

Before the  
**Federal Communications Commission**  
Washington, DC 20554

FEB 29 2010  
FCC MAIL ROOM

Received & Inspected

In The Matter of )  
Richard F. Arsenault )  
Petition to Amend Title 47 of the )  
Code of Federal Regulations, Part 73.99 )  
Concerning Pre-sunrise Service Authorizations )  
for Class D Stations in the AM Broadcast Service )

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Dated: February 23, 2010

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## PETITION FOR RULEMAKING

### EXISTING RULE and PURPOSE

Part 73.99(a), (b) and (c) of the Commissions Rules and Regulations pertaining to Pre-sunrise Service Authorization (PSRA) allow AM Standard Broadcast Class B stations and Class D stations operating on Regional Channels the authority to commence broadcasting at 6:00 a.m. with up to 500 watts into their daytime antenna during months when local sunrise is after 6:00 a.m. The purpose of this rule is to primarily provide Class D stations and Class B stations which elect to utilize PSRA maximum uniformity in early morning operation compatible with interference considerations. PSRA authorizes numerous AM stations service to their local communities with news, weather and other important information commencing at 6:00 a.m. throughout the year, irregardless of actual time of local sunrise.

## **ISSUE**

The majority of radio, television and cable broadcast media typically initiate their "morning drive" programming at 5:00 a.m. and continue through to 9:00 a.m. local time. The 5:00 a.m. first hour "morning drive" programming is geared to a significant portion of the public that start their day prior to 6:00 a.m. due to extended commuting times and / or early occupational clock-in requirements.

Class D and Class B AM stations that elect to utilize (PSRA) must wait until sunrise or 6:00 a.m. to initiate operation with up to 500 watts under Pre-sunrise Authority as outlined in Part 73.99 of the Rules. Prior to 6:00 a.m. or local sunrise, whichever is earlier, Class D AM radio stations must remain either silent or operate under nighttime authorization at substandard power levels, typically between 1 and 100 watts. Class B stations which utilize PSRA must also wait until 6:00 a.m. to initiate PSRA service and utilize their less restrictive daytime antennas patterns with 500 watts. Restricting PSRA commencement until after 6:00 a.m. restricts service from AM broadcast stations, a disproportionate number which serve smaller communities with limited local radio choices. For example, an individual waking up to a clock radio at 5:30 a.m. would unlikely set the clock radio to a Class D AM station because of the off-air status or substandard power prior to 6:00 a.m., making reception difficult or non-existent. This problem is magnified with consideration that "morning drive" is the most important time slot for many stations, the time when radio listenership is maximized and of greatest importance and service to the general public.

This Petition requests that the Commission authorize AM stations to provide complete service during the "morning drive" time slot under PSRA commencing at 5:00 a.m. local time instead of the current 6:00 a.m. restriction. This will expand the

"morning drive" programming of many AM radio stations to match existing FM radio, television and cable programmers, something which is overdue.

### **REQUEST**

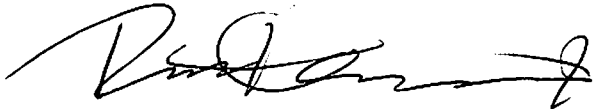
This Petition requests the Commission amend Part 73.99 of the Rules to authorize Pre-sunrise (PSRA) operation commencing at 5:00 a.m. local time for all stations operating on Regional Channels. A copy of the proposed revision to Part 73.99 is attached. For clarity, under the Rules, stations are NOT required to participate in PSRA and could elect to abstain or to commence PSRA operation after 5:00 a.m.

### **FINAL STATEMENT**

International negotiations, if any, should be minimal with regard to this matter as only stations operating on Regional Channels are addressed and NO foreign Class A Stations are affected. Also, NO domestic Class A stations are affected by this matter. Class D stations on frequencies shared with Class A stations have purposely been omitted from this Petition as I believe they involve more difficult International negotiations, associated time restraints and/or additional domestic interference concerns, but nonetheless, the Commission could consider Class D stations operating on frequencies shared with Class A stations in whole or part either now or at a later date. Addressing Regional Channel stations first will facilitate action on this matter. I believe that this Petition serves the public interest in that it further facilitates better distribution of the broadcast spectrum, particularly to smaller communities where local radio service is generally limited and frequently served by AM stations supporting the Commission's bedrock goals of localism, competition and diversity in the broadcast media.

I further believe that service gains to all Class D and to some Class B stations on Regional Channels will be significant and that negative impact to co-channel stations will be negligible in that this Petition simply requests of one additional hour of Pre-sunrise Authority only on Regional Channels. Pre-sunrise Authority has withstood the test of time and has proven to help serve the public need and necessity dating back to 1967. Amending Part 73.99 of the Rules as requested herein will further this cause. I believe this Petition is worthy of Commission consideration in light of the fact that AM stations tend to program community responsive formats including foreign language, news, talk, sports and religion traditionally and frequently all with heavy local emphasis.

Respectfully submitted,



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Dated: February 23, 2010

**REGIONAL CHANNEL REFERENCE:**

The following frequencies are designated as Regional Channels. These frequencies are assigned for use by Class B and Class D radio stations: 550, 560, 570, 580, 590, 600, 610, 620, 630, 790, 910, 920, 930, 950, 960, 970, 980, 1150, 1250, 1260, 1270, 1280, 1290, 1300, 1310, 1320, 1330, 1350, 1360, 1370, 1380, 1390, 1410, 1420, 1430, 1440, 1460, 1470, 1480, 1590, 1600, 1610, 1620, 1630, 1640, 1650, 1660, 1670, 1680, 1690 and 1700 kHz.

**FCC AM Standard Broadcast Station Statistics as of February 20, 2010:**

Total number of licensed AM stations (all Classes).....: 4863

Total number of licensed Class B (full-time) and Class D (daytime) AM stations on Regional Channels (less expanded band stations on 1610 to 1700 kHz ##)...: 2063 #

Total number of licensed Class D (daytime) AM stations on All AM Channels.....: 1930

Total number of licensed Class D (daytime) AM stations on Regional Channels (less expanded band stations on 1610 to 1700 kHz ##).....: 911 \*

Total number of licensed Class B (full-time) AM stations on Regional Channels (less expanded band stations on 1610 to 1700 kHz ##).....: 1152 \*\*

Total number of licensed stations NOT on Regional Channels and therefore NOT affected by this Petition as filed:.....: 2800

\* A total of 911 Class D (daytime) licensed AM stations on Regional Channels will benefit by amendment of Part 73.99 of the Rules as requested herein. These 911 stations represent 18.7% of the total number of 4863 AM Standard Broadcast stations.

\*\* Part of 1152 Class B licensed AM stations on Regional Channels will also benefit by amendment of Part 73.99 of the Rules as requested herein. These stations that operate with less than 500 watts nighttime or operate with higher night power but with an undesirable nighttime antenna pattern are potential beneficiaries under this Petition. Class B stations on Regional Channels with STA's for their nighttime antenna and/or emergency condition when normal nighttime antenna system is inoperative are potential beneficiaries. There are 1152 Class B stations on Regional Channels (excluding the extended band) which represent 23.7% of the total number of 4863 AM broadcasters.

# The combined total of all Class B and class D stations on Regional Channels from 550Khz to 1600 kHz inclusive represents 42.4% of all AM stations.

## Stations operating in the extended band (1610 kHz to 1700 kHz inclusive) will NOT be affected by this proposal based on analysis of existing stations.

Requested changes to Sec. 73.99 rules highlighted in **bold** characters and underlined:

TITLE 47—TELECOMMUNICATION  
CHAPTER I--FEDERAL COMMUNICATIONS COMMISSION  
PART 73 RADIO BROADCAST SERVICES  
Subpart A AM Broadcast Stations

Sec. 73.99 Presunrise service authorization (PSRA) and postsunset service authorization (PSSA).

- (a) \*\*\* (no change requested)
- (b) \*\*\* (no change requested)
  - (1) \*\*\* (no change requested)
  - (2) \*\*\* (no change requested)
  - (3) \*\*\* (no change requested)
  - (4) Class B and Class D stations on regional channels to commence PSRA operation at 5 a.m. local time and to continue such operation until local sunrise times specified in their basic instruments of authorization.
- (c) Extended Daylight Saving Time Presunrise Authorizations:
  - (1) Between the first Sunday in April and the end of the month of April, Class D stations operating on other than regional channels will be permitted to conduct Presunrise operation beginning at 6 a.m. local time with a maximum power of 500 watts (not to exceed the station's regular daytime or critical hours power), reduced as necessary to comply with the following requirements:
    - (i) \*\*\* (no change requested)
    - (ii) \*\*\* (no change requested)
    - (iii) \*\*\* (no change requested)
    - (iv) \*\*\* (no change requested)
  - (2) \*\*\* (no change requested)