ownership. According to the BIA Media Access Pro Database (as of July 6, 2006), there are approximately 4,814 AM radio stations

¹ *Review of the Technical Assignment Criteria for the AM Broadcast Service, Report and Order*, MM Docket No. 87-267, 6 FCC Rcd 6273, 6274 (1991); *recon. granted in part and denied in part*, 8 FCC Rcd 3250 (1993) ("*Expanded Band R&O*").

² *See, e.g.*, 47 U.S.C. § 309(a) (requiring the Commission to determine, in the case of applications for licenses, "whether the public interest, convenience, and necessity will be served by the granting of such application"); 47 U.S.C. § 307(b) (requiring the Commission to "make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same.").

³ *See, e.g.*, Copley and Gumbrecht, *Talk Radio: Ear on Lexington*, *The Lexington (KY) Herald Leader*, Nov. 13, 2005, p. D1; Karen Cottonfeat, *As Satellite Radio Blossoms, Many Still Prefer Local*, *Wyoming Tribune-Eagle*, July 22, 2005, p. 11.

⁴ *The Radio Book, 2005-2006 Edition*, M Street/Media Market Resources, Littleton, NH at p. 23.

licensed in the United States. These stations are owned by some 2,452 different owners. Moreover, the Commission's most recent reports on minority and female broadcast ownership (which do not include information on licenses held by sole proprietors or partnerships composed solely of natural persons) show that there are at least 154 minority owners and at least 161 female owners that hold the licenses for approximately 438 AM stations.⁵ Every day, these stations further the goal of the Commission's diversity policy – ensuring that information is available from a multiplicity of sources. As explained below, the action NAB suggests in this Petition would help AM stations remain viable and therefore continue to be relevant to their communities, and further the government's interest in diversity.

As the Commission is aware, providing service to listeners on AM radio can be difficult. AM stations, more than almost all other services, must deal with various technical challenges to deliver a high quality signal to listeners, especially at night. Because of the propagation characteristics of the AM band,⁶ which cause substantially increased interference among AM broadcasts at night, many AM stations are required by the FCC to reduce their operating power

⁵ The Commission's data is culled from the universe of Broadcast Ownership Reports (FCC Forms 323 and 323-E) filed in 2004-2005. See <<http://www.fcc.gov/ownership/data.html>>. Sole proprietorships and partnerships composed entirely of natural persons are not required to file these reports. Thus, the actual numbers of minority and female owners of AM radio stations, and the number of stations they own, are most likely substantially higher than these figures.

⁶ Because of a phenomenon known as "skywave propagation," which is a consequence of the natural heating and cooling of the atmosphere by the sun, AM radio signals propagate long distances at night, at least several hundred miles. This process causes ionized layers of the atmosphere, which are reflective to the medium-wave RF signals utilized by the AM broadcasting service, to vary drastically in density and in height above the earth. During daylight hours, the very dense ionization absorbs most signals in the AM band, limiting a station's coverage to its groundwave signal. At night, however, these ionized layers of the atmosphere act like a mirror, reflecting radio signals on AM broadcast signals that strike them, causing these signals to propagate as a "skywave." As the ionized layers of the atmosphere change with the cooling of the atmosphere at night, the reflected signals fall to earth at distances, far outside AM radio stations' local service areas. Therefore, the potential for significant interference to AM stations at a distance is increased, even from other AM stations operating at very low power levels.

during nighttime hours, while some (daytime-only stations) are prohibited from broadcasting at all.⁷ As a result, at night many AM stations lose coverage at various locations within their regular daytime coverage area, listeners lose reception, and AM broadcasters are left to hope that their audience remembers to turn the radio dial back to their station in the morning.

Stations that are not able to take advantage of power reduction or directional signal patterns must sign off at local sunset and remain off the air until local sunrise.⁸ This loss of coverage can be severely debilitating to a station's ability to serve its audience. Several NAB members with AM stations report coverage area losses of 80% to 95% during the nighttime hours because they must protect clear channels often located hundreds of miles away. Others indicate that while the directional patterns they must utilize at night might reach certain portions of their daytime service area, at night they lose the large swaths of their audience that are not located in the directions in which their nighttime signals must be beamed to minimize interference to other co-channel or adjacent channel stations.

This predicament will become worse starting in 2007, when recent actions by Congress to extend Daylight Saving Time (DST) become effective. Pursuant to the Energy Policy Act of 2005, Public Law 109-58, DST will begin three weeks earlier starting the second Sunday of March 2007 and end one week later starting the first Sunday in November 2007. Consequently, many AM stations, and particularly daytime-only services, will completely lose an entire hour of

⁷ Some daytime-only AM stations are permitted to operate during sunrise and sunset hours at extremely low power levels, sometimes referred to as "flea power."

⁸ Only stations that operate on "clear channels" may remain on the air without the need to reduce power or operate directionally. Clear channel stations are AM stations that are designated so that only one or two 50,000 watt stations operate at night on each designated frequency. Most of the "clear channel" stations were licensed to operate during the early years of AM broadcasting and operate with power sufficient to cover wide geographic areas.

early morning drive-time programming or be forced to operate at very low power during that vitally important hour.

AM radio's challenge is not only a nighttime problem, however. Many AM stations also experience voids in their service coverage areas during the daytime. Daytime AM service can easily be diminished by mountains, rocky terrain, canyons or tall buildings that reduce the strength of AM radio signals in certain parts of a station's coverage area. Also, electromagnetic interference generated by power lines, computers, traffic signals sensors, electric motors, fluorescent lighting, RF from cable TV lines, and certain kinds of medical equipment often disrupt the strength and clarity of AM radio signals. In particular, power utility poles made of metal, which are rapidly replacing wooden poles, can radiate AM signals, creating distortion and nulling a station's signal in parts of the intended coverage area. Moreover, interference from utility poles often occurs along roads and highways, thereby diminishing some of the vital service that AM radio stations deliver to listeners in cars. Underground sensors that trigger traffic signals have also become a problem. For instance, the 50,000 watt signal of WSM(AM), Nashville, TN, is completely wiped out at the busiest intersection in the entire State of Tennessee, located in Murfreesboro, because of interference from an underground traffic sensor.

One simple solution to this pervasive problem – a solution that is technically feasible, pro-competitive, and pro-public interest -- would be to allow AM radio stations to license and/or operate FM translator stations as a fill-in service to provide reliable service over their 2 mV/m daytime contour. Under NAB's proposal, no portion of the 60 dBu contour of the FM translator could exceed the lesser of either the 2 mV/m daytime contour of the AM station or a circle with its center at the AM transmitter site and a radius of 25 miles. This relief would help AM stations

to provide consistent service within their daytime operating contour, thereby serving many Americans currently denied access to the service at all or during some parts of the day.

As described below, enabling AM stations to use FM translators would be a logical extension of the Commission's long-standing efforts to support and improve the AM service by cleaning up interference on the band.⁹ Granting this Petition would also foster the Commission's policy goals of promoting competition, diversity and localism. It should be stressed that AM broadcasters are seeking permission to deploy technology that will allow them to fill-in any service voids in their intended coverage areas, not to extend or expand service beyond their current contours, and to do so in a way that provides full interference protection to FM radio and other services.

NAB acknowledges that a similar, though broader, request remains pending at the Commission.¹⁰ While some information in the ACAMBA Petition may be pertinent to the Commission's consideration of this petition, NAB intends this to be a separate request. NAB submits that the time is now ripe for the Commission's consideration of a fresh record on whether AM radio stations should be allowed to license and/or operate FM translators to provide consistent service over their coverage area.¹¹

⁹ See, e.g., *Expanded Band R&O*, 6 FCC Rcd at 6275.

¹⁰ *Amendment of Sections 74.1231, 74.1232, 74.1233, 74.1284 of the Commission's Rules*, Petition for Rulemaking of the American Community AM Broadcasters Association, RM-9419 (Aug. 13, 1997) ("*ACAMBA Petition*").

¹¹ NAB opposed the ACAMBA Petition in comments filed on February 10, 1999, arguing that it was not the appropriate time to begin a rulemaking to allow AM stations to use FM translators to rebroadcast their AM signal because the Commission had recently launched several proceedings intended to significantly alter the radio industry, including one to establish In-Band, On-Channel ("IBOC") digital radio and another to create a new low power service in the FM band. However, circumstances have changed substantially over the past seven years. Most significantly, IBOC service will soon be available in 50 markets, including 42 of the top 50. See <http://www.ibiquity.com/press_room/news_releases/2006/259>. In addition, AM stations are encountering ever more interference problems as a result of an increase in ambient noise.

III. The Use of FM Translators Will Enable Broadcasters to Overcome Increasing Technical Challenges Unique to the AM Radio Band

Permitting AM broadcast stations to operate FM translator stations as a fill-in service will mitigate many AM coverage problems. A translator station would allow an AM station to translate its signal to the FM band where skywave propagation and its potential to cause harmful interference do not exist. To allow this, several of the Commission's rules would need to be amended. Under Sections 74.1231(a) and (b) of the Commission's rules, an FM translator can be used only for the purpose of retransmitting the signals of a primary FM radio broadcast station to areas in which direct reception is unsatisfactory due to distance or intervening terrain barriers. These subsections would need to be modified to include AM broadcast stations as authorized primary signals that could be retransmitted via FM translators. Also, to reflect NAB's proposal that AM stations be able to operate FM translators to provide consistent service only over their 2 mV/m daytime contour, Section 74.1231 would need to specify that any such translator operated by an authorized AM radio station must be located so that its predicted 60 dBu contour falls within the lesser of either the 2 mV/m daytime coverage area of that AM station or a circle with its center at the AM transmitter site and a radius of 25 miles. With respect to signal delivery, the Commission also must modify Section 74.1231(b) to clarify that, like commercial FM radio broadcasters, AM operators of FM translators providing fill-in service may use any terrestrial facilities to receive the signal that is being rebroadcast.

Section 74.1232 sets forth the eligibility and licensing requirements of FM translators. This section would need to be amended to enable AM radio stations to license and/or use FM translators, and to specify the qualifications of an eligible AM radio station. NAB supports a clarification that the maximum power of a translator operated by an AM licensee may not exceed

a level that would place the 60 dBu contour beyond the daytime 2 mV/m contour, as defined by the AM station's license.

Finally, because this request seeks relief for all AM radio stations, daytime-only AM stations will need the ability to operate FM translators during nighttime hours without running afoul of the Commission's program origination rules. Since 1970, FM translators have been restricted to retransmitting the signals of other FM stations, and not permitted to originate their own programming except to acknowledge or solicit financial support and to provide emergency warnings of imminent danger. 47 C.F.R. § 74.1231(f) and (g). NAB supports these limitations, and has no desire to disturb this approach by expanding or creating program origination rights for AM stations operating translators, or any stations for that matter. Only last month, NAB opposed a Petition for Rulemaking in which Miller Communications, *et al.* requested that FM translator stations be allowed to originate programming. Comments of the National Association of Broadcasters in RM-11331 (filed June 9, 2006). We stated that granting this request essentially would turn a supplemental service – FM translator service – into a new full-service broadcasting class, in direct conflict with the Commission's original purpose for translators. *Id.* at 2-3. The Commission has stated that the “proper role of FM translators . . . is to provide secondary service to areas in which direct reception is unsatisfactory due to distance or intervening terrain obstructions.” *Part 74 R&O*, 5 FCC Rcd at 7219. As explained below, NAB submits that enabling AM stations that have been limited to daytime service because of propagation issues to operate translators during nighttime hours would be consistent with this approach.

Any AM stations covered by NAB's petition would already be licensed to provide service over their intended coverage areas. Thus, the NAB proposal is unlike Miller's request,

which specifically seeks “new avenues of local programming.”¹² Allowing AM stations, including daytime-only stations, to operate translators would not constitute new service. Rather, it would be an enhancement of existing service for the express purpose of providing continuity of service within the licensed service area. Among other things, it would permit AM stations to provide live coverage of community events. For instance, daytime stations that currently air tape-delayed coverage of the local high school’s sporting events or a local political debate because they must turn off their transmitter at sundown, will now be able to do so live. Stations that cannot broadcast current weather and traffic conditions will become able to provide such information. Local service to the public would be enhanced and expanded to include service by previously absent daytime-only AM stations.

The Commission has expressly recognized that daytime-only stations face unique competitive disadvantages, including their inability to compete during the all-important morning and evening “drive time” periods.¹³ The existence of daytime-only stations can be traced to the differences between AM signal propagation during daytime and nighttime hours,¹⁴ as described above. Commission approval of this request without any accommodation for daytime-only AM stations concerning the program origination rules would render such relief meaningless for these stations, and reduce their ability to add to the diversity of service available in the community during the most important radio time periods of the day. NAB requests that the Commission amend or clarify its rules to indicate that daytime-only AM stations’ use of FM translators during nighttime hours will not constitute prohibited program origination.

¹² Miller Communications, Inc. *et al.*, Petition to Allow FM Translator Licensees to Locally Originate Programming, RM-11331 (filed April 27, 2006).

¹³ *Unlimited-time Operation by Existing AM Daytime-only Radio Broadcast Stations; Discontinuance of Authorization of Additional Daytime-Only Stations; Minimum Power of Class III Stations, Report and Order*, MM Docket No. 87-131, 2 FCC Rcd 7113 (1987).

¹⁴ *Id.*

In a similar vein, Section 74.1263(b) states that an FM translator may be used to retransmit the signal of a primary station only during periods when the primary station's signal is being broadcast. NAB asks the Commission to amend this subsection to allow a daytime-only AM radio station to operate an FM translator during the nighttime hours.

Enacting these proposed rule changes clearly would serve the public interest. Enabling AM broadcasters to use translators to improve the quality of their signal and reach their entire coverage areas, especially at night, will enhance their delivery of a wide variety of community-responsive programming, including early morning announcements of school closings, live coverage of local election returns, live coverage of local government meetings and political debates, both of which typically occur at night, and breaking news to all listeners within their service area. It will also allow AM broadcasters to provide information about weather emergencies, and live coverage of local high school sports and school band and choir concerts.

IV. Allowing the Use of FM Translators is Consistent With Commission Precedent in Favor of Enhancing AM Radio Service

In the same 1991 Order where the Commission praised the significance of AM radio service, the Commission also recognized certain obstacles that AM broadcasters face, and expressed its continued support.

Over the years . . . channel congestion and interference, both radio- and environmentally-induced, have dramatically increased in the AM band . . . As a consequence, during the last twenty years there has been a well-documented shift of AM listeners to newer mass media services that offer higher technical quality and better aural fidelity. . . . Nonetheless, we believe that AM radio continues to hold a valuable place on the communications landscape. AM service provides a significant number of outlets that contribute to the vital diversity of viewpoints and programming available to Americans. . . . In view of the undisputed public importance of the AM service, we believe that innovative and substantial regulatory steps must be taken to ensure its health and survival. *Expanded Band R&O*, 6 FCC Rcd at 6275.

The Commission has a long history of actions taken to enhance the technical quality of AM service, including proceedings to improve its prediction of groundwave and nighttime skywave service and interference,¹⁵ to allow the filing of interference-reducing modifications without competing applications and the elimination of grandfathered, deleted AM station assignments,¹⁶ and to adopt a new emissions standard for adjacent channel interference to improve AM audio.¹⁷ In 1991, the Commission completed a comprehensive review of AM service and made several rule changes to improve the technical characteristics of AM broadcasting. To reduce congestion, the Commission enabled station migration to the ten new channels made available by allocation of the new AM “expanded band” (1605-1705 kHz), focusing in particular on those stations that were significantly contributing to interference in the AM band, even awarding “bonus points” (towards priority status for moving to the expanded band) to stations based on the relative amount of interference they caused. *Expanded Band R&O*, 6 FCC Rcd at 6276. The Commission also reduced adjacent channel interference through higher protection ratios to foster the development of higher quality audio receivers, and refined its measurement of nighttime interference between AM stations, among other actions. *Id.* at 6277. The Commission has also streamlined its application processes for stations proposing minor change service improvements to their facilities.¹⁸

All of these actions demonstrate the Commission’s long-standing commitment to improving AM radio service. Allowing AM radio stations to license and/or operate FM translators would be a consistent, logical extension of this long-term effort.

¹⁵ *Report and Order*, MM Docket No. 88-510, 5 FCC Rcd 4489 (1990); *Report and Order*, MM Docket No. 88-508, 5 FCC Rcd 482 (1990).

¹⁶ *Report and Order*, MM Docket No. 89-46, 5 FCC Rcd 4492 (1990).

¹⁷ *Report and Order*, MM Docket No. 88-376, 4 FCC Rcd 3835 (1989); *recon. denied*, 5 FCC Rcd 2598 (1990); *Memorandum Opinion and Order*, 5 FCC Rcd 5191 (1990).

¹⁸ *First Report and Order*, MM Docket No. 98-93, 14 FCC Rcd 5272 (1999).

The proposal is intended to facilitate consistent service within the daytime 2 mV/m contour. Under NAB's proposal, AM broadcasters would be allowed to operate FM translators to the extent needed to complete their daytime coverage areas and/or replicate their daytime coverage at night. Currently, approximately 1,120 of the 4,757 AM radio stations in the U.S. are Class C AM (f/k/a Class IV) stations, and all 1,120 of these stations are located on only six of the 116 channels on the AM frequency band.¹⁹ Thus, a situation is created in which almost 24% of all AM radio stations are packed into only 5% of the AM band. Even though almost all of these stations are permitted to operate with the same 1000 watts at night that they enjoy during daytime hours, with an average of about 200 stations per channel, the interference-free nighttime coverage of these stations is often limited to only a few miles from their transmitter. AM stations (Class C's in particular) often suffer interference from other stations on the same channel that are located hundreds of miles away, even when the local AM station's nighttime power level (*e.g.*, one kilowatt) is the same as it employs during the day. Allowing AM stations to use translators to fill-in their coverage area would merely ensure that AM broadcasters can reach their intended listening audience.²⁰

NAB recognizes that the Commission has previously considered whether to permit AM stations to license or operate FM translators, and chosen not to do so. In 1981, the Commission rejected a request by a group of rural AM broadcasters to amend its rules to allow AM stations to retransmit their signals on FM translators in areas beyond the predicted 1 mV/m contour of

¹⁹ See <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-263922A1.doc> (as of Dec. 31, 2005).

²⁰ Enabling AM stations to provide service to their entire licensed service areas would also fulfill the Congressional of distributing broadcast "licenses, frequencies, hour of operation, and of power" to ensure "a fair, efficient, and equitable distribution of radio service." 47 U.S.C. § 307(b).

existing stations.²¹ The Rocky Mountain Broadcasters stated that granting their request would enable rural communities where there is no local service to obtain a primary reception service. The Commission was not persuaded, however, finding that the propagation characteristics of AM signals “normally do not leave service voids” similar to those in the FM band. *Rocky Mountain Order* at ¶ 4. The Commission therefore concluded that there is “generally no reason for AM licensees to establish FM translators to provide ‘fill-in’ service,” and declined to devote any of its limited resources to regulating such a scheme. *Id.* at ¶¶ 4 and 7.

In 1990, the Commission rejected another proposal to allow AM stations to operate FM translators.²² The Commission repeated its conclusion that given the differences in propagation characteristics between AM and FM signals which normally do not result in voids in AM service like that in FM service, “...extending the current FM translator authorization to include the rebroadcast of AM signals...” was not justified. *Part 74 NPRM*, 5 FCC Rcd at 2116. In this decision, however, the Commission recognized the possibility that permitting AM stations to use FM translators could resolve problems of nighttime reductions in service experienced by many AM licensees. *Id.* The Commission also pointed to the AM Expanded Band and other proceedings ongoing at the time that it believed would resolve the fundamental problems of AM radio service, such as channel congestion, interference, and low fidelity receivers. *Part 74 R&O*, 5 FCC Rcd at 7224; *see supra* notes 8-11.

²¹ *Memorandum Opinion and Order*, RM-2273, 49 RR 2d 1499 (1981) (“*Rocky Mountain Order*”).

²² *Amendment of Part 74 of the Commission’s Rules Concerning Translator Stations, Notice of Proposed Rulemaking*, MM Docket No. 88-140, RM-5416, RM-5472, 5 FCC Rcd 2106 (1990) (“*Part 74 NPRM*”); *Amendment of Part 74 of the Commission’s Rules Concerning Translator Stations, Report and Order*, MM Docket No. 88-140, RM-5416, RM-5472, 5 FCC Rcd 7212 (1990) (“*Part 74 R&O*”). In addition, the aforementioned ACAMBA Petition remains pending at the Commission.

NAB respectfully submits that the outcome of the instant petition should be different. First, it is our experience that the propagation characteristics of AM radio signals often do result in service voids. As described above, many AM stations lose significant portions of their coverage areas, both during the daytime and at night. Daytime interference is caused by both geological and man-made conditions, including mountains, buildings, power lines and utility poles, computers and fluorescent lighting. During nighttime hours, the situation is even worse. For example, KNCO(AM), Nevada County, CA, estimates that it loses roughly 25% of its coverage area and 15% of its potential audience at night due to a directional pattern that nulls its signal to the east. KFMO(AM), Flat River, MO, experiences interference and power restrictions that shrink its territory by about 66%. WKPT(AM), Kingsport, TN, at 1000 watts, can be heard up to 50 miles away during the day; however, its nighttime interference-free signal at the same power level covers a radius of less than three miles at night. In fact, WKPT's nighttime interference-free signal falls short of covering its community of license, Kingsport, Tennessee.

NAB further emphasizes that we are not asking to extend FM translator service to AM broadcasters without limitation. We have not requested access “beyond [our] normal satisfactory reception range.” *Contrast, Rocky Mountain Order* at ¶ 3. In this request, NAB proposes rules and constraints to ensure that AM stations may not employ FM translators to expand their service coverage areas, including the restriction of such translators to locations inside the 2 mV/m daytime contour of the primary AM station, instead of the 1 mV/m contour proposed in the *Rocky Mountain Petition* or the 0.5 mV/m contour that ACAMBA suggested. Moreover, NAB proposes that no portion of the 60 dBu contour of the FM translator may exceed the lesser of either the 2 mV/m daytime contour of the AM station or a circle with its center at the AM

transmitter site and a radius of 25 miles. Under NAB's proposal, AM stations will be able to restore service in any holes in their coverage areas, but nothing more.

NAB also submits that in the seven years since the *ACAMBA Petition*, not to mention the 16 years since the Part 74 proceeding and the 26 years since the Rocky Mountain Broadcasters' request, the continued pressures on AM radio warrant reexamination of this issue. It is now apparent that the Commission's efforts over the past 25 years to enhance AM signal quality need another boost to enhance AM stations' ability to serve audiences and compete in the ever-changing media marketplace.

We also note that Commission authorization of AM stations to use FM translators is not unprecedented. For instance, the Commission sometimes authorizes AM radio stations in Alaska to operate FM translators as a means of helping these stations provide service in white areas.²³ The Commission also has allowed WAMB(AM), Donelson, TN, to operate an FM translator during nighttime hours because the station had experienced substantial interference from an AM station in Cuba. The Commission was persuaded that no viable alternatives existed and granted special temporary authority based partially on Section 303(g) of the Communications Act, which requires that the Commission "provide for experimental uses of frequencies, and generally encourage the larger and more effective use of the radio spectrum in the public interest."

Therefore, enabling AM stations to enhance their service through the use of FM translators would not be unheard of; indeed, it is consistent with the Commission's long-term efforts to improve AM service.

²³ See, e.g., KINY(AM), Juno, Alaska (translator: K284AM), KJNP(AM), North Pole, Alaska (translator: K296DI), KBRW(AM), Barrow, Alaska (translator: K201AG), and KTKN(AM), Ketchikan, Alaska (translator: K248AJ).

V. Allowing AM Radio Stations to Operate FM Translators Will Serve the Commission's Policy Goals of Competition, Diversity and Localism

The proliferation of competing media outlets in recent decades is well-documented. In addition to a substantial increase in the number of radio and television stations since 1991,²⁴ AM stations now face expanded competition from satellite radio services, cable television, DBS, and the Internet, among others. Enabling AM radio stations to operate translators will allow AM stations to provide consistent service within their coverage areas, both during the day and particularly during the very important early morning and late evening drive time hours, which will help AM radio stations survive in an ever-changing media marketplace. NAB requests that the Commission grant this Petition to help ensure the continued viability of a service that the Commission itself has called a “unifying force.”²⁵

In the Commission's localism proceeding, parties representing more than 2,250 radio licensees submitted information on the amount and variety of locally-relevant programming they deliver, the valuable coverage that broadcasters devote to politics and civic discourse, and their efforts to ascertain the needs and interests of their local communities broadcasters.²⁶ AM stations determine the needs and interests of their local audiences in different ways, depending on their resources and market size. Large stations may have the funds to conduct sophisticated market surveys and in-house audience tests, while mid-sized stations may rely on simpler

²⁴ As of December 31, 1991, the Commission had licensed 11,062 radio stations and 1,489 full power television stations. By the end of 2005, those figures had grown to 13,660 radio stations and 1,750 TV stations, plus 675 newly licensed low power FM stations. FCC News Release, *Broadcast Stations Totals as of December 31, 1991* (Jan. 3, 1992); FCC News Release, *Broadcast Stations Totals as of December 31, 2005* (Feb. 23, 2006).

²⁵ See *supra* n.2. See also Report and Order in MM Docket No. 91-140, 7 FCC Rcd 2755, 2760 (1992) (the radio “industry’s ability to function in the ‘public interest, convenience and necessity’ is fundamentally premised on its economic viability”).

²⁶ Reply Comments of NAB in MM Docket No. 04-233 (filed Jan. 3, 2005).

methods, such as regular meetings with community leaders and interested audience members, and letters from the public. Licensees of stations in small markets may ascertain local attitudes by reading the local newspaper and talking to neighbors at the local coffee shop. The overriding point is that, regardless of their size, market or resources, all AM stations must review and react to the needs and interests of their local communities as a matter of survival in a competitive marketplace.²⁷ As a result, AM radio stations today provide a broad mix of entertainment and informational programming to listeners in local communities throughout the country.²⁸

AM stations also serve their local communities in other tangible ways. In 2005, the average radio station aired 169 Public Service Announcements (“PSAs”), a combined value of over \$5.05 billion in donated airtime, or the equivalent of \$486,187 per radio station.²⁹ Among radio stations that raise funds for charities, charitable causes and needy individuals, the average amount raised per station was \$94,299, totaling over \$959 million.³⁰

Moreover, AM broadcasters’ support of community organizations is unique. When an AM station partners with a charitable or community organization, the station not only provides money (like other corporate partners), but also a public voice for those organizations. An AM station can help organizations present themselves directly to local citizens, raise their public profile in a unique way, and cement their connections within

²⁷ As the Commission recognized nearly a quarter century ago, radio stations present programming that serves “the wants and needs of the public,” including news and other informational programming, in “response to market forces.” *Deregulation of Radio, Report and Order* in BC Docket No. 79-219, 84 FCC 2d 968, 978 (1981).

²⁸ NAB Comments in MM Docket No. 04-233 (Nov. 1, 2004); Reply Comments of NAB in MM Docket No. 04-233 (Jan. 3, 2005) at 2-25.

²⁹ National Association of Broadcasters, *National Report on Local Broadcasters’ Community Service*, at 5, found at <<http://www.broadcastpublicservice.org>>.

³⁰ *Id.*

local communities. An AM broadcaster also can help community and non-profit organizations better leverage their fund raising resources and expertise, their public awareness and their educational efforts. As one radio broadcaster stated at the Commission's localism hearing in San Antonio:

Both of our stations also work closely with many different private and public organizations in the area, but, like most broadcasters, we do much more than just cut checks to worthwhile causes. In fact, the most important contributions that broadcasters can make to their community has very little to do with money. We raise the level of awareness, discussion, and education in our communities. *And we give a voice to local organizations, groups and individual citizens.*³¹

AM stations are also involved in their local communities' efforts relating to abducted children and emergency preparedness. AMBER Plan is a voluntary partnership between law-enforcement agencies and broadcasters to activate an urgent bulletin in the most serious child-abduction cases. Today there are 116 local, regional and statewide AMBER Plans across the nation. Since the program began in 1997 in the Dallas, Texas area, the AMBER Plan has been credited with successfully returning 266 children.³² NAB has also partnered with the U.S. Department of Homeland Security to enlist America's local radio and television stations in a campaign to ensure that people in their communities take the necessary steps to prepare for natural disasters, terrorist attacks, and other threats.³³

These are but a few examples of the on-going steps that AM broadcasters take to deliver informational, community-responsive programming and other services that meet the needs of their local audiences. AM broadcasters, often as a matter of survival, must

³¹ Statement of Jerry T. Hanszen, Owner and General Manager, KGAS (Carthage, TX) and KMHT (Marshall, TX) (Jan. 28, 2004, San Antonio, TX) (emphasis added).

³² See <<http://www.ncmec.org/missingkids>> (last visited June 13, 2006).

³³ *Are You Ready? A Step-by-Step Emergency Preparedness Guidebook to Prepare Your Local Community*, found at <<http://www.nab.org/publicservice/Ready.asp>>.

satisfy the interests of their local communities. Granting this Petition to allow AM stations to use FM translators to provide improved service throughout their intended coverage areas would enable AM broadcasters to continue, if not enhance and expand, this kind of public service to their local communities.

VI. Conclusion

For the reasons stated above, NAB respectfully requests that the Commission grant this Petition for Rulemaking to allow AM radio stations to license and/or operate FM translators as a fill-in service, to enhance the audio quality of AM service where necessary, and to enable AM stations to better compete in the ever-changing media marketplace.

Respectfully submitted,

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