

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Reclassification of License of)	
Class A Television KLMB-LP,)	Facility ID No. 38585
El Dorado, Arkansas)	
)	

ORDER TO SHOW CAUSE

Adopted: July 30, 2015

Released: July 30, 2015

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION.

1. This is with respect to station KLMB-LP, El Dorado, Arkansas, (“Station” or KLMB-LP”) licensed to Kingdom Broadcasting, Inc. (“Kingdom”). This station is currently licensed as a Class A television station, which are accorded primary spectrum use status pursuant to the Community Broadcasters Protection Act of 1999 (“CBPA”).¹ For the following reasons, pursuant to Section 316(a) of the Communications Act of 1934, as amended (“Act”) we find modification of Station’s license to low power status is warranted and would promote the public interest.

II. BACKGROUND.

2. In order 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 week of programming produced within the market area served by the station; and (3) been in compliance with the Commission’s rules for low power television stations.² 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.”³ Class A licensees must continue to meet the eligibility requirements in order to retain their Class A status.⁴

3. In implementing the CBPA and establishing the Class A television service, the Commission applied to Class A licensees all Part 73 regulations except for those that could not apply for technical or other reasons.⁵ Among the Part 73 requirements that apply to Class A licensees are the

¹ 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.

² 47 U.S.C. § 336(f)(2)(A)(i).

³ 47 U.S.C. § 336(f)(2)(A)(ii); 47 C.F.R. § 73.6001(b),(c).

⁴ 47 U.S.C. § 336(f)(1)(A)(ii); 47 C.F.R. § 73.6001(b),(c).

⁵ *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”), Memorandum Opinion and Order on Reconsideration, 16 FCC Rcd 8244, 8254-56, paras. 25-31 (2001)(“Class A MO&O”). See e.g., 47 C.F.R. §§ 73.6001(c) and 73.6026.

Commission's main studio requirements;⁶ rules governing informational and educational children's programming;⁷ the Emergency Alert System (EAS) rule;⁸ and the Commission's public inspection file rule,⁹ including preparing and placing in its public inspection file and/or filing with the Commission a quarterly TV issues/programs list,¹⁰ a quarterly Children's Television Programming Report (FCC Form 398),¹¹ and documentation sufficient to demonstrate continued compliance with its Class A requirements.¹² Class A stations are also required to establish and upload certain elements of its public file to a Commission hosted website ("electronic public file").¹³

4. Class A television licensees are also subject to the regulations regarding fines and penalties applicable to full power television stations, and are subject to loss of Class A status if they fail to meet these ongoing program service and operating requirements.¹⁴ As the Commission explained in the *Class A MO&O*:

Although Class A licensees will not be subject to loss of license for failure to continue to comply with the eligibility requirements in section (f)(2)(A) of the CPBA [including that they be in compliance with the Commission's rules for full-power stations after they file for a Class A license], they are subject to loss of Class A status if they fail to meet these ongoing obligations.... We [have] also adopted a rule stating that "Licensees unable to continue to meet the minimum operating requirements for Class A television stations...shall promptly notify the Commission in writing, and request a change in status [to low power]."¹⁵

5. A staff examination of Commission records show that station KLMB-LP has failed to meet its ongoing Class A eligibility requirements. In particular, the Licensee has failed to establish an electronic public file for the Station through the Commission-hosted website, the deadline for which has long since passed,¹⁶ and prepare and/or upload required information/documents including but not limited

⁶ See e.g., 47 C.F.R. §§ 73.1125 and 73.3526. A licensee's main studio requirement includes maintaining a meaningful management and staff presence of at least two full-time personnel in order to serve the needs and interests of the residents of the station's community of license. See *Main Studio and Program Origination Rules*, Memorandum Opinion and Order, 3 FCC Rcd 5024, 5026 (1988); *Jones Eastern of the Outer Banks, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 3615, 3616 (1991), *clarified*, 7 FCC Rcd 6800 (1992).

⁷ 47 C.F.R. § 73.671(c).

⁸ 47 C.F.R. § 73.1250.

⁹ 47 C.F.R. § 73.3526; *Class A R&O*, 15 FCC Rcd at 6366, paras. 24-25.

¹⁰ 47 C.F.R. § 73.3526(e)(11)(i).

¹¹ 47 C.F.R. § 73.3526(e)(11)(iii).

¹² 73.3526(e)(17).

¹³ *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);

¹⁴ *Class A MO&O*, 16 FCC Rcd at 8257, para. 35.

¹⁵ *Id.*

¹⁶ 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 exceptions, 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

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to the station's main studio address, quarterly TV issues/programs lists, Children's Television Programming Reports, and documentation sufficient to demonstrate that the Class A station is continuing to meet its Class A eligibility requirements.¹⁷

III. DISCUSSION.

6. Section 316(a) of the Act, permits the Commission to modify an authorization if such action is in the public interest.¹⁸ Further, pursuant to Section 316(a), we are required to notify the affected station of the proposed action, as well as the public interest reasons for the action, and to afford the licensee at least 30 days to respond. This procedure is set forth in Section 1.87 of the Commission's Rules.¹⁹

7. Class A television stations are required to: (1) broadcast a minimum of 18 hours per day; (2) broadcast an average of at least three hours per week of programming produced within the market area served by the station; and (3) comply with applicable Part 73 requirements.²⁰ Licensee's that are unable to continue to meet the minimum operation requirements, or which elects to revert to low power status, must promptly notify the Commission of a request for change in status.²¹ Kingdom has failed to notify the Commission of its inability to continue to meet its minimum ongoing Class A requirements.

8. Commission records indicate that the Licensee did not establish an electronic public file through the Commission-hosted website or upload to its electronic public file required information/documents in a timely manner, including but not limited to the station's main studio address, quarterly TV issues/programs lists, quarterly Children's Television Programming Reports, and documentation sufficient to demonstrate that the Class A station is continuing to meet its Class A eligibility requirements. In fact, because the Licensee has not filed any of its Children's Television Programming Reports we are unable to determine whether the Station has complied with its statutorily mandated children's programming requirements.²² These shortcomings would represent significant violations of both the Rules and the Act, and a failure by Kingdom to comply with its continuing Class A eligibility requirements.²³ While the Commission has acknowledged that "in appropriately compelling

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were already in their physical public file prior to August 2, 2012. *See, e.g., Effective Date Announced for Online Publication of Broadcast Television Public Inspection Files*, Public Notice, 27 FCC Rcd 7478 (2012)(announcing effective date of electronic public file rule).

¹⁷ *Id.* at 4568-69; 47 C.F.R. § 73.3526(b)(2); and § 73.3526(e)(17).

¹⁸ 47 U.S.C. § 316(a).

¹⁹ 47 C.F.R. § 1.87.

²⁰ 47 C.F.R. § 73.6001(b),(c).

²¹ 47 C.F.R. § 73.6001(d).

²² Under the Children's Television Act of 1990, Pub L. No. 101-437, 104 Stat. 996-1000, codified at 47 U.S.C. §§ 303(a), 303(b), and 394, as implemented by Section 73.671 of the Commission's Rules, 47 C.F.R. § 73.671, broadcast television licensees, including Class A licensees, are required to provide sufficient programming specifically designed to serve the educational and informational needs of children ("CORE programming"). In the *1996 Children's Television Order* revising our rules and policies governing children's programming, the Commission established a license renewal application processing guideline of three hours of CORE programming per week. *Policies and Rules Concerning Children's Television Programming: Revision of Programming Policies for Television Broadcast Stations*, Report and Order, 11 FCC Rcd 10660, 10718 (1996) ("*1996 Children's Television Order*"). The Commission established rules setting forth seven criteria for evaluating whether a program qualifies as CORE programming. *1996 Children's Television Order*, 11 FCC Rcd at 10696; 47 C.F.R. § 73.671(c).

²³ 47 C.F.R. § 73.3526.

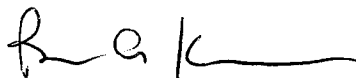
circumstances involving a temporary inability to comply,” a licensee can apply for an STA to operate at variance with the CBPA’s operational and programming requirements without affecting its Class A status,²⁴ the record now before us does not present such a case. Based on these facts and circumstances, we find that KMLB-LP has failed to meet its ongoing Class A obligations and modification of the Station’s Class A status to low power is in the public interest.²⁵

9. **IT IS THEREFORE ORDERED**, That, Kingdom of Broadcasting, Inc., show cause why its authorization for Class A television station KMLB-LP, El Dorado, Arkansas should not be modified to specify the station as a low power television station.

10. Pursuant to Section 1.87 of the Commission’s Rules, Kingdom Broadcasting, Inc. may, no later than **August 31, 2015**, file a written statement why the above-captioned license should not be modified as proposed herein. The written statement, if any, must be mailed to Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, Attention: Barbara A. Kreisman, Chief, Video Division, Media Bureau. An electronic copy should also be sent to Evan S. Morris, Attorney-Advisor, Video Division, Media Bureau at Evan.Morris@fcc.gov. Upon review of the statement and/or additional information, the Commission may grant the modification, deny the modification, or set the matter for hearing. If no written statement is filed by **August 31, 2015**, the licensee will be deemed to have consented to the modification of its license from Class A television status to low power television status, and the modification proposed in this *Order to Show Cause* will be deemed to serve the public interest.

11. **IT IS FURTHER ORDERED**, That a copy of this *Order to Show Cause* shall be sent by Certified Mail, Return Receipt Requested, to: Kingdom Broadcasting, Inc., at Kingdom Broadcasting, Inc., E. Hillsboro, El Dorado, AR 71730

FEDERAL COMMUNICATIONS COMMISSION



Barbara A. Kreisman
Chief, Video Division
Media Bureau

²⁴ *MO & O on Recon*, 16 FCC Rcd at 8257, n.76.

²⁵ We note that even if we were to find that retention of Class A status would be in the public interest, such violations of the Rules would likely result in a substantial forfeiture or commencement of a revocation proceeding pursuant to Section 312(c) of the Act. 47 U.S.C. § 312(c). The forfeiture guidelines adopted by the Commission establish a base forfeiture penalty of \$10,000 for violation of the public file rules and a base forfeiture penalty of \$3,000 for failure to file required forms and information. 47 C.F.R. § 1.80(b)(8), note to paragraph (b)(8), Section I.