

FCC MAIL SECTION

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**Before the
Federal Communications Commission DA 96- 1251
Washington, D.C. 20554**

In the Matter of)	MM Docket No. 96-169
)	
Chester Broadcasting Company, Inc.)	File No. BR-950726YG
)	
For Renewal of License)	
for Station WGCD(AM))	
Chester, South Carolina)	

HEARING DESIGNATION ORDER

Adopted: August 2, 1996

Released: August 7, 1996

By the Assistant Chief, Audio Services Division:

1. The Assistant Chief, Audio Services Division, Mass Media Bureau, has before him for consideration: (a) the captioned application for renewal of license filed by Chester Broadcasting Company, Inc. ("Chester"), licensee of AM Station WGCD, Chester, South Carolina and (b) the results of an investigation into the station's silent status.¹

2. WGCD(AM) suspended operations on July 31, 1993 when the station's general manager resigned and the licensee's principals claimed they were unable to manage the station. The licensee then reported that it placed the station on the market for sale, that it was following up on various leads, and that it would dissolve the corporation and surrender its license if these efforts were not successful by June 30, 1994. The efforts were not successful, but the licensee nevertheless filed the captioned application for license renewal in July, 1995. In an October 23, 1995 amendment to that application, Chester recited the history of its attempts to sell the station. Chester's last temporary authorization to remain silent expired March 11, 1996. On March 7, 1996, Chester requested permission to remain silent beyond this date, indicating that it continued "to work diligently to obtain a purchaser for the station and named several parties as having expressed interest "in purchasing radio station WGCD for the agreed price."

3. A review of the record for this station does not indicate that any application for the assignment of the station's license has been filed. The station has been off the air for nearly three years. Chester's latest request for special temporary authority repeats the same justification --the continued search for a buyer capable of resuming station operations-- offered for nearly three years. Thus, the station has been off the air for a protracted period of time and the continued failure to operate cannot be attributed to causes beyond the licensee's

¹The Mass Media Bureau has been delegated authority to designate for hearing the renewal of license applications of silent broadcast stations. See Moenkopi Communications, Inc., 8 FCC Rcd 3990 (1993).

control. Further, Chester offers no evidence that broadcast operations can be resumed expeditiously. Therefore, Chester is in apparent violation of Sections 73.1740² and 73.1750³ of the Commission's Rules.

4. Accordingly, IT IS ORDERED, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the renewal of license application of WGCD(AM), Chester, South Carolina IS DESIGNATED FOR HEARING at a time and location to be specified in a subsequent Order, upon the following issues:

- (1) To determine whether Chester Broadcasting Company, Inc. has the capability and intent to expeditiously resume the broadcast operations of WGCD(AM), consistent with the Commission's Rules.
- (2) To determine whether Chester Broadcasting Company, Inc. has violated Sections 73.1740 and/or 73.1750 of the Commission's Rules.

²Section 73.1740(a)(4) provides that:

"In the event that causes beyond the control of a licensee make it impossible to adhere to the operating schedule of this section or to continue operating, the station may limit or discontinue operation for a period of not more than 30 days without further authority from the FCC. Notification must be sent to the FCC in Washington, D.C. not later than the 10th day of limited or discontinued operation. During such period, the licensee shall continue to adhere to the requirements in the station license pertaining to the lighting of antenna structures. In the event normal operation is restored prior to the expiration of the 30-day period, the licensee will so notify the FCC of this date. If the causes beyond the control of the licensee make it impossible to comply within the allowed period, informal written request shall be made to the FCC no later than the 30th day for such additional time as may be deemed necessary."

³Section 73.1750 provides:

"The licensee of each station shall notify the FCC in Washington, D.C. of permanent discontinuance of operation at least two days before operation is discontinued. Immediately after discontinuance of operation, the licensee shall forward the station license and other instruments of authorization to the FCC, Washington, D.C. for cancellation."

- (3) To determine, in light of the evidence adduced pursuant to the preceding issues, whether grant of the subject renewal of license application would serve the public interest, convenience and necessity.

5. IT IS FURTHER ORDERED, That, in the event it is determined that grant of the renewal of license application would serve the public interest, convenience and necessity, the grant will be conditioned on the expeditious resumption of operation, the precise period of time to be established in the hearing. Failure to resume operations within the time specified in the condition will result in the cancellation of the license and the deletion of the station's call letters.

6. IT IS FURTHER ORDERED, That, to inform Chester Broadcasting Company, Inc. of the issues specified against it, a copy of this Order will be mailed by certified mail/return receipt requested to:

Chester Broadcasting Company, Inc.
P.O. Box 547
Chester, South Carolina 29706

7. IT IS FURTHER ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, both the BURDEN OF PROCEEDING with the introduction of evidence and the BURDEN OF PROOF with respect to the issues specified above shall be upon the LICENSEE, Chester Broadcasting Company, Inc.

8. IT IS FURTHER ORDERED, That, to avail itself of the opportunity to be heard, the licensee, pursuant to Section 1.221(c) of the Commission's Rules, SHALL FILE with the Commission, in person or by attorney, within twenty (20) days of the receipt of this Order a WRITTEN APPEARANCE stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

9. IT IS FURTHER ORDERED, That the licensee herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rules, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION

Stuart B. Bedell
Assistant Chief, Audio Services Division
Mass Media Bureau