

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

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Application of)
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SINCERE SEVEN) FCC File No.
For New Low Power FM Station WOOK-LP) BNPL-20131114AYL
Washington, DC)
Facility Identification No: 195742)

Accepted/Files

OCT -7 2014

Federal Communications Commission
Office of the Secretary

To: The Secretary
Attn: Media Bureau, Audio Division

**INFORMAL REQUEST FOR COMMISSION ACTION
PURSUANT TO 47 C.F.R. SECTION 1.41**

1. Historic Takoma Inc. ("HTI"), by counsel, hereby submits this Informal Request for Commission Action pursuant to 47 C.F.R. Section 1.41 ("Request").

BACKGROUND AND OVERVIEW

2. On September 11, 2014, Radio One Licensees LLC ("Radio One") filed a Petition for Reconsideration ("Reconsideration Petition") of a Commission's letter decision on August 19, 2014 ("Letter Decision") denying Radio One's Petition to Deny the above captioned application for a new LPFM station, WOOK-LP, at Washington, DC ("WOOK").

3. In the Reconsideration Petition, Radio One raised serious allegations that the WOOK LPFM construction permit application ("Application") and related pleadings lacked the candor required of an FCC authorization holder.¹ The Reconsideration Petition, *inter alia*, cited a discrepancy between the list of officers and board members disclosed to the Commission in the

¹ See *Leflore Broadcasting Co. v. FCC*, 636 F.2d 454 (DC Cir.1980). ("Effective regulation is premised upon the agency's ability to depend upon the representations made to it by its licensees, 'the fact of concealment [is] more significant than the facts concealed.' Indeed, the FCC would be derelict if it did not hold broadcasters to 'high standards of punctilio,' given the special status of licensees as trustees of a scarce public resource." (internal citations omitted)).

Application and those disclosed to other government agencies including the Internal Revenue Service and the District of Columbia Department of Regulatory Affairs. *Reconsideration Petition* at 2-4. The Reconsideration Petition further alleges that one particular officer, who was omitted from the WOOK application, is a convicted felon whose name was not disclosed despite FCC requirements that both the person and the conviction be disclosed in a broadcast application. *Id.* (citing *David Titus*, 25 FCC Rcd 2390 (2010)).

4. HTI believes the Commission must give high priority to resolution of these allegations to (a) protect the integrity of the LPFM effort at a critical period when grantees seek donations and community support for build-out and launch of newly granted stations and (b) to free spectrum to ease LPFM MX group overcrowding in the Washington, DC area should the allegations warrant rescission of the WOOK grant or denial on reconsideration of the WOOK application.

5. As discussed below, *time is of the essence* – and the Commission should attend to the issues raised by Radio One’s Reconsideration Petition with all dispatch – and certainly before the 90-day clock runs out for those who might be able to use the WOOK channel to eliminate mutual exclusivities affecting final selectees in DC Area MX groups. Indeed, many, including HTI face a December 5, 2014 deadline to apply for channel changes to alleviate mutual exclusivities.²

DISCUSSION

6. LPFM, while not new in regulatory terms, is newly arrived in many crowded metropolitan areas. Many stations only became technically feasible after Commission changed rules to waive regulations that have otherwise barred LPFMs on second adjacent channels.³ This

² *Tentative Selectees in 111 Groups of Mutually Exclusive Applications*, Public Notice, 14-132 (released Sept. 5, 2014)

³ See *Creation of a Low Power Radio Service*, Fifth Order on Reconsideration and Sixth Report and Order, 27 FCC Rcd 15402 (FCC 2012).

reality creates a large class of new LPFM entrants who must simultaneously seek both physical and financial support from their communities.

7. As part of this effort, new LPFM permittees must educate the community about the enterprise's intrinsic worth – and do so in a way that established non-commercial media need not provide. Allegations of dishonesty and criminality among any of the new entrants can make efforts to rally community resources more difficult. A rational, cautious grant giver would be well-advised to hold back support in a charitable field of endeavor that, within the community, has little or no track record, until the regulator responsible for keeping the process clean shows that it can and will act quickly and decisively to ensure integrity. No funder wishes to be tainted or embarrassed and risk reputational damage in a new field without the assurance of vigorous regulatory oversight. Newness, coupled with uncertainty suffused with potential taint, does not create the environment needed to attract funding and other material support.

8. If funders are forced to be extra-cautious and, as a result, hold back on financial commitments to LPFMs, it will be increasingly difficult for true and honest community media organizers, such as HTI, to actually find the wherewithal to put new stations on the air. Vision is important, but, resources make implementation possible. Anything that potentially bungs the flow of resources to new permit holders means communities will have to wait that much longer for, if not go without, LPFM service.

9. It has been nearly a decade and-a-half since the LPFM service began. The Commission should do everything possible to ensure that communities with such spectrum-limited metro areas as Washington, DC are not forced to wait much longer for this long-desired service. This includes taking steps to reassure donors that LPFM-operating charities have been vetted and culled carefully by regulators.

Expeditious Processing of this Matter Will Help Build Trust in the Entire LPFM Effort

10. Thus, the FCC needs to send a message that it polices the integrity of the LPFM process and, thereby, provide potential donors with systemic reassurance. There are thousands of good causes that funders can support. They need not take risks on LPFM if there is any hint of potential taint enabled by regulatory laxness or slowness.

11. In light of this reality, it is imperative that the FCC *expedite its consideration of the issues* raised by Radio One and resolve them, one way or another, as speedily as due process permits. This is not about a single applicant and allegations raised against it, but is about *building public and funder confidence in the entire FCC LPFM effort*. Insofar as the FCC has discretion to prioritize its work, resolution of this matter, fully and fairly, should be handled as a priority – lest back burner treatment lead to harmful and potentially devastating reputational damage to all emerging LPFM efforts made possible by changes in second adjacent rules.

Expedited Action Also Required Due to Spectrum Scarcity in the DC Region

12. In the interest, also, of ensuring that scarce LPFM spectrum resources do not go into disuse, the Commission should expedite processing of the Reconsideration Petition. In the Washington, DC area, precious few LPFM channels exist – even with second adjacent waivers. The channel on which WOOK has been granted a singleton permit could be used to alleviate mutual exclusivities.

13. Given the current 90-day clock for channel changes that can potentially ease mutual exclusivities and maximize service,⁴ it would be counterproductive to the overall goal of the current LPFM window to delay adjudication of the Reconsideration Petition. Clearly,

⁴ *Tentative Selectees*, n.2, *supra*.

consideration of the facts and circumstances must be fair, maintain due process and meet all legal standards. But, within the realm of Commission discretion, faster and slower tracks exist. In expediting the WOOK matter, the Commission will ensure the WOOK channel does not go unused even if it Radio One's allegations warrant license rescission or denial of the WOOK application on reconsideration. Given the once-in-a-decade nature of this LPFM filing window, any adverse FCC action taken after closure of the 90-day channel change window ensures that precious LPFM spectrum remains unavailable for many years.⁵

ADDITIONAL INFORMATION

14. To assist the Commission in expeditiously completing its work in this matter, HTI submits additional documentation hereto as Attachment A.⁶

CONCLUSION

15. HTI requests the Commission expedite its review of the issues raised in the Reconsideration Petition as it will (1) maintain the integrity of the LPFM process in a way that will give potential funders of any LPFM efforts confidence in the enterprise and (2) help maximize LPFM service opportunities in the heavily populated area DC area, which is currently underserved by community media by ensuring channel availability to alleviate MX group conflicts in the DC area should there be cause to eliminate WOOK's construction permit. If the

⁵ HTI does not prejudge the FCC's decision. It simply notes that certain deadlines unrelated to adjudication of the Reconsideration Petition pose significant regulatory and policy challenges – and the best way for the Commission to ensure that the right thing is done, both as an adjudicator and as a policy agency, is to expedite review of the issues raised in the WOOK matter.

⁶ This includes a printout of Sincere Seven's webpage promoting WOOK-LP and the separate WOOK-LP website fundraising pages, which states "donations are tax deductible" and WOOK-LP is "Sponsored by Sincere Seven – a 501(c)(3) organization" While HTI does not prejudge the matter, it believes this information will help the FCC expeditiously rule on the matter. HTI believes Attachment A provides contextual information to evaluate Radio One's allegation that the only Sincere Seven with 501(c)(3) status is the so-named corporation chartered in Tennessee and later registered in DC (rather than a new unincorporated association).

FCC waits until after December 5, 2014 to adjudicate the Reconsideration Petition, it could lead to dead air where active, community engaged LPFM would otherwise be made available. This is clearly not in the public interest.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Michael W. Richards".

Michael W. Richards
Counsel for Historic Takoma, Inc.

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Dated: October 7, 2014

ATTACHMENT A

The D.C. experience in radio returns...

Membership

Choose between monthly and annual payment plans for your WOOK-LP membership. All donations are tax deductible.

Item	Per Month	Annual fee (one-time payment)
Individual membership	\$5	\$60
	Subscribe	Buy Now
		

All **WOOK-LP** individual members receive discounts and priority access to WOOK events and announcements of your personal/private events for 1 year; additional privileges pending


Small business (< 25 employees)/non-profit	\$60 w/ \$60 first month's deposit	\$720
	Buy Now	Buy Now
		

WOOK-LP small business memberships come with the privileges of an individual membership, *plus* 1 year of unlimited, daily run-of-schedule ('ROS') on-air announcements, discounts on WOOK media production and event planning services, and an online acknowledgement with a hyperlink to your businesses' web sites.

Ask about adding 30-second announcements to a specific **WOOK-LP** program, title sponsorships, or underwriting a daily or weekly time block of **WOOK-LP** programming. From \$35/month.

Host/programmer (weekly 1 hour show)	\$75 w/ \$75 first month's deposit	\$900
	Buy Now	Buy Now
		

WOOK-LP Radio 103's on-air programmers earn 25% overrides on the total dollar value of memberships they sell, and 40% overrides on the total dollar value of all underwriting they generate on behalf of WOOK-LP Radio

Associate	n/a	\$250
		Buy Now
		

Associate members are provided:

- 1 year WOOK-LP Radio membership
- 2 complimentary passes to all WOOK-LP Radio events
- 25% override on the total dollar value of their membership sales

Associate members representing small businesses or organizations are also provided:

- Their company's logo or name proudly displayed on a limited run of WOOK-LP T-shirts and 6 months' ROS announcements for their business/organization **OR** 3 months' title sponsorship of a 1-hour weekly WOOK-LP Radio program (if applicable)

Director (limited enrollment; 2-year term)	n/a	Inquire
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The D.C. experience in radio returns...

About Us

In 1947, **WOOK AM** was launched in Washington, D.C. as one of the first U.S. broadcast radio stations to serve African-American audiences. Originally located at 1580 on the AM dial, the station swapped call letters and channels with WINX AM, moving to 1340 AM in 1955. According to the [Stepfather of Soul](#) blog, **WOOK AM** battled with WUST AM and WOL AM during the classic soul era for dominance of D.C.'s airwaves until 1975.

WOOK-LP, ~~streaming online since August 2013~~, is now the call sign for a listener-supported, community FM radio station arriving Fall 2014 on **103.1 FM** featuring D.C.-based music and cultural content. Sponsored by [Sincere Seven](#) - a 501(c)(3) organization dedicated to advancing labor rights and social justice -- **WOOK-LP** combines low-powered FM, low-powered AM, and Internet radio technologies for empowering the voices of D.C.'s many diverse communities.

103.1 FM will serve communities in D.C. Wards 1, 2, 3, 4, 5, and 6, Takoma Park, and Hyattsville, Maryland from a studio location TBD along the Georgia Avenue gateway. Over-the-air coverage will be expanded to D.C. Wards 7 & 8 with LPAM transmitters as popular demand warrants.

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CERTIFICATE OF SERVICE

I, Michael W. Richards, counsel for Historic Takoma, Inc., hereby state that true copies of the foregoing PETITION TO DENY were mailed first class, postage prepaid, this 7th day of October, 2014, (or by email where indicated with an *) to:

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