

FOIA b 7 - D

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

Oct 2 1996

Before the
Federal Communications Commission DA 96-1612
Washington, D.C. 20554

In the Matter of)	MM Docket No. 96-201
)	
Group Communications, Inc.)	
)	
Order to Show Cause Why the)	
License for Station KRGQ(AM))	
West Valley City, Utah Should)	
Not be Revoked)	

ORDER TO SHOW CAUSE
AND
HEARING DESIGNATION ORDER

Adopted: September 17, 1996

Released: September 27, 1996

By the Assistant Chief, Audio Services Division:

1. The Assistant Chief, Audio Services Division, Mass Media Bureau, has before him for consideration: (a) a license held by Group Communications, Inc. ("Group") for West Valley City, Utah¹; and (b) the results of an investigation into the station's silent status.²

2. Group suspended its licensed operations for KRGQ(AM) on January 31, 1995 when the station was evicted from its transmitter site. On February 8, 1995, Group informed the Commission that it was "in the process of establishing operations at a new transmitter location on a temporary basis" and that both the appropriate application form (FCC Form 301) and an STA request would be submitted "as soon as plans are finalized." On February 13, 1995, the staff granted Group permission to remain silent through May 13, 1995.

3. On May 12, 1995, Group filed to extend the terms of this temporary authorization, indicating that it expected to file the appropriate application for a new transmitting antenna site "within the next two weeks." The staff granted Groups's request, extending the period for KRGQ to remain silent through August 19, 1995. On August 16, 1995, Group requested a further extension of its special temporary authority. Group's request stated that it identified a new site but that "negotiations with the land owner [were] incomplete." Group also revealed that it was "considering a change in community of license, which would require a change in

¹Group's license (BR-900518ZF, granted February 12, 1991) to operate KRGQ(AM) expires October 1, 1997.

²The Mass Media Bureau has been delegated authority to issue and release Show Cause Orders in cases involving silent broadcast stations. See Debrine Communications, Inc., 7 FCC Rcd 2118 (1992).

site to a location approximately 25 miles east." The staff approved Group's new request, extending the period to remain silent through February 24, 1996.

4. On February 20, 1996, Group filed its latest request to extend the terms of its special temporary authority to remain silent. In its request, Group claimed it "made arrangements for a new transmitter site in West Valley City" and applied for a building permit for this site. Group's request stated that it would apply for this site "within 45 days." A review of the public record reveals no such application has been filed in the five months since Group's February, 1996 request. Thus, KRGQ(AM) has been off-air for eighteen months, is not presently authorized to remain silent, and has not demonstrated that causes beyond its control prevented the expeditious resumption of broadcast operations. Consequently, Group is in apparent violation of Sections 73.1740(a)(4)³ and 73.1750⁴ of the Commission's Rules.

5. Accordingly, IT IS ORDERED, That pursuant to Sections 312(a) (3) and (4) of the Communications Act of 1934, as amended, Group Communications, Inc. IS DIRECTED TO SHOW CAUSE why the license for KRGQ(AM) should not be REVOKED, at a hearing to

³Section 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."

⁴Section 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."

be held at a time and location specified in a subsequent Order, upon the following issues:

- (1) To determine whether Group Communications, Inc. has the capability and intent to expeditiously resume the broadcast operations of KRGQ(AM), consistent with the Commission's Rules.
- (2) To determine whether Group Communications, Inc. has violated Sections 73.1740 and/or 73.1750 of the Commission's Rules.
- (3) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether Group Communications, Inc. is qualified to be and remain the licensee of KRGQ(AM).

6. IT IS FURTHER ORDERED, That, pursuant to Section 312(d) 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 MASS MEDIA BUREAU.

7. IT IS FURTHER ORDERED, That to inform Group Communications, Inc. of the issues specified against it, copies of this Order will be mailed by certified mail/return receipt requested to:

Group Communications, Inc.
P.O. Box 539/8574 West 2700 South
Magna, Utah 84044

Harry C. Martin, Esq.
Fletcher, Heald & Hildreth, P.L.C.
1300 North 17th Street, 11th Floor
Rosslyn, Virginia 22209-3801

8. IT IS FURTHER ORDERED, That, to avail itself of the opportunity to be heard, the licensee, pursuant to Section 1.91(c) of the Commission's Rules, SHALL FILE with the Commission within thirty (30) days of the receipt of this Order a WRITTEN APPEARANCE stating that it will appear at the hearing and present evidence on the matters specified in the Order. If the licensee fails to file a written appearance within the time specified, or within thirty (30) days of receipt of this Order the licensee files a written statement expressly waiving its right to a hearing, the licensee's right to a hearing SHALL BE DEEMED TO BE WAIVED. In the event the right to a hearing is waived, the Presiding Judge, or the Chief, Administrative Law Judge if no Presiding Judge has been designated, SHALL TERMINATE the hearing proceeding and CERTIFY this case to the Commission in the regular course of

business, and an appropriate Order shall be entered.⁵

FEDERAL COMMUNICATIONS COMMISSION

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

⁵The Mass Media Bureau has been delegated authority to issue Revocation Orders in cases involving silent broadcast stations. See Radio Northwest Broadcasting Company, 4 FCC Rcd 596 n.3 (1989).