

61510

DUPLICATE

BEFORE THE
Federal Communications Commission
Washington, D.C. 20554

2013 FEB 19 A 6:52
COMMUNICATIONS

In the Matter of

Southwest FM Broadcasting Co., Inc.)
Prescott/Spring Valley, AZ)
)
Application for a minor change)
Station KAHM(FM))
Facility No. 61510)
)
Kemp Communications, Inc.)
Salome, AZ)
)
Order to Show Cause)
Station KVGG)
Facility No. 165984)

File No. BPH-20100813BHN

FILED/ACCEPTED

FEB 14 2013

Federal Communications Commission
Office of the Secretary

To: Office of the Secretary, FCC
Attn: Chief, Audio Division, Media Bureau

OPPOSITION

Southwest FM Broadcasting Co., Inc. ("Southwest FM"), licensee of Station KAHM(FM), Prescott, Arizona, and holder of the above-referenced construction permit to change the community of license to Spring Valley, Arizona, by its counsel, hereby submits this Opposition to the Motion for Stay ("Motion") filed by Kemp Communications, Inc. ("Kemp"), licensee of Station KVVG, Salome, Arizona, in the above-captioned matter.¹ In support of its position that Kemp's Motion should be denied, Southwest FM states as follows.

¹ The Motion for Stay was filed February 4, 2013.

Southwest FM's filed the above-captioned application to modify the facilities of Station KAHM (which operates on Channel 271C). Kemp filed an Informal Opposition to the application. In the course of processing the application, the Commission staff issued an Order to Show Cause² which directed Kemp³ to state whether, and if so why, it objected to the modification of its license for Station KVVG from Channel 270A to Channel 231A in order to accommodate the proposed modification of Station KAHM. By letter dated January 11, 2013, the Chief of the Audio Division, Media Bureau rejected the arguments put forward by Kemp in its Informal Objection and granted Southwest FM's application.

Kemp asks the Commission to stay the effectiveness of its grant of Southwest FM's application on the ground that the January 11, 2013 staff letter states that Kemp did not file a response to the Commission's Order to Show Cause. While it is (regrettably) true that the staff's letter incorrectly states that Kemp did not respond to the Commission's Order to Show Cause, it does not follow that this error justifies the relief sought by Kemp. In fact, the staff's oversight is inconsequential because the arguments raised by Kemp in its Response to the Commission's Order to Show Cause were essentially the same arguments which Kemp made in its Informal Objection, and which the Audio Division considered and rejected in its letter of January 11, 2013.

Furthermore, Kemp has not met the extremely demanding standard of demonstrating that it is likely to prevail on the merits of its claim that the Audio Division's grant of Southwest FM's application was in error, and hence it is not entitled to the extraordinary relief which it seeks in its Motion.


² The Order to Show Cause was issued March 12, 2012.

³ The Commission also issued an Order to Show Cause to Martin Vosper, licensee of Station KBUX, Quartzsite, Arizona, as regards Southwest FM's request that he be directed to change from Channel 232A to 243A.

For these reasons, the Commission should deny Kemp's Motion (either in separate action or in the context of its review (and denial) of Kemp's contemporaneously filed Petition for Reconsideration).

Respectfully submitted

SOUTHWEST FM BROADCASTING, CO. INC.

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Date: February 14, 2013

CERTIFICATE OF SERVICE

I, Brenda Chapman, hereby certify that on this 14th day of February, 2013, a copy of the foregoing "Opposition" was delivered via first class, U.S. mail, postage prepaid or via e-mail where indicated to the following:

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** VIA E-MAIL