

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

In the Matter of
Reclassification of License of
Class A Television Stations
WKOG-LP
Indianapolis, Indiana
WKGK-LP
Kokomo, Indiana
Facility ID No. 34894
Facility ID No. 34895

ORDER TO SHOW CAUSE

Adopted: March 9, 2012

Released: March 12, 2012

By the Chief, Video Division, Media Bureau:

1. This is with respect to stations WKOG-LP, Indianapolis, Indiana and WKGK-LP, Kokomo, Indiana, licensed to Kingdom of God, Inc. ("KOG"). These stations are currently licensed as Class A television stations, which are accorded primary spectrum use status pursuant to the Community Broadcasters Protection Act of 1999 ("CBPA").

2. By letters dated March 23, 2011, the Video Division of the Media Bureau requested information from KOG regarding its apparent failure to make the required filing of quarterly FCC Form 398 (Children's Television Programming Report) for the stations for all four quarters in 2006, 2007, 2008, 2009 and 2010. As the March 23, 2011 letters set forth, in order to qualify for Class A status, the CBPA provides that, during the 90 days preceding enactment of the statute, a low power television station must have: (1) broadcast a minimum of 18 hours per day; (2) broadcast an average of at least three hours per week of programming produced within the market area served by the station; and (3) been in compliance with the Commission's rules for low power television stations. Class A licensees must continue to meet these eligibility criteria in order to retain Class A status.

3. In addition, beginning on the date of its application for a Class A license and thereafter, the CBPA requires that a station must also be "in compliance with the Commission's operating rules for

1 Community Broadcasters Protection Act of 1999, Pub. L. No. 106-113, 113 Stat. Appendix I at pp. 1501A-594 - 1501A-598 (1999), codified at 47 U.S.C. § 336. WKOG-LP and WKGK-LP were granted Class A status in 2002 and 2001, respectively. See FCC File Nos. BLTTA-20001201AAQ, granted August 2, 2002 and BLTTA-20001201AAR, granted December 18, 2001.

2 47 U.S.C. § 336(f)(2)(A)(i).

3 47 U.S.C. § 336(f)(1)(A)(ii); 47 C.F.R. § 73.6001(b).

full-power television stations.”⁴ In implementing the CBPA and establishing the Class A television service,⁵ the Commission applied to Class A licensees all Part 73 regulations except for those that could not apply for technical or other reasons. Among the Part 73 requirements that apply to Class A licensees are the Commission’s main studio requirements; rules governing informational and educational children’s programming and the limits on commercialization during children’s programming; the requirement to identify a children’s programming liaison at the station and to provide information regarding “core” educational and informational programming aired by the station to publishers of television program guides; the public inspection file rule, including preparing and placing in the public inspection file on a quarterly basis an issues/programs list and the station’s quarterly-filed FCC Form 398 (Children’s Television Programming Report); the political programming rules; station identification requirements; and the Emergency Alert System (EAS) rules.⁶

4. Class A television licensees are also subject to the regulations regarding fines and penalties applicable to full power television stations, and are subject to loss of Class A status if they fail to meet these ongoing program service and operating requirements.⁷ In addition, as the Commission explained in the *Class A Memorandum Opinion and Order on Reconsideration*:

Although Class A licensees will not be subject to loss of license for failure to continue to comply with the eligibility requirements in section (f)(2)(A) of the CPBA [including that they be in compliance with the Commission’s rules for full-power stations after they file for a Class A license], they are subject to loss of Class A status if they fail to meet these ongoing obligations. . . . We [have] also adopted a rule stating that “Licensees unable to continue to meet the minimum operating requirements for Class A television stations . . . shall promptly notify the Commission in writing, and request a change in status [to low power].”⁸

5. Section 316(a) of the Communications Act, as amended, permits the Commission to modify an authorization if such action is in the public interest.⁹ 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.¹⁰

6. By letters dated April 13, 2011, KOG responded to the staff’s inquiry stating that the stations were silent between 2006 and 2010 pursuant to Special Temporary Authority and “accordingly, no Children’s Television Programming Report was prepared or filed.” Commission records show that

⁴ 47 U.S.C. § 336(f)(2)(A)(ii).

⁵ *In the Matter of Establishment of a Class A Television Service*, MM Docket No. 00-10, Report and Order, 15 FCC Rcd 6355, 6366 (2000)(“R & O”), Memorandum Opinion and Order on Reconsideration, 16 FCC Rcd 8244, 8254-56 (2001)(“MO & O on Recon”).

⁶ R & O, 15 FCC Rcd at 6366.

⁷ MO & O on Recon, 16 FCC Rcd at 8257.

⁸ *Id.*

⁹ 47 U.S.C. § 316(a).

¹⁰ 47 C.F.R. § 1.87.

WKGK-LP went silent on November 4, 2006, and has operated for a total of less than two weeks since. WKOG-LP went silent on December 25, 2005, and has operated for approximately three months since. The stated justification for the stations' repeated requests to remain silent relate to the stations' purported need to locate permanent transmitter sites.

7. We conclude that under these circumstances, KOG should have notified the Commission of its inability to meet the ongoing Class A eligibility requirements and requested a change in its stations' status from Class A to low power television station pursuant to Section 73.6001 of the Commission's Rules.¹¹ While the Commission has acknowledged that "in appropriately compelling circumstances involving a temporary inability to comply," a licensee can apply for an STA to operate at variance with the CBPA's operational and programming requirements without affecting its Class A status,¹² the record now before us does not present such a case. Instead, the record indicates that KOG made a business decision to cease operations, and that WKOG-LP and WKGK-LP have been off-the-air almost continuously since December 25, 2005 and November 4, 2006, respectively.

8. IT IS THEREFORE ORDERED, That, Kingdom of God, Inc. show cause why its authorizations for Class A television stations WKOG-LP, Indianapolis, Indiana and WKGK-LP, Kokomo, Indiana, should not be modified to specify the stations as low power television stations.

9. Pursuant to Section 1.87 of the Commission's Rules, Kingdom of God, Inc. may, no later than April 16, 2012, file a written statement why the above-captioned licenses should not be modified as proposed herein. The written statement, if any, must be mailed to Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Barbara A. Kreisman, Chief, Video Division, Media Bureau. An electronic copy should also be sent to joyce.bernstein@fcc.gov. Upon review of the statement and/or additional information, the Commission may grant the modifications, deny the modifications, or set the matter for hearing. If no written statement is filed by April 16, 2012, the licensee will be deemed to have consented to the modification of its licenses from Class A television status to low power television status, and the modifications proposed in this *Order to Show Cause* will be deemed to serve the public interest.

10. IT IS FURTHER ORDERED, That a copy of this *Order to Show Cause* shall be sent by Certified Mail, Return Receipt Requested, to Kingdom of God, Inc. as indicated below:

Kingdom of God, Inc.
P. O. Box 44007
Indianapolis, Indiana 46244-0007

11. For further information concerning the proceeding, contact Joyce L. Bernstein, Video Division, Media Bureau, at Joyce.Bernstein@fcc.gov or (202) 418-1647.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

¹¹ 47 C.F.R. § 73.6001(d).

¹² *MO & O on Recon*, 16 FCC Rcd at 8257, n.76.