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

DISPATCHED

In the Matter of

Reclassification of License
Of Station KYKX(FM)
Longview, Texas

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RM-11238

ORDER TO SHOW CAUSE

Adopted: May 4, 2005

Released: May 6, 2005

Comment Date: June 27, 2005

By the Assistant Chief, Audio Division; Media Bureau:

1. Before the Audio Division is a Petition for Rule Making filed by Charles Crawford, requesting the allotment of FM Channel 290A at Pleasant Hill, Louisiana, as that community's first local aural broadcast transmission service. To accommodate that allotment, petitioner also requests the reclassification of Station KYKX(FM), Channel 289C, Longview, Texas, to specify operation on Channel 289C0. Station KYKX(FM) currently operates on Channel 289C with an ERP of 100 kilowatts at 352 meters HAAT. The station is below the minimum Class C antenna height requirements of 451 meters HAAT. Because Station KYKX(FM) is operating below minimum Class C standards, it is subject to reclassification as a Class C0 facility.¹

2. Section 316(a) of the Communications Act, as amended, permits the Commission to modify an authorization if such action is in the public interest. 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 to afford the licensee at least 30 days to respond. This procedure is set forth in Section 1.87 of the Commission's Rules.²

3. 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.³ In instances where an initiating petition proposes both to amend the FM Table of Allotments and to reclassify 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.

¹ 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 Section 1.420(g), n. 2, and Section 73.3573, n. 4, of the Commission's Rules.

² See Modification of FM and Television Licenses Pursuant to Section 316 of the Communications Act 2 FCC Rcd 3327 (1987).

³ Second Report and Order, *supra*, and 47 C.F.R. § 1.420, n. 2.

4. 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.⁴ Petitioner has provided the requisite certification.

7. A Class C0 reclassification of Station KYKX(FM) at Longview, Texas, would accommodate petitioner's request to allot Channel 290A to Pleasant Hill, Louisiana, as that community's first local service. Petitioner's request for reclassification therefore has sufficient public interest benefit to warrant the issuance of an order to show cause. Accordingly, we shall issue this *Order to Show Cause* directed to Access.1 Texas License Company, LLC ("Access.1"), licensee of Station KYKX(FM), Longview, Texas. Access.1 is required to show cause why its authorization should not be modified to specify operation on Channel 289C0 in lieu of Channel 289C at Longview, Texas.

8. The license for Station KYKX(FM) (File No. BLH-19960408KB) at Longview, Texas, can be modified to Channel 289C0 at its current authorized transmitter site, located at coordinates 32-35-37 NL and 94-49-10 WL. Pursuant to Section 1.87 of the Commission's Rules, Access.1 may not later than June 27, 2005, file a written statement showing with particularity why its license should not be modified as proposed in this *Order to Show Cause*. The Commission may call on Access.1 to furnish additional information. If Access.1 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 referenced above, Access.1 will be deemed to have consented to the modification as proposed in this *Order to Show Cause* and a final *Order* will be issued by the Commission, if the channel modification is found to be in the public interest.

9. If Access.1 chooses to seek authority to modify its license to increase antenna height to at least 451 meters HAAT, it must express its intention to file the necessary application by the comment date specified in this *Order*. It also must file an acceptable application for a construction permit for Station KYKX(FM) with the Commission within 180 days subsequent to the show cause comment due date (June 27, 2005). Upon the filing of an acceptable construction permit application, the proposal to allot Channel 290A at Pleasant Hill, Louisiana, will be dismissed. The present three-year construction period will be applicable if a construction permit is obtained by Access.1 for Channel 289C as specified herein, under this procedure. If the construction is not completed as authorized, Station KYKX(FM) is subject to automatic reclassification as a Class C0 station, and, in that event, a new petition for rule making to allot Channel 290A at Pleasant Hill, Louisiana, may be refiled.

10. IT IS THEREFORE ORDERED, That Access.1 Texas License Company, LLC show cause why its authorization for station KYKX(FM) should not be modified to specify operation on Channel 289C0 in lieu of Channel 289C at Longview, Texas, and

11. 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

⁴ 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.

Mail, Return Receipt Requested, to counsel for Access.1 Texas License Company, LLC, licensee of KYKX(FM), Longview, Texas, as indicated below:

James L. Winston, Esq.
Steven J. Stone, Esq.
Rubin, Winston, Diercks, Harris, & Cooke, L.L.P.
1155 Connecticut Avenue, N.W. – Sixth Floor
Washington, D.C. 20036
(Counsel for Access.1 Texas License Company, LLC)

12. Any protest to this proposed reclassification may be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail) Protests should be filed with the Federal Communications Commission, Office of the Secretary, 445 Twelfth Street, SW, TW-A325, Washington, D.C. 20554. Additionally, a copy of any filing should be served on:

Charles Crawford
4553 Bordeaux Avenue
Dallas, Texas 75205

13. The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Pennsylvania Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail or Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. **All filings must be addressed to the Office of the Secretary, Federal Communications Commission. Any filing that is not addressed to the Office of the Secretary will be treated as filed on the day it is received in the Office of the Secretary. See 47 C.F.R. § 1.7. Accordingly, failure to follow the specified requirements may result in the treatment of a filing as untimely.**

14. For further information concerning this proceeding, contact Deborah A. Dupont, Media Bureau, at (202) 418-7072.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau