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

In the Matter of	)	
	)	
Reclassification of License of	)	
Class A Television Station WBVT-CA	)	Facility ID No. 48412
Burlington, Vermont	)	
	)	

ORDER

Adopted: November 6, 2012 **Released: November 7, 2012**

By the Chief, Video Division, Media Bureau:

1. This is with respect to station WBVT-CA, Burlington, Vermont, licensed to Convergence Entertainment and Communications, LLC ("Convergence"). This station is currently licensed as a Class A television station, which are accorded primary spectrum use status pursuant to the Community Broadcasters Protection Act of 1999 ("CBPA").[1]

2. By letters dated March 25, 2011 and August 3, 2011, the Video Division of the Media Bureau requested information from Convergence regarding its apparent failure to make the required filing of quarterly FCC Form 398 (Children's Television Programming Report) for the station for the third and fourth quarters in 2009 and all four quarters in 2010.[2] Both letters required that the information be provided within 30 days of the date of the letter and cautioned that failure to provide the information could result in a change of the station's status from Class A television to low power television. Convergence failed to respond to the Division's letters or to file the required Children's Television Programming Reports. Accordingly, pursuant to Section 316(a) of the Communications Act of 1934, as amended,[3] the Video Division issued an *Order to Show Cause* why the license for WBVT-CA should not be modified to specify the station as a low power television station.[4]

3. Convergence was afforded until March 30, 2012 to file a written statement why its license should not be so modified and was also notified that if no written statement was filed by that date, it would be deemed to have consented to the modification of the WBVT-CA license from Class A television status to low power television status. Convergence did not file a written statement in response

[1] Community Broadcasters Protection Act of 1999, Pub. L. No. 106-113, 113 Stat. Appendix I at pp. 1501A-594 – 1501A-598 (1999), *codified at* 47 U.S.C. § 336. Beginning on the date of its application for Class A license and thereafter, the CBPA requires that a station must be "in compliance with the Commission's operating rules for full-power television stations." 47 U.S.C. § 336(f)(2)(A)(ii); *see also In the Matter of Establishment of a Class A Television Service*, MM Docket No. 00-10, Report and Order, 15 FCC Rcd 6355, 6366 (2000), Memorandum Opinion and Order on Reconsideration, 16 FCC Rcd 8244, 8254-56 (2001); 47 C.F.R. §§ 73.6001, 73.6026. WBVT-CA was granted Class A television status in 2002. *See* FCC File No. BLTTA-20001208AED (granted March 7, 2002).

[2] *See* 47 C.F.R. §§ 73.671, 73.3526 and 73.6026.

[3] 47 U.S.C. § 316(a).

[4] *Reclassification of License of Class A Television Station WBVT-CA, Burlington, Vermont,* Order to Show Cause, 27 FCC Rcd 2136 (Vid. Div. 2012). In addition to the period covering 2009 and 2010, the *Order to Show Cause* noted that Convergence had also failed to file Children's Television Programming Reports for all four quarters of 2011.

to the *Order to Show Cause*, and therefore, we deem it to have accepted the modification of the WBVT-CA license to low power television status.[5] Further, because Convergence failed to file Children's Television Programming Reports (FCC Form 398) for the period 2009 through 2011 and has not responded to the Video Division's two letters regarding this failure or to the *Order to Show Cause*, we find that it has not fulfilled its obligations as a Class A licensee, and that the modification of its Class A license to a low power television license therefore serves the public interest.

4. IT IS THEREFORE ORDERED, pursuant to Sections 4(i), 316, and 332(f)(2)(A)(ii) of the Communications Act, 47 U.S.C. §§ 154(i), 316, 332(f)(2)(A)(ii), and Sections 1.87, 73.6001, and 73.6026 of the Commission's rules, 47 C.F.R. §§ 1.87, 73.6001, 73.6026, that the license for station WBVT-CA, Burlington, Vermont is modified from Class A television status to low power television status, effective as of this date.

5. IT IS FURTHER ORDERED, That a copy of this *Order* shall be sent by Certified Mail, Return Receipt Requested, to Convergence Entertainment and Communications, LLC as indicated below:

Convergence Entertainment & Communications, LLC
13 Richard Terrace
South Burlington, Vermont 05403

Convergence Entertainment & Communications, LLC
P. O. Box 2423
Plattsburgh, New York 12901

6. This action is taken pursuant to authority delegated by Sections 0.61 and 0.283 of the Commission's rules, 47 C.F.R. §§ 0.61, 0.283.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

[5] 47 C.F.R. § 1.87(g)(1), (h) (Absent good cause shown, the right to file a protest or have a hearing is waived if licensee does not file a timely protest or statement of intent to appear at a hearing, and "[w]here the right to file a protest or have a hearing is waived, the licensee . . . will be deemed to have consented to the modification as proposed and a final decision may be issued by the Commission accordingly.")