



Federal Communications Commission
Washington, D.C. 20554

November 4, 2005

DA 05-2919
In Reply Refer To
1800B3-ALM

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Mr. Zacarias Serrato
KHOS(AM)
604 North Second Street
Merkel, Texas 79536

In re: KHOS(AM), Sonora, Texas
Zacarias Serrato
Facility ID No. 60843
File No. BR-20050615ACG
Notification of License Cancellation and
Dismissal of Pending Renewal Application

Dear Mr. Serrato:

We have before us the captioned application of Zacarias Serrato for the renewal of license for station KHOS(AM), Sonora, Texas. For the reasons set forth below, we find that the KHOS(AM) license has expired as a matter of law, and we dismiss the pending license renewal application.

In a letter of June 1, 2005, the Chief, Audio Division inquired as to the operational status of KHOS(AM).¹ We had not previously received notification of the station's silence and the Commission's data base did not reflect that the station was silent.²

In a responsive letter received on June 27, 2005, you state that KHOS(AM) had been renting space on the tower owned by Sonora Broadcasting, Inc. ("Sonora"), the licensee of KHOS-FM. You further indicate that the station went silent on or about July 1, 2002, because it was causing interference to the studio facilities of KHOS-FM, which were located at the site. Finally, you state that Sonora would not enter into another lease agreement to permit continued operations at the licensed KHOS(AM) transmitter site, and that you have been unable to locate another acceptable transmitter site, because of the cost of the land.

Section 312(g) of the Communications Act, 47 U.S.C. Section 312(g), provides that "if a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of that period,

¹ The letter was sent in response to correspondence received on May 25, 2005, that indicated KHOS(AM) was silent.

² The license renewal application for KHOS(AM) contained a certification that the station had not been silent for any consecutive 12-month period during the license term. See Application BR-20050615ACG, Section III, Item 4.

notwithstanding any provision, term, or condition of the license to the contrary. . . ."³ The record in this case indicates that KHOS(AM) was off the air from on or about July 1, 2002 until the present. Consequently, we find that KHOS(AM)'s license has expired as a matter of law.

Notwithstanding the provision for a "by law" expiration of a station's license if the station has remained silent for 12 consecutive months, the Commission retains the discretion under Section 312(g) to extend or reinstate such license "to promote equity and fairness."⁴ The exercise of that discretion is not warranted here. Station KHOS(AM) was taken off the air more than three years ago, and it has remained silent essentially due to a business decision on the part of the licensee not to find an alternative site promptly. Such considerations do not warrant reinstatement of KHOS(AM)'s license.⁵

Accordingly, the Commission's public and internal databases will be modified to indicate that the broadcast license (BR-19980908WA) for the referenced station EXPIRED as a matter of law, on or about July 1, 2003, and we HEREBY DELETE the station's call sign, KHOS(AM). Additionally, the pending license renewal application (BR-20050615ACG) IS DISMISSED.

Finally, we note that it is imperative to the safety of air navigation that any prescribed painting and illumination of the station's tower be maintained until the tower is dismantled. Accordingly, the owner of the tower where the referenced station's transmitting antenna is located is required, pursuant to 47 U.S.C. Section 303(q), to maintain the tower in the manner prescribed by our rules and the terms of the cancelled license.⁶

Sincerely,

Peter H. Doyle, Chief
Audio Division
Media Bureau

³ See *Implementation of Section 403(l) of the Telecommunications Act of 1996*, 11 FCC Rcd 16499 (1996); see also 47 C.F.R. § 73.1740(c).

⁴ 47 U.S.C. § 312(g). See also *Satellite Home Viewer Extension and Reauthorization Act of 2004*, Pub.L. 108-447, Div. J., Title IX, § 213, 118 Stat. 3431 (Dec. 8, 2004).

⁵ Moreover, KHOS(AM) failed to request authority to remain silent, as required by 47 C.F.R. § 73.1740, and it apparently falsely certified in its June 15, 2005 license renewal application that the station had not been silent for 12 consecutive months.

⁶ See 47 C.F.R. §§ 17.1 *et seq.* and 73.1213. See also *Streamlining the Commission's Antenna Structure Clearance Procedure*, WT Docket No. 95-5, 11 FCC Rcd 4272 (1995).