



Federal Communications Commission
Washington, D.C. 20554

July 17, 2015

Emmanuel Broadcasting Corporation
177 Henderson Road
Decatur, AL 35603
Attention: James R. Henderson

Re: Petition for Eligible Entity Status
WMJN-LP, Somerville, Alabama
Facility ID No. 10593

Dear Licensee:

This letter is in regards to the Petition for Eligible Entity Status (“Petition”) filed by Emmanuel Broadcasting Corporation, licensee of WMJN-LP, Somerville, Alabama (the “Station”).¹ The Licensee’s Petition states that the Station is a Class A station and should be deemed an “eligible facility” for purposes of the incentive auction. Before we are able act on the Petition we require additional information related to the Station’s purported status as a Class A station. The Licensee must answer all questions and provide all required information and documentation **within ten (10) days from the date of this letter**. In the alternative, the Licensee may request withdrawal of its Petition.

Background. On June 9, 2015, the Media Bureau (“Bureau”) issued a Public Notice (“*Eligibility PN*”) that included an Appendix containing a list of each station facility eligible for protection in the repacking process and for relinquishment in the reverse auction (i.e., “eligible facility”).² WMJN-LP is currently listed in the Commission’s database as a low power television station and as a result was not included in the Appendix.³ The Licensee contends in the Petition that the Station was licensed as a Class A station on July 19, 2001, has been operating as a Class A station, and has met all Class A requirements. The Licensee goes on to state that it is not aware of any Commission action to revoke its Class A status, and the Licensee contends that it never “acted to terminate its Class A status.”

Class A television stations have been accorded primary spectrum-use status pursuant to the Community Broadcasters Protection Act of 1999 (“CBPA”).⁴ To qualify for Class A status, the CBPA provides that during the 90 days preceding enactment of the statute, a low power television station must have: (1) broadcast a minimum of 18 hours per day; (2) broadcast an average of at least three hours per

¹ Petition for Eligible Entity Status filed by Emmanuel Broadcasting Corporation (Jul. 1, 2015).

² *Media Bureau Announces Incentive Auction Eligible Facilities and July 9, 2015 Deadline for Filing Pre-Auction Technical Certification Form*, Public Notice, DA 15-679 (rel. Jun. 9, 2015).

³ See, e.g., *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, Report and Order, 29 FCC Rcd 6567, 6673, para. 238; 6674, para. 241 (2014)(finding that mandatory repacking protection of low power television stations is not mandated by the Spectrum Act and declining to exercise discretionary authority to protect low power television facilities), *aff’d on recon.*, Second Report and Order on Reconsideration, FCC 15-69, paras. 64-71 (rel. Jun. 19, 2015).

⁴ Community Broadcasters Protection Act of 1999, Pub. L. No. 106-113, 113 Stat. Appendix I at pp. 1501A-594 – 1501A-598 (1999), *codified at* 47 U.S.C. § 336.

week of programming produced within the market area served by the station; and (3) been in compliance with the Commission's Rules (the "Rules") for low power television stations.⁵ In addition, beginning on the date of its application for a Class A license and thereafter, the CBPA requires that a station must be "in compliance with the Commission's operating rules for full power television stations."⁶ Class A licensees must continue to meet the eligibility requirements to retain their Class A status.⁷

In establishing the Class A television service, the Commission applied to Class A licensees all the requirements that apply to full power television stations except those that could not apply for technical or other reasons.⁸ Among the requirements that apply to Class A licensees are the Commission's main studio requirements⁹ and public inspection file rule.¹⁰ Each Class A television station must also prepare and place in its public file documentation sufficient to demonstrate that it is continuing to meet its Class A eligibility requirements, including the programming requirements.¹¹ Like full power stations, Class A stations are also required to establish an electronic public inspection file ("electronic public file") through a Commission-hosted website and upload specific information and documents.¹² Among other requirements, stations must upload the main studio address, quarterly issues/programs lists for the entire license term, and documentation sufficient to demonstrate that the station continues to meet its Class A the eligibility requirements.¹³ The deadline for station compliance with the electronic public file requirements has long passed.¹⁴ Class A television licensees failing to meet these requirements are

⁵ 47 U.S.C. § 336(f)(2)(A)(i).

⁶ 47 U.S.C. § 336(f)(2)(A)(ii).

⁷ *Id.*; 47 C.F.R. § 73.6001(b),(c).

⁸ *See* 47 C.F.R. §§ 73.6026 and 73.3001 *et seq.*

⁹ *In the Matter of Establishment of a Class A Television Service*, MM Docket No. 00-10, Report and Order, 15 FCC Rcd 6355, 6366, paras. 24-25 (2000) ("Class A R&O"), *modified*, Memorandum Opinion and Order on Reconsideration, 16 FCC Rcd 8244, 8254-56, paras. 25-31 (2001) ("Class A MO&O on Recon"). These requirements include maintaining a meaningful management and staff presence of at least two full-time personnel to serve the needs and interests of the residents of the station's community of license.

¹⁰ *Class A R&O*, 15 FCC Rcd at 6366, paras. 24-25. *See also*, 47 C.F.R. § 73.3526 (requiring each Class A station to prepare and place various documents and information in its local public inspection file, including but not limited to quarterly TV issues/programs list and documentation sufficient to demonstrate that the Class A station is continuing to meet the eligibility requirements, as set out in Section 73.6001 of the Commission's Rules).

¹¹ Each Class A station must submit documentation demonstrating that since the station has filed for its Class A status, it has (1) broadcast a minimum of 18 hours per day, (2) broadcast an average of at least three hours per week of locally produced programming each quarter and (3) complied with all applicable Part 73 operating rules. *See* 47 C.F.R. §§ 73.3526(e)(16) and 73.6001.

¹² *In the Matter of Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, MM Docket Nos. 00-168 and 00-44, Second Report and Order, 27 FCC Rcd 4535 (adopting rules to replace the requirement that commercial and noncommercial television stations, including Class A TV stations, maintain a public file at their main studios with a requirement to post most of the documents in that file to an electronic public file to be hosted by the Commission); 47 C.F.R. § 73.3526(b).

¹³ *See* 47 C.F.R. § 73.3526(b)(2).

¹⁴ Broadcasters' electronic public inspection file requirements were phased in between August 2012 and February 2013. Beginning August 2, 2012, stations were required to post any document that would otherwise be placed in a station's public file, with limited exception, to their electronic public file on a moving forward basis. By February 4, 2013, stations were required to upload to their electronic public file, with limited exceptions, those documents that were already in their physical public file prior to August 2, 2012. *See, e.g., Effective Date Announced for Online*

subject to the regulations regarding forfeitures and penalties applicable to full power television stations as well as loss of Class A status if they fail to meet their ongoing eligibility requirements.¹⁵

Request for Information. Within ten (10) days from the date of this letter, the Licensee must provide a detailed written response to the questions listed below and establish an electronic public file that includes all required information and documents as outlined below. In the alternative, the Licensee may request withdrawal of its Petition.

1. Please explain why have all applications submitted to the Commission have been filed on low power television forms instead of Class A forms since the license was acquired by Mr. James Henderson and Ms. Carol Henderson in November 2012?¹⁶ For example, on January 26, 2015, the Licensee filed an application for a Low Power TV, TV Translator or TV Booster Station License (FCC Form 347).¹⁷ A Class A station should have filed Application for Class A Television Broadcast Station Construction Permit or License (FCC Form 302-CA).
2. Please explain why the licensee listed the Stations category of service as “Low Power TV” and not “Class A TV” in response to Section I, Question 6 of the Station’s most recent license renewal application.¹⁸
3. On numerous occasions the Licensee has received authorizations from the Commission listing the Station’s category of service as “low power television (also referenced as “TX” or “LD”). For example, on November 1, 2013 the Station was issued an analog low power television license.¹⁹ Similarly, on January 29, 2015, the licensee was granted a digital low power license.²⁰ Please explain why the Licensee failed file a Petition for Reconsideration challenging the Commission’s use of the low power service designation (i.e, “TX” or “LD”) instead of a Class A service designation (“CA” or “CD”) in every authorization issued to the Licensee since November 2012.²¹

Publication of Broadcast Television Public Inspection Files, Public Notice, 27 FCC Rcd 7478 (2012)(announcing effective date of electronic public file rule).

¹⁵ See *Class A MO&O on Recon*, 16 FCC Rcd at 8257, para. 35.

¹⁶ File No. BALTTA-20100809CGZ.

¹⁷ File No. BLDLTL-20150126ABT.

¹⁸ File No. BRTTL-20121113AID.

¹⁹ *Id.* Notice of this action was provided on November 6, 2013, in the Daily Digest. *FCC Daily Digest*, Broadcast Actions Report No. 48110, Public Notice, p. 15 (Nov. 6, 2013).

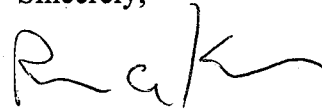
²⁰ File No. BLDLTL-20150126ABT. Notice of this action was provided on February 3, 2015, in the Daily Digest. *FCC Daily Digest*, Broadcast Actions Report No. 48418, Public Notice, p. 7 (Feb. 3, 2015).

²¹ The Licensee also received authorizations with the “LD” or “TX” low power television class designation upon grant of the following applications: File Nos. BALTTL-20140709ADA; BMPDTL-20140703AGA; BMPDTL-20150502ABG; and BALTTA-20100809CGZ. Under Section 1.106(f) of the Rules a party must file a Petition for Reconsideration within 30 days of Commission action. See 47 C.F.R. § 1.106(f); 47 U.S.C. § 405(a).

4. Please explain why the Station did not establish and subsequently maintain an electronic public file on the Commission's hosted website as required by Section 73.3526 of the Rules.²²
5. Provide all information and documents required by Section 73.3526 of the Rules by establishing an electronic public file through the Commission-hosted website. Instructions on how to establish the electronic public file and upload documents to it are attached to this letter. If the Station is missing documents, did not prepare or timely prepare documents, or has not been in full compliance with the Class A eligibility requirements throughout the period it purports to have been a Class A station, the Licensee must include in its written response the reason for such failures.
6. At the time of filing, the written response to this letter must be supported by a declaration by an individual with personal knowledge of the facts and signed under penalty of perjury that the facts and information provided in the response are both true and correct.²³

The Licensee's written response or request for withdrawal of its Petition must be filed with the Commission's Secretary and addressed to the Office of the Secretary, Federal Communications Commission, to the attention of Barbara A. Kreisman, Chief, Video Division, Media Bureau, Room 2-A666.²⁴ An electronic courtesy copy of the filing should be sent electronically sent to Barbara Kreisman at Barbara.Kreisman@fcc.gov and Evan Morris at Evan.Morris@fcc.gov. Failure to file a full and timely response to the questions above or to establish an electronic public file that includes all required information and documents **within ten (10) days from the date of this letter** will result in prompt dismissal of the Petition.²⁵

Sincerely,



Barbara A Kreisman
Chief, Video Division
Media Bureau

²² 47 C.F.R. § 73.3526.

²³ See 47 C.F.R. § 1.16.

²⁴ All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington, DC 20554. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

²⁵ 47 C.F.R. § 1.748 (permitting dismissal of applications for failing to comply or justifying non-compliance with Commission requests for additional information).

ATTACHMENT

Completing the Online Public File Requirement

Logging In

- There are two login options for broadcasters to use at <https://stationaccess.fcc.gov> in order to update their online public inspection files.
- The first, **Facility Sign In**, accepts a Facility ID number and passcode to manage a single station's public inspection file.
- The second, **FRN Sign In**, allows FRN holders to use their primary FRN and associated password to see all of their stations' Facility IDs and associated passcodes and to track the history of each station's public inspection file.

Documents That Must Be Uploaded

- The Commission will upload to stations' online public files any required documents that have been filed with the Commission in other contexts. These include renewal, assignment, and transfer applications filed in the Commission's Consolidated Database System (CDBS) and Children's Programming Reports (Form 398) filed using the Commission's e-filing system.
- There are electronic folders for all components of a station's public file on the Commission's public file website.
- Stations must upload any required public file documents that have not already been filed with the Commission. This will include the station's quarterly issues/programs lists and information demonstrating the station's compliance with its Class A eligibility requirements, which means that the station must submit documentation demonstrating that during the period that it has been subject to Class A requirements, it has (1) broadcast a minimum of 18 hours per day and (2) broadcast an average of at least three hours per week of locally produced programming each quarter.
- Stations must also upload their main studio location address.
- For reference as to what documents and information must be uploaded refer to Section 73.3526 of the Commission's Rules, 47 C.F.R. § 73.3526.

How To Upload Documents

- Stations must upload electronic documents in their existing or native format to the extent feasible. If a required document already exists in a searchable format, a broadcaster is expected to upload the filing in that format, unless it is technically unable to do so. Examples of formats include: the Microsoft Word.doc format, or a non-copy protected text-searchable .pdf format for text filings, or native formats such as spreadsheets in Microsoft .xml format for non-text filings.
- The “drag and drop” filing method may be used in modern browsers Firefox, Chrome, and Safari. Click the orange Upload Documents button and then drag and drop anywhere on the page. If you are using Internet Explorer, you will need to file documents one at a time through the familiar file attachment method.
- A station may easily delete any document from its online public file so that it will no longer be viewable by members of the public accessing their file. Licensees will also have the ability to fully purge a file from the system so that it no longer exists on the Commission’s system, but this will require an FRN-based login.
- All uploads and actions are tracked on the History page. Any file you delete is moved into the Recycle Bin. You can also recover files from the Recycle Bin.