

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

In the Matter of

Reclassification of License
Of Station KRBB-FM,
Wichita, Kansas

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RM-10691

ORDER TO SHOW CAUSE

Adopted: April 28, 2003

Released: April 30, 2003

Comment Date: June 16, 2003

By the Assistant Chief, Audio Division:

1. Before the Audio Division is a Petition for Rule Making filed by Sierra Grande Broadcasting, Inc., requesting the deletion of Channel 252C1, a vacant allotment at Kiowa, Kansas, and the allotment of Channel 252C2 at Stafford, Kansas, as that community's first local FM service. To accommodate that allotment, petitioner also requests the reclassification of Station KRBB-FM, Channel 250C, Wichita, Kansas, to specify operation on Channel 250C0. Station KRBB-FM currently operates on Channel 250C with an ERP of 100 kilowatts at 303 meters HAAT. The station is below the minimum Class C antenna height requirements of 450 meters HAAT. Because Station KRBB-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 In this instance, petitioner did not provide such certification; nonetheless, Commission staff engineers have analyzed petitioner's request and determined that there is no alternative Class C2 channel available at Stafford, Kansas. In the future, petitions for rule making that seek reclassification of an existing FM channel from Class C to Class C0 will be dismissed if the requisite certification is not included. Moreover, current pending petitions that do not include such certification must be amended to comply with the Commission's rules, or the petitions will be subject to dismissal. Certifications for pending petitions may be submitted within 30 days from the release of this order. At the end of this 30 day period, any initiating petition that does not contain the required certification will be dismissed.

7. A Class C0 reclassification of Station KRBB-FM at Wichita, Kansas, would accommodate petitioner's request to allot Channel 252C2 to Stafford, Kansas, 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 Capstar TX Limited Partnership ("Capstar"), licensee of Station KRBB-FM, Wichita, Kansas. Capstar is required to show cause why its authorization should not be modified to specify operation on Channel 250C0 in lieu of Channel 250C at Wichita, Kansas.

8. The license for Station KRBB-FM (File No. BLH-19890823KB) at Wichita, Kansas, can be modified to Channel 250C0 at its current authorized transmitter site, located at coordinates 37-46-40 NL and 97-30-37 WL. Pursuant to Section 1.87 of the Commission's Rules, Capstar may, not later than June 16, 2003, file a written statement showing with particularity why its license (File No. BLH-19890823KB) should not be modified as proposed in this *Order to Show Cause*. The Commission may call on Capstar to furnish additional information. If Capstar 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, Capstar 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 Capstar 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 KRBB-FM with the Commission within 180 days subsequent to the show cause comment due date (June 16, 2003). Upon the filing of an acceptable construction permit application, the proposal to allot Channel 252C2 at Stafford, Kansas, will be dismissed. The present three-year construction period will be applicable if a construction permit is obtained by Capstar for Channel 250C as specified herein, under this procedure. If the construction is not completed as authorized, Station KRBB-FM is subject to automatic reclassification as a Class C0 station, and, in that event, a new petition for rule making to allot Channel 252C2 at Stafford, Kansas, may be refiled.

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.

10. IT IS THEREFORE ORDERED, That Capstar TX Limited Partnership show cause why its authorization for station KRBB-FM (File No. BLH-19890823KB) should not be modified to specify operation on Channel 250C0 in lieu of Channel 250C at Wichita, Kansas, 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 Mail, Return Receipt Requested, to the following counsel for Capstar TX Limited Partnership, licensee of KRBB-FM, Wichita, Kansas:

Dorann Bunkin, Esq.
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006-2304

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). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts 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. All 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, S.W., Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

13. 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