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TRANSCRIPT OF PROCEEDINGS

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

IN THE MATTER OF: EB DOCKET NO. 05-95

KEGG COMMUNICATIONS, INC.

FCC-OALJ RCD
MAY 6 2 58 PM '05

DATE OF HEARING: APRIL 27, 2005 VOLUME: 1

PLACE OF HEARING: WASHINGTON, D.C. PAGES: 1-10

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BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

+ + + + +

PRE-HEARING CONFERENCE

+ + + + +

IN THE MATTERS OF	
KEGG COMMUNICATIONS, INC. Licensee of Station K216EQ Daingerfield, Texas	EB Docket No. 05-95 NAL/Acct No. MB 20041810004
and	
Application for Construction Permit for a New Noncommercial Educational FM Station in Daingerfield, Texas.	Facility I'D No. 92810 Facility I'D No. 94199 File No. BPED-19990907MG

Hearing Room TW A363
445 12th Street, S.W.
Washington, D.C. 20554

Wednesday,
April 27, 2004
9:30 a.m.

BEFORE:

ARTHUR I. STEINBERG, Administrative Judge

APPEARANCES:

On Behalf of the Enforcement Bureau:

JAMES W. SHOOK, ESQ.
Trial Attorney
445 12th Street, S.W.
Washington, D.C. 20554
(202) 418-1420

GARY A. OSHINSKY, ESQ.
12th and Maine Streets, S.W.
Room 4A-335
Washington, D.C. 20054
(202) 418-7167

E-X-H-I-B-I-T-S

Exhibit No.		Marked	Received
1	Order to Show Cause With Mail Receipts	6	10
2	Show Cause Reply	6	10
3	Faxed Copy of License	8	10

Start Time: 9:26 a.m.
End Time: 9:35 a.m.

1 P-R-O-C-E-E-D-I-N-G-S

2 9:26 a.m.

3 ADMIN. JUDGE STEINBERG: We're on the
4 record. This is a pre-hearing conference in MB Docket
5 Number 05-95.

6 This proceeding involves the application
7 of KEGG Communications Inc. for a construction permit
8 for a new noncommercial educational FM station in
9 Daingerfield, Texas, the materials relating to KEGG's
10 operation of noncommercial educational FM translator
11 station, K216EQ, in Daingerfield, Texas.

12 By order to show cause, hearing
13 designation order, and notice of opportunity for
14 hearing, FCC 05-66, released March 15, 2005, this case
15 was designated for hearing on issues which seek to
16 determine whether KEGG complied with certain FM
17 translator rules, whether KEGG made misrepresentations
18 of fact or was lacking in candor, and whether KEGG is
19 qualified to be and remain a Commission licensee.

20 By order FCC 05M-13, released March 17,
21 2005, the Chief Administrative Law Judge appointed the
22 undersigned, appointed me to preside over this

1 proceeding and scheduled a pre-hearing conference for
2 this morning.
3 And let me first take the appearances for
4 the parties for KEGG Communications Inc. And let the
5 record reflect no response.
6 For the Chief Enforcement Bureau.
7 MR. SHOOK: James Shook and --
8 MR. OSHINSKY: Gary Oshinsky.
9 ADMIN. JUDGE STEINBERG: Not only is no one
10 here representing KEGG, but I have no record of the
11 filing of a notice of appearance.
12 And let me just recite for the record some
13 of the background in here. On or about March 18,
14 2005, the Office of Administrative Law Judges mailed
15 to KEGG by certified mail, return receipt requested,
16 the March 15th order to show cause and the March 17th
17 order setting the date of this conference. The Office
18 of Administrative Law Judges has received the return
19 receipts from this mailing and the return receipt
20 establishes that KEGG received both orders on April 4,
21 2005. And I've made photo copies of all of that
22 material and I've labeled it Judge's Exhibit 1, which

1 is a three page exhibit. And the first two pages are
2 the back and the front of the return receipt and the
3 third page is the stuff that we filled out in our
4 office. I guess whatever it is, anyway. So that's
5 identified as Judge's Exhibit 1.
6 (Whereupon, the documents were
7 marked for identification as
8 Judge's Exhibit 1.)
9 ADMIN. JUDGE STEINBERG: And the reporter
10 has a couple copies of it and I gave copies to Mr.
11 Shook also before the conference.
12 On March 23, 2005, KEGG faxed to the
13 Presiding Judge, a "show cause reply", which was dated
14 March 16, 2005. The show cause reply was signed by
15 KEGG's president, Bill Wright. Among many other
16 things, the show cause reply stated that KEGG "plans
17 to attend the hearing." And I've marked this document
18 Judge's Exhibit 2.
19 (Whereupon, the document was
20 marked for identification as
21 Judge's Exhibit 2.)
22 ADMIN. JUDGE STEINBERG: And it's a six

1 page exhibit. And the March 16th letter will be
2 identified at Judge's Exhibit 2.
3 By memorandum opinion and order FCC 05M-16
4 released March 30, 2005, the Presiding Judge dismissed
5 the show cause reply for its failure to comply with
6 numerous Commission rules. Most significantly, the
7 MO&O held that the show cause reply was not properly
8 or officially filed with the Commission.
9 The MO&O also noted that the order to show
10 cause required KEGG to file a written appearance in
11 accordance with Section 1.22(c) of the rules and held
12 that KEGG's mere statement that it "plans to attend
13 the hearing" does not comport with the requirements of
14 that rule.
15 Nevertheless, on the Presiding Judge's own
16 motion, KEGG was given another opportunity to file a
17 written appearance, which complies in all respects
18 with the Commission's rules.
19 The written appearance was due to be filed
20 on or before April 15, 2005. No such written
21 appearance was filed by KEGG. On the contrary, on
22 April 18, 2005, the Presiding Judge received another

1 fax from Mr. Wright, KEGG's president. In this fax,
2 Mr. Wright states "At this time I am surrendering the
3 license of K216EQ, Daingerfield, Texas and requesting
4 the application pending before the FCC in regards to
5 KEGG Christian Communication be dismissed without
6 prejudice." Appended to this fax was a copy of the
7 license for Station K216EQ.
8 On April 19, 2005, the Presiding Judge's
9 Office caused this fax to be filed with the
10 Commission's Office of the Secretary. And I've made
11 a copy of that and marked it Judge's Exhibit 3.
12 (Whereupon, the document was
13 marked for identification as
14 Judge's Exhibit 3.)
15 ADMIN. JUDGE STEINBERG: It's a four page
16 exhibit. The first page of which is the fax showing
17 the secretary stamped. Is it three pages or is it
18 four pages? How many do you have?
19 MR. SHOOK: I have four pages total.
20 ADMIN. JUDGE STEINBERG: Okay. Yes. My
21 copy's got an extra page one at the end. So, anyway,
22 it's four page exhibit. The first page is the fax and

1 the second and third and fourth pages are the
2 photocopies of the license. And that's marked for
3 identification as Judge's Exhibit 3.
4 Under all of these circumstances and in
5 accordance with Section 1.221(c) of the Commission's
6 rules, KEGG's application for a construction permit
7 for a new noncommercial educational FM station will be
8 dismissed with prejudice for failure to prosecute.
9 And that leaves us with the show cause
10 aspect of this proceeding, which is whether the
11 license for the existing translator, to show cause
12 why, I guess, he should keep it. And the rule which
13 governs that aspect of the proceeding is Section
14 1.92(a1) of the rules. And that rule provides that
15 the failure to file the requisite notice of appearance
16 constitutes a waiver of the right to a hearing. And
17 I'm ruling that by failing to file a timely notice of
18 appearance that KEGG has waived the right to a
19 hearing.
20 Therefore, in accordance with Section
21 1.92(c) of the rules, I'll issue an order reciting the
22 events of circumstances constituting a waiver of the

1 hearing, terminating the hearing proceeding and
2 certifying this case to the Commission.
3 Before I ask for Mr. Shook's comments, is
4 there any objection to the receipt of Exhibits 1, 2,
5 and 3?
6 MR. SHOOK: None, sir.
7 ADMIN. JUDGE STEINBERG: Okay. Judge's
8 Exhibits 1, 2, and 3 are received.
9 (Whereupon, the documents
10 marked for identification as
11 Judge's Exhibits 1, 2 and 3,
12 were received in evidence.)
13 ADMIN. JUDGE STEINBERG: Did you want to
14 comment on any of this Mr. Shook or Mr. Oshinsky?
15 MR. SHOOK: No, Your Honor. There's
16 nothing really for us to add.
17 ADMIN. JUDGE STEINBERG: Okay. Thank you
18 very much. And with that, I'll issue an order in due
19 course. And then we'll go off the record and then the
20 case will be concluded. Thank you.
21 (Whereupon, the conference was adjourned
22 at 9:35 a.m.)

CERTIFICATE OF REPORTER, TRANSCRIBER, AND PROOFREADER

KEGG COMMUNICATIONS, INC.

Name of Hearing

EB DOCKET NO. 05-95

Docket No. (if applicable)

445 12th STREET, S.W., WASHINGTON, D.C.

Place of Hearing

APRIL 27, 2005

Date of Hearing

We, the undersigned, do hereby certify that the foregoing pages, numbers 1 through 10, inclusive, are the true, accurate and complete transcript prepared from the reporting by Eric Mollen (Reporter's Name) in attendance at the above identified hearing, in accordance with applicable provisions of the current Federal Communications Commission's professional verbatim reporting and transcription statement of Work and have verified the accuracy of the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the hearings and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the hearing or conference.

May 4, 2005	Eric Mollen	Eric Mollen
Date	Legible Name and Signature of Reporter Name of Company: Neal Gross Co.	
May 4, 2005	Judy Hadley	J Hadley
Date	Legible Name and Signature of Transcriber Name of Company: Neal Gross Co.	
May 4, 2005	Kevin Murphy	K Murphy
Date	Legible Name and Signature of Proofreader Name of Company: Neal Gross Co.	

JUDGE'S EX. 1

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

KEGG Communications, Inc.
P.O. Box 497931
Garland, Texas 75049

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
☐ Agent
☐ Addressee

B. Received by (Printed Name) | C. Date of Delivery

RECEIVED & INSPECTED

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

APR 11 2005

FCC-MAILROOM

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7002 0860 0004 9551 7695

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

UNITED STATES POSTAL SERVICE

NORTH TX PDC 750 AT
PM
04 APR
2005

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Federal Communications Commission
OALJ/1C831
445 12th St.,S.W.
Washington, D.C. 20554

Patricia D.

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL

7002 0860 0004 9551 7695

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$

Postmark Here

Sent To: KEGG Communications, Inc.
Street, Apt. No.; or PO Box No.: P.O.Box 497931
City, State, ZIP+4: Garland, Texas 75049-

PS Form 3800, April 2002 — See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

KEGG Communications, Inc.
P.O. Box 497931
Garland, Texas 75049

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X ☐ Agent ☐ Addressee

B. Received by (Printed Name) — C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7002 0860 0004 9551 7695

PS Form 3811, February 2004 — Domestic Return Receipt — 102595-02-M-1540

Two Documents: OSC/HDO (FCC 05-66), released: 3/15/05

ORDER (FCC 05M-13), released: 3/17/05

JUDGE'S EX. 2

March 16,2005

Federal Communication Commission
Washington D.C.20554

MB Docket No. 05-95
NAL/Acct No.MB20041810004

RE: KEGG COMMUNICATION
DAINGERFIELD, TEXAS

Facility ID No.92810
Facility Id No.94199
File No.Bped – 19990907MG

SHOW CAUSE REPLY

Dear, Sir

It is here by requested by Bill Wright of KEGG Communications operator of translator station K216EQ Daingerfield,Texas,That the license of K216EQ not be revoked for translator station K216EQ.This is based on the fact that I have answer question put forth to me pertaining to this matter in question. I relied on the experience and knowledge of others to asst me in complying with the FCC rules set forth regarding translators, as a secondary service. Again let me try to answer your questions, in detail.

1. Please confirm the call sign, City and State of the Primary station whose signal was authorized to broadcast over K216EQ.
Answer:KAPI RUSTIN.LOUISIANA.
2. Has K216EQ Ever retransmitted any other station?
Answer: NO
3. HAS KEGG originated any programming on K216EQ?
Answer; NO
4. When did KCI seek permission to rebroadcast and when and from whom was this permission granted?
ANSWER: When I filed the application I requested to rebroadcast non commercial station KETR – FM at Commerce Texas. I did receive the ok but it was never confirmed in writing. It was done by a Manager I did not get his name and it has been some time when all this took place. It was my understanding that all that would be contained in the permission letter for the Commission. during that time. There fore KETR was never rebroadcast over K216EQ.I did not inform the FCC of the Change in primary station, I did not know I was required to do so. I did begin to request the permission of AFR KAPI as a primary station. I then informed the FCC of the change in primary station. Permission was granted by AFR Representive sent to the FCC in my earlier reply. K216EQ never broadcast KETR over the air, because permission was never given.
5. If KCI never rebroadcast KETR over K216EQ, Why it did not do so, when it decided not to do and who made the decision, and why it twice represented to the FCC that it would do so.

ANSWER ; In the beginning of the application process I made a phone call requesting written permission to rebroadcast KETR On K216EQ.I was told YES But I never received written permission. Again I did not because I did not have written permission. I decided not to do so based on not having written permission. I had hoped to receive the written authorization and had still plan on using KETR,That is why twice I reported to the Commission that I would do so. Once I received permission by phone they were suppose to send me written authorization. After some time had passed I realize that they (KETR) maybe had changed there minds. I order the engineer to rebroadcast the non commercial station as our primary. I did not specify by over the air or by what means. I then informed the Commission of the changes.

6.Did K216EQ ever originate any local programming?

ANSWER: YES

7.What was the content of the programming?

ANSWER: In The Beginning when received the license it was requested that we broadcast local Hi School Sports. I did broadcast one game on Friday night for two hours local school game.

8. WHY:At the time I was under the impression that because it was a School function it was considered to be of a educational content.

9.WHEN AND WHY DID YOU CEASE?

ANSWER: My Lawyer informed me I could not broadcast such material. I call the Law Firm of Miller & Associates he told me the rules were different concerning translators. There were in fact not at all programmed like low power TV translators.

I consulted with the Law Firm of Miller & Associates to insure we were and am in continued compliance with the rules.

I would be willing to work with the Commission in the area of reporting in a timely manner,detailes of the station operation, such as primary station, method used to receive the primary station. K216EQ Provide a much needed service to the Daingerfield Community, It would be a great tragic event if the license were revoked. All were requesting is a probabation period where we can get a chance to make any if needed corrections to the programming methods of K216EQ.We would report any needed filings to the FCC in a timely manner.

The general public would not served by such a negative action of revoking the license of K216EQ DAINGERFIELD. Being a member of the black community and a Christian we have been working with the Spanish community as well to provide Christian Educational information to this area. In being a minority members we do not get a chance to participate in any ownership of broadcast property of any kind too often, therefore we respectfully request that we be given an opportunity to continue to provide service to the minority communities, and the general pubic at large with respect to K216EQ Daingerfield Texas. In the event you find it necessary to revoke the license I would at this time request that I be allowed to volunteer transfer the license to a Spanish Broadcast group for continued service to the area. And the preceding case be dismissed with out any prejudice please .

SINCERELY,

BILL WRIGHT
PRESIDENT
KEGG COMMUNICATIONS

I plan to attend the hearing as related to translator station K216EQ.I am requesting that the location be held at the FCC Field Office in Dallas so I may attend. Because of personal matters, I cannot make a trip to Washington D.C. I will have public notice done here locally as required.

March 17, 2005

To Whom It May Concern:

A Copy of KEGG Recent filing to the FCC Concerning the SHOW CAUSE was hand delivered to me at my office, in MT.Pleasant Texas. I am signing this letter indicating I received it and it is a part of my file with regard to the KEGG Communication affairs.

Received By,

LEO ASHCRAFT
MBC BROADCASTING

DELEVERED BY

BILL WRIGHT
PRESIDENT
KEGG COMMUNICATIONS

1 The only station whose signal was broadcast over K216EQ was KAPI, Rustin, LA. (See answer to #4, Was KEGG rebroadcast at any time?)

2 My assistant, Mrs. Bolton, initially called KETR to ask permission to rebroadcast that station's signal, after I decided I wanted to carry Christian-type programming. However, permission was not granted, so this station was not rebroadcast.

I was aware that KAPI was the closest station broadcasting the programming of American Family Association, Inc. I made an agreement with American Family to rebroadcast their programming. A copy is attached. Mrs. Bolton told me that she would notify the FCC of the change in primary station. However, she died a few years ago, and I am unable to locate any documentation. However, I do have an agreement with American Family, which is attached. I believed that my agreement with American Family was sufficient for me to rebroadcast its programming, which I obtain over the air from KAPI's signal. Rebroadcast of KAPI began about December 15, 1999.

3 KETR was never rebroadcast over K216EQ because permission from that station was not received.

4 K216EQ has not originated its own programming. KEGG(AM) which I own has broadcast local programming. (If the translator rebroadcast KEGG at any time, give the dates of that rebroadcast and why it did. Did you know that you could only rebroadcast another FM station? Did you carry commercials from KEGG? - Your translator is in the non-com band, and cannot carry commercials.)

JUDGE'S EX. 3

05-95

April 18,2005

RECEIVED

APR 19 2005

Federal Communications Commission
Office of the Secretary

FCC
Washington, D.C.20554

RE;K216EQ
Daingerfield, Texas
Facility ID.No.92810 and
Non Commercial permit for
NCE File Number BPED-19990907MG

FCC-OALJ RCD
APR 18 11 06 AM '05

Dear Sir:

At this time I am surrendering the license of K216EQ Daingerfield Texas, and requesting the application pending before the FCC In regards to KEGG Christian Communication be dismissed without prejudice.

Sincerely,

BILL WRIGHT

United States of America

FEDERAL COMMUNICATIONS COMMISSION
FM BROADCAST TRANSLATOR/BOOSTER STATION LICENSE

Authorizing Official:

Ann Hardy

for Penelope A. Dade
Supervisory Analyst
Audio Division
Media Bureau

Official Mailing Address:

KEGG COMMUNICATIONS
PO BOX 497931
GARLAND TX 75049

Grant Date: MAY 15 2002

This license expires 3:00 a.m. local time, August 01, 2005.

Facility Id: 92810

Call Sign: K216EQ

License File Number: BLFT-19991130ABN

This License Covers Permit No.: BPFT-19990224TA

Subject to the provisions of the Communications Act of 1934, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions set forth in this license, the licensee is hereby authorized to use and operate the radio transmitting apparatus herein described.

This license is issued on the licensee's representation that the statements contained in licensee's application are true and that the undertakings therein contained so far as they are consistent herewith, will be carried out in good faith. The licensee shall, during the term of this license, render such broadcasting service as will serve the public interest, convenience, or necessity to the full extent of the privileges herein conferred.

This license shall not vest in the licensee any right to operate the station nor any right in the use of the frequency designated in the license beyond the term hereof, nor in any other manner than authorized herein. Neither the license nor the right granted hereunder shall be assigned or otherwise transferred in violation of the Communications Act of 1934. This license is subject to the right of use or control by the Government of the United States conferred by Section 606 of the Communications Act of 1934.

Callsign: K216EQ License No.: BLFT-19991130ABN

Name of Licensee: KEGG COMMUNICATIONS

Principal community to be served: TX-DAINGERFIELD

Primary Station: KETR (FM), Channel 205, COMMERCE, TX

Via: Direct - off-air

Frequency (MHz): 91.1

Channel: 216

Hours of Operation: Unlimited

Antenna Coordinates: North Latitude: 33 deg 01 min 35 sec

West Longitude: 94 deg 42 min 22 sec

Transmitter: Type Accepted. See Sections 73.1660, 74.1250 of the Commission's Rules.

Transmitter output power: 0.305 kW

Antenna type: (directional or non-directional): Non-Directional
Description: SWR FMEC/2

Major lobe directions (degrees true): Not Applicable

	Horizontally Polarized Antenna:	Vertically Polarized Antenna:
Effective radiated power in the Horizontal Plane (kw):	0.25	0.25
Height of radiation center above ground (Meters):	30	30
Height of radiation center above mean sea level (Meters):	150	150

Antenna structure registration number: Not Required

Overall height of antenna structure above ground: 42 Meters

Obstruction marking and lighting specifications for antenna structure:

It is to be expressly understood that the issuance of these specifications is in no way to be considered as precluding additional or modified marking or lighting as may hereafter be required under the provisions of Section 303(q) of the Communications Act of 1934, as amended.

None Required

Special operating conditions or restrictions:

1 The permittee/licensee must reduce power or cease operation as necessary to protect persons having access to the site, tower or antenna from radiofrequency electromagnetic fields in excess of FCC guidelines.

*** END OF AUTHORIZATION ***