



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 13-249; FCC 18-64]

Revitalization of the AM Radio Service

AGENCY: Federal Communications Commission.

ACTION: Denial of petition for reconsideration; dismissal of petition for emergency partial stay and processing freeze pending review of petition for reconsideration and motion for extension of time.

SUMMARY: This document denies the Petition for Reconsideration of the Second Report and Order in this proceeding, filed by Prometheus Radio Project (Prometheus) on April 10, 2017.

This document dismisses as moot the Petition for Emergency Partial Stay and Processing Freeze Pending Review of Petition for Reconsideration filed by Prometheus April 3, 2017, and the Motion for Extension of Time filed by Prometheus May 11, 2017.

DATES: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Federal Communications Commission, 445 12th Street SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Albert Shuldiner, Chief, Media Bureau, Audio Division, (202) 418-2700 or Albert.Shuldiner@fcc.gov; Thomas Nessinger, Senior Counsel, Media Bureau, Audio Division, (202) 418-2700 or Thomas.Nessinger@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration, MB Docket No. 13-249, FCC 18-64, adopted on May 21, 2018, and released on May 22, 2018. The full text of this document is available for public inspection and copying

during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554. This document will also be available via ECFS at <https://www.fcc.gov/ecfs/>. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. Copies of the materials can be obtained from the FCC's Reference Information Center at (202) 418-0270. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to fcc504@fcc.gov or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This document is not subject to the Congressional Review Act. The Commission is, therefore, not required to submit a copy of this Order on Reconsideration to the General Accounting Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A), because the Petition for Reconsideration was denied and the Petition for Emergency Stay and Motion for Extension of Time were dismissed as moot. The Commission rejected Prometheus's contentions that the Commission's decision not to adopt a proposed distance limit for siting cross-service FM translator stations (translators re-broadcasting AM station signals) was not a logical outgrowth of the proposed rule and was arbitrary and capricious. It found that the decision not to adopt the proposed 40-mile limit was reasonably foreseeable, especially given that commenters had proposed omitting the 40-mile limit and that Prometheus had access to those comments. The Commission further found that its actions were not arbitrary and capricious, finding that Prometheus's contentions do not raise legitimate concerns and are at best speculative. Prometheus did not provide evidence that omission of a distance limit encourages translators to "box in" incumbent low-power FM (LPFM) stations, restricting their ability to change sites. Additionally, the Commission rejected Prometheus's argument that its final rule violated the Local Community Radio Act of 2010

(LCRA), in part because the LCRA does not mandate that the Commission prefer LPFM stations over FM translators. To the extent the LCRA obliges the Commission to consider local community needs, the Commission has stated that FM translators and LPFM stations both serve community needs in different ways, and that giving AM stations more flexibility in siting fill-in cross-service translators, without a set distance limit, was in the public interest, as it allows an AM station to improve its program service to listeners in the local communities within its primary service contour. The Commission finally rejected Prometheus's argument that the Commission falsely equated the LPFM service with local commercial AM broadcasters, because the amended rule benefits both commercial and noncommercial AM stations.

FEDERAL COMMUNICATIONS COMMISSION.

Marlene Dortch,
Secretary.

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