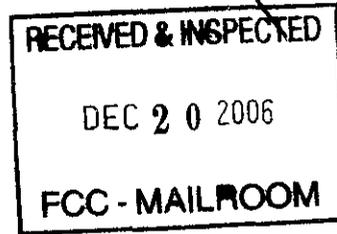


ORIGINAL



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06-11  
RM-11304  
DA 06-1901

Texas Grace Communications/KRZB-FM  
Dave Garey  
P.O. Box 1161  
Meridian, MS 39302

Re: **KRZB 97.5 FM, Archer City, TX**  
**Facility ID: 79024, Permit File No. BMPH-199902171B**  
***Request for tolling to freeze the remaining (25) months of protected construction rights retroactively to the permit's re-grant date of June 5, 2006 – and maintain tolled status at that date until such time as litigation into which KRZB has been involuntarily drawn pertaining to the permit's re-grant and legal status has been concluded.***

December 18, 2006

Secretary  
Federal Communications Commission  
445 12<sup>th</sup> St. SW  
Washington, DC 20554

**REQUEST FOR TOLLING ON**  
**KRZB-FM/ARCHER CITY, TX CONSTRUCTION PERMIT**

Dear Secretary,

Please direct this filing on behalf of Texas Grace Communications ("Grace") – enclosed as an original, plus (2) copies, and a stamp-in/return copy – to James Bradshaw, Deputy Chief of the Media Bureau's Audio Division ("AD").

The instant request for tolling respectfully seeks the following relief: A freezing of the remaining (25) months of protected construction rights retroactively to the permit's re-grant date of June 5, 2006 – with tolling maintained from that date and until such time as recent litigation into which KRZB has been involuntarily drawn pertaining to the permit's re-grant and very right to exist has been concluded.

So as not to violate its understanding of the ex parte rule, Grace will not utilize this tolling request to in any manner debate the arguments of the noted litigation. Rather, we just seek to inform the Commission that we've been involuntarily drawn into such litigation, and consequently request tolling protection.

As the AD is most likely aware, Grace has now been drawn into a protracted rulemaking procedure under RM-11304, MB Docket No. 06-11. While the FCC has dismissed both the request for rulemaking and associated counterproposal from other parties under DA 06-1901, a consortium desiring to revive the counterproposal has nevertheless initiated an appeal that challenges both the manner in which the FCC reinstated the KRZB/Archer City construction permit in 2006, and the permit's very right to exist.

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Grace neither initiated the noted rulemaking, nor filed any counterproposal. On the contrary, Grace simply found itself an unwitting party to the rulemaking proceeding and appeal. As such, this scenario meets the FCC's tolling criteria as "a situation clearly beyond the permittee's control".

Grace respectfully points out that the request for tolling herein does not diminish its belief that it holds valid permitting and is fully entitled to the (25) months of protected construction rights accorded the KRZB/Archer City permitting this year, and that the Commission thus acted correctly in endeavoring to reinstate the permit.

However, having now been dragged into a litigation proceeding by parties seeking to extract KRZB/Archer City from its spectrum and kill its permit, and even challenging the FCC's grant thereof, Grace has compelling need for the tolling of its permit – so that absolutely no deduction of lifespan time will occur while this permittee must participate in litigation to preserve the legal status of its permit.

Grace's ability to construct under such circumstances is clearly encumbered, inclusive of the fact that the noted litigation could conceivably result in another cancellation of the KRZB/Archer City permit even before completion of its protected construction rights lifespan.

Should the FCC reverse its ruling upholding KRZB/Archer City's permit reinstatement under DA 06-1901, any and all monies expended for equipment, engineering, land use and other myriad construction expenses by Grace would thus be forever lost – an impossible scenario for an independent proprietor such as Grace to sustain. As a result, Grace must understandably put its construction plans on hold until the opposing litigation is adjudicated.

As a result of the litigation, KRZB/Archer City is now red flagged as a "don't touch", high-risk entity with creditors, equipment vendors and other prospective partners necessary to facilitate construction.

Subsequent to being involuntarily dragged into the litigation, Grace was told by a party with whom it wanted to facilitate a shared transmission tower or other construction arrangement that he could not engage in any business venture with KRZB until such time as the litigation was concluded in KRZB's favor. Sadly, I can't blame him.

When a construction permit is challenged by litigation and consequently dragged involuntarily into a protracted FCC rulemaking/appeal seeking its cancellation, the permit is devalued exponentially, the proprietary rights of the permittee are immediately questioned, and prospective construction is resultantly encumbered.

The AD is well aware that Grace has fought long and hard to obtain and prosecute a construction permit for KRZB/Archer City that warrants 3 years of protected construction rights to facilitate operation of the broadcast facility. More than anything else, Grace desires to bring its broadcast station to fruition.

In the meantime, though, and in light of the foregoing, Grace respectfully asks that it not be penalized with the deduction of any lifespan time on the KRZB/Archer City permit during the course of this protracted, encumbering litigation against the permit, as referenced, and that the (25) months of protected construction rights accorded the permit effective June 2006 be frozen until the litigation is concluded.

The FCC's assistance in applying this tolling is gratefully appreciated. As proprietor of KRZB/Archer City-Texas Grace Communications, I certify that all facts depicted herein are true and accurate to the best of my knowledge and belief.

Respectfully submitted,



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Dave Garey

Proprietor, KRZB-FM/Archer City, TX – Texas Grace Communications  
P.O. Box 1161  
Meridian, MS 39302\*

December 18, 2006

\*Please note: because proprietor Dave Garey is based in and travels throughout Mississippi and the Gulf Coast area for his livelihood separate and apart from building his radio station, and, because of prior service receipt problems, it is respectfully requested that FCC service please be directed to the following address, wherein mail can be securely received by a relation:

Texas Grace Communications  
c/o 20 Samlaw Dr.  
Monsey, NY 10952

cc:

Mr. Daniel Gonzalez  
Chief of Staff  
Federal Communications Commission  
445 12<sup>th</sup> St. SW  
Washington, DC 20554

Ms. Heather Dixon  
Legal Advisor to Chairman Kevin Martin  
Federal Communications Commission  
445 12<sup>th</sup> St. SW  
Washington, DC 20554