



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

December 9, 2014

The Honorable Gene Green
U.S. House of Representatives
2470 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Green:

Thank you for your letter regarding KMFR-AM in Frio County, Texas. I appreciate hearing your views and welcome the opportunity to provide you with a response.

As you note in your letter, KMFR-AM filed its license renewal application last year, and that application remains pending in the Commission's Media Bureau. Stations retain authorization to broadcast during the time a license renewal application is pending. According to our database, KMFR-AM returned to on-air broadcasting around the same time it filed its license renewal application. The Media Bureau staff is determining the next steps for this application given that during the preceding eight-year license term, KMFR-AM was silent for more than 50 months, or over half of the term.

Your letter correctly describes the standard of review for broadcast renewal applications under Section 309(k) of the Communications Act. We are required to grant the renewal if we find that the station, over the preceding license term, has served the public interest, convenience, and necessity without serious violations of the Communications Act or Commission rules. *See* 47 U.S.C. § 309(k)(1). In 2001, the Commission clarified for all broadcast licensees that, with regard to situations where a station has remained silent for "most or all of the prior license term," the licensee would face a "very heavy burden in demonstrating that it has served the public interest." *See Birach Broadcasting Corporation*, 16 FCC Rcd 5015, 5020, ¶ 13. The Commission also determined that Section 309(k) of the Communications Act focuses solely on the station's record in the past license term and does not give any weight to subsequent efforts to resume broadcasting. *Id.*

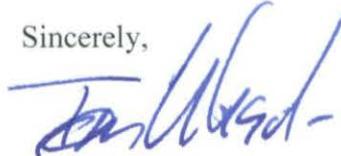
The Commission seeks to ensure that scarce broadcast spectrum is being used efficiently. Stations that are silent foreclose other potential voices because the Commission cannot grant any new authorization that conflicts with the license of a silent station. It is important that the public can receive the benefit of broadcast programming such as news, public affairs, weather information, and emergency alerts, which are absent when stations are silent. Section 309(k), along with Section 312(g) of the Communications Act, directs us to apply our licensing powers to ensure operation of broadcast stations in the public interest. Fortunately for the listening public, the number of stations with prolonged periods of silence is a small number compared to the thousands of licensed and operating stations.

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I can understand your concerns regarding the length of time this matter has been pending, as well as the uncertainty it has posed for the station. Since becoming Chairman, I have made it a priority to reform Commission processes to increase efficiency and reduce backlogs. Consequently, I have asked the staff to make its final determinations as expeditiously as possible.

I hope this information is helpful. I have asked my staff to keep your office informed of the status of this renewal application.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Wheeler", with a horizontal line above the first name.

Tom Wheeler