

Federal Communications Commission

DA 04-3228

Oct 15 8 40 AM '04

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

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In the Matter of )  
 )  
Reclassification of License )  
of FM Station KBEZ, Tulsa, Oklahoma and ) RM-10755  
FM Station KOMA, Oklahoma City, Oklahoma )  
 )

ORDER TO SHOW CAUSE

Adopted: October 13, 2004

Released: October 15, 2004

Comment Date: November 29, 2004

By the Assistant Chief, Audio Division, Media Bureau:

1. Before the Audio Division is a Petition for Rule Making filed by Charles Crawford ("Petitioner"), requesting the allotment of Channel 228A at Wetumka, Oklahoma, as its first local service. To accommodate this allotment, Petitioner requests the substitution of Channel 224A for vacant Channel 228A at Stuart, Oklahoma; the relocation of reference coordinates of vacant Channel 224C2 at Blossom, Texas; and the reclassification of FM Station KBEZ, Channel 225C, Tulsa, Oklahoma and FM Station KOMA, Channel 223C, Oklahoma City, Oklahoma, to specify operation as C0 facilities.

2. FM Station KBEZ currently operates on Channel 225C with effective radiated power ("ERP") of 100 kilowatts at 402 meters height above average terrain ("HAAT"). FM Station KOMA currently operates on Channel 223C with an ERP of 100 kilowatts at 300 meters HAAT. In this regards, FM Stations KBEZ and KOMA are both subject to reclassification as Class C0 facilities because they are operating below the minimum Class C antenna height requirements of at least 451 meters HAAT.<sup>1</sup>

3. Section 316(a) of the Communications Act of 1934, as amended, permits the Commission to modify an authorization if such action is in the public interest.<sup>2</sup> 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 afford at least 30 days to respond. This procedure is set forth in Section 1.87 of the Commission's rules.<sup>3</sup> In this instance, Class C0 reclassifications for FM Stations KBEZ and KOMA would accommodate the Petitioner's request to allot Channel 228A to Wetumka, as its first local service. Therefore, the Petitioner's request has sufficient public interest benefits and justifies the issuance of an

<sup>1</sup> See 1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules, 15 FCC Rcd 21,649 (2000) ("Second Report and Order"), and 47 C.F.R. §§ 1.420(g), n. 2, and 73.3573, n. 4.

<sup>2</sup> 47 U.S.C. § 316(a).

<sup>3</sup> See Modification of FM and Television Licenses Pursuant to Section 316 of the Communications Act, 2 FCC Rcd 3327 (1987).

order to show cause.

4. The reclassification of a Class C FM station to a Class C0 station may be initiated through the filing of a petition for rule making to amend the FM Table of Allotments.<sup>4</sup> In instances where an initiating petition proposes amending the FM Table of Allotments in addition to the proposed reclassification of a Class C FM station, the Commission must issue an order to show cause as set forth in Section 73.3573, note 4, of the Commission's rules. In such circumstances, a notice of proposed rule making will be issued only after the reclassification issue has been resolved.

5. A petitioner proposing both amendment of the FM Table of Allotments and reclassification of a Class C FM station must certify that no alternative channel is available for the proposed service.<sup>5</sup> Petitioner has submitted such certification. Therefore, in order to comply with the Commission's Class C0 reclassification procedures, we must issue this *Order to Show Cause* directed to Renda Broadcasting Corporation of Nevada ("Renda Broadcasting"), licensee of FM Stations KBEZ at Tulsa and KOMA at Oklahoma City. As a result, Renda Broadcasting is required to show cause why its license for FM Station KBEZ should not be modified to specify operation on Channel 225C0 in lieu of Channel 225C at Tulsa. Moreover, Renda Broadcasting is also required to show cause why its license for FM Station KOMA should not be modified to specify operation on Channel 223C0 in lieu of Channel 223C at Oklahoma City.

6. The license for FM Station KBEZ (File No. BLH-19880513KB) at Tulsa, Oklahoma, can be modified to Channel 225C0 at its current authorized transmitter site located at coordinates 36-11-26 NL and 96-05-50 WL. In addition, the license for FM Station KOMA (File No. BMLH-19960329KD) at Oklahoma City, Oklahoma, can be modified to Channel 223C0 at its current authorized transmitter site located at coordinates 35-32-52 NL and 97-29-29 WL.

7. Pursuant to Section 1.87 of the Commission's rules, Renda Broadcasting, no later than November 29, 2004, may file a written statement showing with particularity why its respective licenses for FM Station KBEZ and KOMA should not be modified as proposed in this *Order to Show Cause*. The Commission may call on Renda Broadcasting to furnish additional information. If Renda Broadcasting raises a substantial and material question of fact, a hearing may be required to resolve such a question pursuant to Section 1.87. Upon review of the statements and/or additional information furnished, the Commission may grant the modifications, deny the modifications, or set the matter of modifications for hearing. If no written statement is filed by the date referred to above, Renda Broadcasting will be deemed to have consented to the modifications as proposed in this *Order to Show Cause* and a final *Order* will be issued by the Commission, if the channel modifications are found to be in the public interest.

8. If Renda Broadcasting chooses to seek authority to modify its respective facilities for FM Stations KBEZ and KOMA, an acceptable application for a construction permit to increase the antenna height to at least 451 meters HAAT for these respective stations must be filed with the Commission within 180 days subsequent to the show cause response due date (November 29, 2004). Upon the filing of an

<sup>4</sup> *Second Report and Order, supra*, and 47 C.F.R. § 1.420, n.2.

<sup>5</sup> See 47 C.F.R. §§ 73.3573, n. 4 and 1.420(g), n.2. See also *Second Report and Order*, 15 FCC Rcd at 21,662, ¶ 26.

acceptable construction permit application, the proposal to allot Channel 228A at Wetumka, will be dismissed. The present three-year construction period will be applicable if a construction permit is obtained by Renda Broadcasting, as specified herein, under this procedure. If the construction is not completed as authorized, FM Stations KBEZ and KOMA are subject to reclassification automatically as Class C0 stations, and, in that event, a new petition for rule making to allot Channel 228A at Wetumka, may be refiled.

9. IT IS FURTHER ORDERED, That the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL Send a copy of this *Order to Show Cause* by Certified Mail, Return Receipt Requested, to the following licensee and its counsel:

Renda Broadcasting Corporation of Nevada  
Licensee of FM Station KBEZ and KOMA  
900 Parish Street, 4<sup>th</sup> Floor  
Pittsburgh, PA 15220

10. For further information concerning this proceeding, contact Rolanda F. Smith, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief  
Audio Division  
Media Bureau