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

In the Matter of   )
)
Reclassification of License of   )   RM-11137
Station KAMX(FM), Luling, Texas   )

ORDER TO SHOW CAUSE

Adopted: June 8, 2005   **Released: June 10, 2005**

Comment Date: July 25, 2005

By the Assistant Chief, Audio Division, Media Bureau:

1.   The Audio Division has before it a petition for rulemaking filed by Charles Crawford ("Petitioner"), seeking to amend the FM Table of Allotments by allotting Channel 253A Lometa, Texas, as that community's second local FM transmission service. To accommodate this allotment, Petitioner also requests the substitution of reclassification of Station KAMX(FM), Channel 234C, Luling, Texas, to specify operation on Channel 234C0 because it is operating at below minimum Class C facilities. Petitioner has also certified, as required, that no other Class A channel(s) are available for allotment at Lometa. [1]

2.   Station KAMX(FM) currently operates on Channel 234C with an effective radiated power ("ERP") of 100 kilowatts ("kW") at 398 meters height above average terrain (HAAT), which is below the minimum Class C antenna height 451 meters HAAT. The staff has tentatively concluded that if Station KAMX(FM) operates as a Class C0 facility, any short-spacing between Station KAMX(FM) and the proposed use of Channel 253A at Lometa at the proposed site would be eliminated. For the reasons discussed below, we are issuing this *Order to Show Cause* directed to Texas Infinity Radio, L.P. ("Texas Infinity"), licensee of Station KAMX(FM), Luling, Texas 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 Texas Infinity to show cause why Station KAMX(FM)'s license should not be modified to specify operation on Channel 234C0 in lieu of Channel 234C at Luling. 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 least 30 days to respond. This

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[1]   *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.

procedure is now set forth in Section 1.87 of the Commission's Rules.[2] In this instance, the reclassification of Station KAMX(FM) as a Class C0 station at Luling will accommodate the allotment of Channel 253A, Lometa, Texas, as proposed by Petitioner. We consider this reallotment proposed by Petitioner to have sufficient public interest benefits to justify the issuance of a show cause order.

4. The Station KAMX(FM) license at Luling, Texas can be modified to allow the reclassification of Channel 234C to Channel 234C0 at its currently authorized transmitter site.[3]

5. Accordingly, IT IS ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, Texas Infinity, licensee of Station KAMX(FM), Luling, Texas, SHALL SHOW CAUSE why its license should not be modified to specify operation as a Class C0 station on Channel 234C0, Luling, Texas.

6. Pursuant to Section 1.87 of the Commission's Rules, Texas Infinity may, no later than July 25, 2005, 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 Texas Infinity chooses to seek authority to modify Station KAMX(FM)'s facilities, an acceptable application for a construction permit to increase the antenna height to at least 451 meters HAAT or the equivalent must be on file with the Commission within 180 days subsequent to the show cause response due date (July 25, 2005).

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:

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Leventhal, Senter & Lerman PLLC   2000 K Street, NW
2000 K Street, N.W.   Suite 725
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(Counsel to Texas Infinity Radio, LLP)

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

[3] The reference coordinates for Channel 234C0 at Luling are NL 30-19-23 and WL 97-47-58.

8. For further information on this proceeding, contact Victoria M. McCauley, Media Bureau (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau