

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

In the matter of)
)
Implementation of the AM Expanded) MM Docket No. 87-267
Band Allotment Plan)
)

To: The Commission

REQUEST FOR WAIVER OF RULES REQUIRING RETURN OF AM LICENSES

The Joint Petitioners identified in Attachment A hereto, consisting of radio broadcasters operating in the expanded AM band (1605-1705 kHz), as well as public interest organizations that support diversity of programming, pursuant to Section 1.3 of the Commission's Rules, 47 C.F.R. § 1.3, herein request that the Commission waive its policies requiring that AM licensees operating in the expanded AM band return one of their AM allotments for cancellation on the fifth anniversary of the date on which the Commission issued the license for the expanded AM band station. The Joint Petitioners also request that the Commission waive related requirements prohibiting the sale of a station during that period, to allow the transfer of stations to recognized small businesses. The Joint Petitioners believe that the preservation of the licenses of the stations which would otherwise be surrendered would serve a valuable public interest goal by increasing broadcast diversity, and therefore have joined together in this broadcaster/public interest organization coalition to support the requests submitted herein.¹

¹ This common effort by broadcasters and public interest groups to improve broadcast service and simultaneously promote diversity should call to mind the *Statement of Policy on Minority Ownership of Broadcasting Facilities*, 68 FCC2d 979, 983 (1978) ("*Minority Ownership Policy Statement*") in which the Commission noted with favor the support for its tax certificate and

As Joint Petitioners discuss further herein, due to the loss of service that would result (and in some cases has already resulted), the requirement that dual AM band licensees return one of their AM allotments after the conclusion of an arbitrary “transition period” no longer promotes the public interest, nor does this policy reflect the most effective use of AM band spectrum. Rather than requiring this result, the Commission should waive its rules to delay the return date for at least one year, during which time each AM licensee holding an expanded band authorization could transfer one of its allotments to a small business entity for a discounted price so that, at the end of the transition period, all the stations which would otherwise go silent would be held by qualified small businesses, which could continue their service to the public. These stations, which in many cases are already providing unique programming to the public, will contribute to overall broadcast diversity. Given the fact that the AM band has not developed in the manner envisioned by the FCC when these rules were first developed, this change in the ultimate disposition of these stations is in the public interest. Thus, for the reasons set forth in more detail below, the Joint Petitioners request that this waiver be granted.²

BACKGROUND

Nearly 16 years ago, the Commission released a decision significantly revising the regulatory environment for the AM radio service as part of its comprehensive program “for the

distress sale policies by, *inter alia*, the American Broadcasting Companies, General Electric Broadcasting Company, the Congressional Black Caucus and the National Association of Broadcasters. Recognizing that much more needed to be done to advance minority ownership, the Commission added that it “welcome[d] petitions for rulemaking or other submissions from concerned parties as to other actions we might take to reach our objectives.” *Id.* at 984.

² Simultaneous with the filing of the instant Request, Joint Petitioners are also filing a Request for Stay of the same AM divestiture requirement.

