

FEDERAL COMMUNICATIONS COMMISSION
445 TWELFTH STREET, SW
WASHINGTON, DC 20554

November 30, 2010

MEDIA BUREAU
AUDIO DIVISION
APPLICATION STATUS: (202) 418-2730
HOME PAGE: WWW.FCC.GOV/MB/AUDIO

PROCESSING ENGINEER: Tung Bui
TELEPHONE: (202) 418-2778
FACSIMILE: (202) 418-1410
MAIL STOP: 1800B3
INTERNET ADDRESS: tung.bui@fcc.gov

KM Communications, Inc.
3654 West Jarvis Avenue
Skokie, IL 60076

In re: NEW(FM), Hebbbronville, TX
Facility ID No.: 171012
KM Communications, Inc. ("KM")
BNPH-20070501AHA

Dear Applicant:

The staff has under consideration the above-captioned FM Auction No. 70, as amended on February 9, 2009, to file an application for a new commercial FM facility to serve Hebbbronville, TX.

An engineering review of the application, as originally filed, revealed that the tower for the facility proposed in the application was not registered. Additionally, the study disclosed that, although Item 17 in Section III-B had been certified "Yes", the applicant failed to initiate the environmental evaluation. On December 1, 2008, the staff spoke with the contact representative regarding these two deficiencies. KM's attorney indicated that the applicant would file an amendment to provide a tower registration number and certify compliance with the Environmental Protection Act. On February 9, 2009, the application was amended to state that although the Federal Aviations Administration ("FAA") had issued a determination of no hazard for the proposed new tower on October 17, 2007, KM had not completed the required environmental reviews and consultations nor registered the tower because the applicant has not reached a binding agreement with the tower owner.

By letter dated April 27, 2009, KM was informed that its application still required the completion of the tower registration process and the environmental certification. Furthermore, KM was given 60 days in which to respond to the letter. In the letter the Commission stated "[f]ailure to respond within this time period or to provide the written updates every 60 days will result in the dismissal of the application for failure to prosecute pursuant to 47 C.F.R. § 73.3568(a)(1). After not receiving a response, the staff contacted KM's attorney on July 13, 2009. KM's attorney indicated that the letter was sent to KM's old address and that he had terminated his

representation of KM at the end of June. The deficiency letter was emailed to KM's General Manager Kevin Bae with a follow-up telephone call. On July 23, 2009 and October 6, 2009, Kevin Bae requested additional time to resolve the tower site dispute. On June 29, 2010, after not receiving a further update, the staff spoke with Kevin Bae who indicated that the status was unchanged and that KM was looking for a new site. We have received no further status reports since that time.

KM's overall lack of responsiveness and failure to timely file status updates of its tower registration process and environmental evaluation leaves KM's application subject to dismissal. Nevertheless, we are affording KM with one final opportunity to file an amendment that either provides a tower registration number and certifies compliance with the Environmental Protection Act at the current site or proposes to relocate to an existing site that is already registered and does not need further environmental analysis. Further action on the subject application will be withheld for a period of thirty (30) days from the date of this letter to provide an opportunity to file the requested amendment. Failure to correct all remaining grantability defects within this time period will result in the dismissal of the application for failure to prosecute pursuant to 47 C.F.R. § 73.3568(a)(1). Please note, we will not entertain any further requests for additional time as KM has already had almost three years since the staff initially contacted KM to provide this information.

Sincerely,



Rodolfo F. Bonacci
Assistant Chief
Audio Division
Media Bureau

cc: Kevin J. Bae, General Manager