

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

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| In the Matter of |) | |
| |) | |
| Reclassification of License of |) | RM-11064 |
| Station KMOD-FM, Tulsa, Oklahoma |) | |
| |) | |

ORDER TO SHOW CAUSE

Adopted: August 25, 2004

Released: August 27, 2004

By the Assistant Chief, Audio Division:

1. The Audio Division has before it a petition for rule making filed by Charles Crawford (“Petitioner”) seeking to amend the FM Table of Allotments by allotting Channel 247C3 at Howard, Kansas, as the community’s first local service. To accommodate the allotment, Petitioner requests that Station KMOD-FM at Tulsa, Oklahoma, be reclassified as a Class C0 facility because it is operating below minimum Class C facilities.¹ Petitioner has also certified, as required, that no alternative channel is available for the proposed service.²

2. Station KMOD-FM currently operates on Channel 248C with an effective radiated power (“ERP”) of 100 kilowatts (“kW”) at 405 meters height above average terrain (HAAT), which is below the minimum Class C antenna height of at least 451 meters HAAT with 100 kW ERP. If Station KMOD-FM is reclassified as a Class C0 facility, any short-spacing between Station KMOD-FM and the proposed use of Channel 247C3 at the proposed site would be eliminated. For the reasons discussed below, we are issuing this *Order to Show Cause* directed to licensee of Station KMOD-FM, Tulsa, Oklahoma, to show cause why its facilities should not be reclassified.

3. Pursuant to the reclassification procedures set forth in the *Second Report and Order, supra*, and note 2 of Section 1.420 (g) of the Commission’s Rules, a petitioner may initiate the reclassification of a Class C FM station to a Class C0 station through the filing of an original petition for amendment of the FM Table of Allotments. In those instances in which a triggering petition proposes an amendment or amendments to the FM Table of Allotments in addition to the proposed reclassification, the Commission will issue an *Order to Show Cause* as set forth in Note 4 to Section 73.3573 of the Rules, and a Notice of Proposed Rule Making will be issued only after the reclassification issue is resolved. In order to comply with the foregoing reclassification procedures, it is first necessary to issue this *Order to Show Cause* directed to Clear Channel Broadcasting Licenses, Inc. (“Clear Channel”) to show cause why Station KMOD-FM’s license should not be modified to specify operation on Channel 248C0 in lieu of Channel 248C at Tulsa. Section 316(a) of the Communications Act of 1934, as amended, permits us to modify a license or construction permit if such action is in the public interest. Section 316(a) requires that we notify the affected stations of the proposed action, the public interest reasons for the action, and afford at

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*”); 47 C.F.R. §§ 73.3573, n. 4 and 1.420(g), n.2.

² 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.

least 30 days to respond. This procedure is now set forth in Section 1.87 of the Commission's Rules.³ In this instance, the reclassification of Station KMOD-FM as a Class C0 station at Tulsa, Oklahoma, will accommodate the allotment of Channel 247C3, Howard, Kansas, as proposed by Petitioner. We consider the provision of a first local service at Howard, Kansas, to have sufficient public interest benefits to justify the issuance of a show cause order.

4. The license of Station KMOD-FM at Tulsa, Oklahoma, can be modified to allow the reclassification of Channel 248C to Channel 248C0 at its currently authorized transmitter site.⁴

5. Accordingly, IT IS ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, Clear Channel Broadcasting Licenses, Inc., licensee of Station KMOD-FM, Tulsa, Oklahoma, SHALL SHOW CAUSE why its license should not be modified to specify operation as a Class C0 station on Channel 248C0, Tulsa, Oklahoma.

6. Pursuant to Section 1.87 of the Commission's Rules, Clear Channel may, no later than, October 12, 2004, 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 upon the licensee to furnish additional information. If the licensee raises a substantial and material question of fact, a hearing may be required to resolve such questions of fact pursuant to Section 1.87 of the Rules. Upon review of the statements and/or additional information furnished, the Commission may grant the modification, deny the modification, or set the matter of modification for hearing. If no written statement is filed by the date referred to above, the licensee will be deemed to have consented to a modification as proposed in this Order to Show Cause and a final Order will be issued if the modification is found to be in the public interest. If Clear Channel chooses to seek authority to modify Station KMOD-FM's facilities, an acceptable application for a construction permit to increase the antenna height of at least 451 meters HAAT and 100 kW ERP or the equivalent must be on file with the Commission within 180 days subsequent to the show cause response due date, October 12, 2004.

7. IT IS FURTHER ORDERED, That a copy of this Order to Show Cause shall be sent BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, to the following:

Clear Channel Broadcasting Licenses, Inc.
Licensee Station KMOD-FM, Tulsa, Oklahoma
2625 South Memorial Drive
Suite A
Tulsa, OK 74129

³ See *Modification of FM and Television Licenses Pursuant to Section 316 of the Communications Act*, 2 FCC Rcd 3327 (1987).

⁴ The reference coordinates for Channel 248C0 at Tulsa are 36-11-46 North Latitude and 96-05-53 West Longitude.

8. For further information on this proceeding, contact Helen McLean, Media Bureau (202) 418-2738.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
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Media Bureau