



Federal Communications Commission
Washington, D.C. 20554

DA 07-5106

December 27, 2007

Broadcast Media Satellite, Inc.
46 Angel Bounomo Street
Industrial Area Tres Monjitas
Hato Rey, PR 00918

Re: Call Sign: PF000001
File No.: IPF-LIC-20000403-00001

Dear Sir or Madam:

On September 22, 2000, Broadcast Media Satellite, Inc. (BMS) was granted the above-captioned license to operate facilities 4.5 miles southeast of Rincon, Puerto Rico, in the International Fixed Public Radio Service (IFPRS). On September 24, 2007, we sent you a letter at the address we have for you on file, in which we noted that BMS has appeared to have discontinued its operations permanently.¹ In that letter, we directed BMS to show cause why its IFPRS license should not be revoked pursuant to Section 9(c)(3) of the Communications Act, 47 U.S.C. § 159(c)(3), on or before November 23, 2007. BMS failed to respond to the *September 24 Letter*, and that letter was returned to the Commission as undeliverable on October 10, 2007. Accordingly, we revoke BMS's IFPRS license.

Regulatory Fees. Section 9(g) of the Communications Act, 47 U.S.C. § 159(g), requires the Commission to impose regulatory fees on its regulated entities, including IFPRS licensees. Pursuant to that Congressional mandate, the Commission has adopted Section 1.1156 of the Commission's Rules, 47 C.F.R. § 1.1156, establishing an annual regulatory fee of \$ 1925.00 for IFPRS licensees.

In the *September 24 Letter*, we noted that our records do not show that BMS has paid any of its regulatory fees due for the 2005-06 fiscal year.² We also indicated that Section 9(c)(3) of

¹ Letter from Robert G. Nelson, Chief, Satellite Division, International Bureau, to Broadcast Media Satellite, Inc., DA 07-4010 (Sept. 24, 2007) (*September 24 Letter*).

² *September 24 Letter* at 2.

the Communications Act, 47 U.S.C. § 159(c)(3) and Section 1.1164(f) of the Commission's rules, 47 C.F.R. § 1.1164(f), give us authority to revoke licenses for failure to pay regulatory fees in a timely fashion.³ Consequently, in the *September 24 Letter*, we required BMS to provide documented evidence by November 23, 2007 that, contrary to these facts, payment of its regulatory fees is not past due. BMS did not respond to the *September 24 Letter*. Therefore, we revoke the BMS license.

Order to Show Cause. We also take this opportunity to observe that, even if BMS had paid its regulatory fees, we have evidence that BMS has not complied with one or more provisions of the Communications Act of 1934 and the Commission's rules. For the reason set forth below, we believe that the evidence before us would be sufficient to warrant initiation of a revocation proceeding under Section 312 of the Communications Act, if we had not revoked BMS's license in this letter above.

Discontinuance of Operations. In the *September 24 Letter*, we concluded, for several reasons, that BMS appears to have discontinued its operations. First, the Commission's San Juan Resident Field Agent attempted to contact BMS by telephone during the last week of July 2007, and found that BMS's telephone service had been disconnected at the contact number associated with its license. During that week, the San Juan Resident Field Agent also visited the authorized control point at the address listed in the BMS license, and found no one there that was associated or familiar with BMS. In addition, on August 1, 2007, the San Juan Resident Field Agent visited BMS's transmitter site, and found no antenna pointing toward the Dominican Republic as specified in the license. Further, the Field Agent did not detect any transmissions on the frequency bands assigned to BMS. Finally, on July 31, 2007, we sent a letter to BMS at the address provided in BMS's application.⁴ In that letter, we asked BMS to notify us of the current status of its facilities no later than August 15, 2007.⁵ We stated specifically that we would interpret a failure to respond to the letter as a surrender of BMS's license.⁶ That letter was returned as undeliverable on August 16, 2007. By appearing to have permanently discontinued its operations, BMS appears to have willfully failed to operate as set forth in its license as of the start of that discontinuation.⁷ Pursuant to Section 312(a)(3) of the Communications Act, 47 U.S.C. § 312(a)(3), any "willful or repeated failure to operate substantially as set forth in the license" is adequate cause to begin a license revocation proceeding.

In addition, Section 312(a)(4) of the Communications Act, 47 U.S.C. § 312(a)(4), authorizes the Commission to begin a license revocation proceeding "for willful or repeated violation of, or willful or repeated failure to observe any provision of [the Communications Act] or any rule or regulation of the Commission authorized by this Act." BMS is apparently in violation of Section 23.49 of the Commission's Rules, 47 C.F.R. § 23.49. Section 23.49 requires each IFPRS licensee wishing to discontinue its operations permanently to notify the San Juan Resident Field Agent, and to send its station license to the Commission Office in Washington,

³ *September 24 Letter* at 2-3.

⁴ *September 24 Letter* at 1.

⁵ Letter from Robert G. Nelson, Chief, Satellite Division, International Bureau, to Broadcast Media Satellite, Inc., DA 07-3486 (dated July 31, 2007) (*July 31 Letter*).

⁶ *July 31 Letter* at 2.

⁷ *September 24 Letter* at 1.

D.C.⁸ We have no record of BMS's notification to the San Juan Resident Field Agent, nor have we received its license. Moreover, Section 1.5 of the Commission's Rules, 47 C.F.R. § 1.5, requires all licensees to furnish the Commission with a current address for serving documents or directing correspondence to each licensee. Since the *July 31 Letter* and the *September 24 Letter* were returned to us as undeliverable, it appears that BMS has also failed to comply with this requirement.⁹

Moreover, even if BMS has not discontinued its operations, it appears to be in violation of several other rules. First, Section 23.44 of the Commission's Rules, 47 C.F.R. § 23.44, requires all IFPRS licensees to make their stations available for inspection by representatives of the Commission at any reasonable hour. By failing to furnish the current address of its facilities, BMS failed to make the station available for inspection. Furthermore, without inspecting BMS's facilities, we cannot determine whether BMS has maintained station records in compliance with Sections 1.6, 23.47 and 23.48 of the Commission's Rules, 47 C.F.R. §§ 1.6, 23.47, 23.48, nor can we verify that it has posted its station license and station operator license in compliance with Sections 23.36 and 23.45 of the Commission's Rules, 47 C.F.R. §§ 23.36, 23.45.¹⁰

Accordingly, the license issued to Broadcast Media Satellite, Inc. on September 22, 2000, to operate facilities in the International Fixed Public Radio Service is revoked. We issue this license revocation pursuant to Section 9(c)(3) of the Communications Act, 47 U.S.C. § 159(c)(3), Section 1.1164(f) of the Commission's Rules, 47 C.F.R. § 1.1164(f), and Sections 0.51(c), 0.51(d), and 0.261(a)(15) of the Commission's Rules on delegations of authority, 47 C.F.R. §§ 0.51(c), 0.51(d), 0.261(a)(15).

Sincerely,

Robert G. Nelson
Chief, Satellite Division
International Bureau

⁸ Section 23.49 requires licensees to provide notification of discontinuances in operation to "the Engineer in Charge of the district where such station is located." The functions of the Engineer in Charge are now performed by the Enforcement Bureau's District Directors and Resident Field Agents. *See* Section 0.314 of the Commission's Rules, 47 C.F.R. § 0.314.

⁹ *September 24 Letter* at 1-2.

¹⁰ *September 24 Letter* at 2.