

**FEDERAL COMMUNICATIONS COMMISSION  
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January 28, 2009

Kevin F. Reed, Esq.  
Dow Lohnes PLLC  
1200 New Hampshire Avenue NW, Suite 800  
Washington, DC 20036-6802

Re: Cox Radio, Inc.  
WAGG (AM), Birmingham, Alabama  
Facility Identification Number: 48717  
Special Temporary Authority

Dear Counsel:

This is in reference to the request filed January 26, 2009, on behalf of Cox Radio, Inc. ("CRI"). CRI requests special temporary authority ("STA") to operate Station WAGG during nighttime hours with a temporary nondirectional antenna and reduced power.<sup>1</sup> In support of the request, CRI states that the City of Birmingham is scheduled to begin an extensive construction project immediately adjacent to the WAGG antenna system. CRI states that the construction equipment will disrupt the ground system and transmission line to Tower #2 of its nighttime array, making directional operation impossible.

Our review indicates that the proposed STA operation complies with the technical provisions of Section 73.1680, which governs emergency antenna operation.

Accordingly, the request for STA IS HEREBY GRANTED. Station WAGG may operate during nighttime hours with a temporary nondirectional antenna and reduced power not to exceed 0.25 kilowatt. It will be necessary to further reduce power or cease operation if complaints of interference are received. CRI must notify the Commission when licensed operation is restored.<sup>2</sup> CRI must use whatever means are necessary to protect workers and the public from exposure to radio frequency radiation in excess of the Commission's exposure guidelines. *See* 47 CFR § 1.1310.

This authority expires on **July 28, 2009**.

**STA Advisory:** Section 309(f) of the Communications Act of 1934, as amended, authorizes the

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<sup>1</sup> WAGG is licensed for operation on 610 kHz with 5 kilowatts daytime and 1 kilowatt nighttime, employing a directional antenna during nighttime hours only (DA-N-U).

<sup>2</sup> *See* 47 CFR §§ 73.45(c), 73.51, 73.54, 73.61(b).

Commission to grant STA in cases of "extraordinary circumstances requiring temporary authorizations in the public interest and when delay in the institution of the temporary operations would seriously prejudice the public interest." However, Section 309(f) is not a means by which a licensee/permittee may circumvent established processing procedures which require the filing of an application, nor is it a means by which a broadcaster may enhance his facility or make operation more convenient for the broadcaster. Stations operating with less than licensed facilities under temporary authorities can be viewed as receiving the benefit of a larger protection area than that in which they are currently providing service.

Accordingly, Special Temporary Authorities by nature are to be temporary and are not intended for extended use. Licensees of stations operating under temporary authorities are reminded that timely restoration of permanent facilities is the responsibility of the licensee and should be undertaken expeditiously. Any request for extension of special temporary authorities carries an increased burden with each subsequent request.

Therefore, requests for extension of STA will be granted only where the licensee can show that one or more of the following criteria have been met:

- Restoration of licensed facilities is complete and testing is underway;
- Substantial progress has been made during the most recent STA period toward restoration of licensed operation; or
- No progress has been made during the most recent STA period for reasons clearly beyond the licensee's control, and the licensee has taken all possible steps to expeditiously resolve the problem.

Sincerely,



Charles N. Miller, Engineer  
Audio Division  
Media Bureau

cc: Cox Radio, Inc.