

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

In the Matter of)	
)	
Reclassification of License of)	
Class A Television Station WJJN-LP)	Facility ID No. 30282
Dothan, Alabama)	
)	

ORDER TO SHOW CAUSE

Adopted: March 13, 2012

Released: March 14, 2012

By the Chief, Video Division, Media Bureau:

1. This is with respect to station WJJN-LP, Dothan, Alabama, licensed to Mr. James Wilson III. 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. In order to qualify for Class A status, the CBPA provides that, during the 90 days preceding enactment of the statute, a low power television station must have: (1) broadcast a minimum of 18 hours per day; (2) broadcast an average of at least three hours per week of programming produced within the market area served by the station; and (3) been in compliance with the Commission’s rules for low power television stations.² Class A licensees must continue to meet these eligibility criteria in order to retain Class A status.³

3. In addition, beginning on the date of its application for a Class A license and thereafter, the CBPA requires that a station must also be “in compliance with the Commission’s operating rules for full-power television stations.”⁴ In implementing the CBPA and establishing the Class A television service,⁵ the Commission applied to Class A licensees all Part 73 regulations except for those that could not apply for technical or other reasons. Among the Part 73 requirements that apply to Class A licensees are the Commission’s main studio requirements; rules governing informational and educational children’s programming and the limits on commercialization during children’s programming; the requirement to identify a children’s programming liaison at the station and to provide information regarding “core” educational and informational programming aired by the station to publishers of television program guides; the public inspection file rule, including preparing and placing in the public inspection file on a quarterly basis an issues/programs list and the station’s quarterly-filed FCC Form 398 (Children’s

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.

² 47 U.S.C. § 336(f)(2)(A)(i).

³ 47 U.S.C. § 336(f)(1)(A)(ii); 47 C.F.R. § 73.6001(b).

⁴ 47 U.S.C. § 336(f)(2)(A)(ii). Mr. Wilson filed an application for a Class A license on August 23, 2000, and was granted Class A status on October 18, 2000.

⁵ *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)(“*R & O*”), Memorandum Opinion and Order on Reconsideration, 16 FCC Rcd 8244, 8254-56 (2001)(“*MO & O on Recon*”).

Television Programming Report; the political programming rules; station identification requirements; and the Emergency Alert System (EAS) rules.⁶

4. Class A television licensees are also subject to the regulations regarding fines and penalties applicable to full power television stations, and are subject to loss of Class A status if they fail to meet these ongoing program service and operating requirements.⁷ In addition, as the Commission explained in the *Class A Memorandum Opinion and Order on Reconsideration*:

Although Class A licensees will not be subject to loss of license for failure to continue to comply with the eligibility requirements in section (f)(2)(A) of the CPBA [including that they be in compliance with the Commission's rules for full-power stations after they file for a Class A license], they are subject to loss of Class A status if they fail to meet these ongoing obligations. . . . We [have] also adopted a rule stating that "Licensees unable to continue to meet the minimum operating requirements for Class A television stations . . . shall promptly notify the Commission in writing, and request a change in status [to low power]."⁸

5. Section 316(a) of the Communications Act, as amended, permits the Commission to modify an authorization if such action is in the public interest.⁹ Further, pursuant to Section 316(a), we are required to notify the affected station of the proposed action, as well as the public interest reasons for the action, and to afford the licensee at least 30 days to respond. This procedure is set forth in Section 1.87 of the Commission's Rules.¹⁰

6. Commission records show that station WJLN-LP first ceased broadcasting pursuant to special temporary authority (STA) on December 19, 2007, citing damage to the station's transmitter and other equipment from a lightning strike.¹¹ On June 20, 2008, Mr. Wilson requested an extension of the STA, citing again the lightning strike, and further stating that "[t]he cost of the equipment has made repairs impractical at this time."¹² While Mr. Wilson represented that the station resumed broadcasting on December 5, 2008, just prior to automatic expiration of the license pursuant to Section 312(g) of the Communications Act of 1934,¹³ it went silent four months later, on March 25, 2009, because "[t]he station suffered a lightening strike and the transmitter has been permanently damaged."¹⁴ The station resumed operation, albeit at severely reduced power,¹⁵ on March 10, 2010, again just prior to its automatic expiration date.

⁶ *R & O*, 15 FCC Rcd at 6366.

⁷ *MO & O on Recon*, 16 FCC Rcd at 8257.

⁸ *Id.*

⁹ 47 U.S.C. § 316(a).

¹⁰ 47 C.F.R. § 1.87.

¹¹ File No. BLSTA-20080102AAL.

¹² File No. BLESTA-20080620ANY.

¹³ 47 U.S.C. § 312(g). This section of the Act provides, in pertinent part, 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 the period, notwithstanding any provision, term, or condition of the license to the contrary . . ."

¹⁴ File No. BLSTA-20090327AHY

¹⁵ See File No. BSTA-20100316ABO. The engineering STA request stated that "the transmitter will not function at full power."

7. On July 13, 2010, Mr. Wilson filed an application for a license to cover construction of his authorized digital facility on Channel 49 at a location approximately 5 miles from his analog facility.¹⁶ On January 5, 2011, Mr. Wilson notified the Commission that both the analog and digital facilities went silent on December 31, 2010, citing simply “lightning strike.”¹⁷ According to Mr. Wilson, both stations resumed broadcasting on December 23, 2011, again just prior to automatic expiration of the analog license.

8. Class A television stations are required to broadcast a minimum of 18 hours per day and an average of at least three hours per week of programming produced within the market area served by the station. Station WJJN-LP has failed to meet these statutory requirements for at least three out of the last four years. We conclude that under these circumstances, Mr. Wilson should have notified the Commission of his inability to meet the ongoing Class A eligibility requirements and requested a change in station status from Class A to low power television station pursuant to Section 73.6001 of the Commission’s Rules.¹⁸ While the Commission has acknowledged that “in appropriately compelling circumstances involving a temporary inability to comply,” a licensee can apply for an STA to operate at variance with the CBPA’s operational and programming requirements without affecting its Class A status,¹⁹ the record now before us does not present such a case. Instead, the record indicates that, while the station may have experienced technical difficulties caused by lightning strikes, Mr. Wilson made a business decision not to repair or replace the necessary equipment for extended periods of time.

9. IT IS THEREFORE ORDERED, That, James Wilson III show cause why the authorization for Class A television station WJJN-LP, Dothan, Alabama, should not be modified to specify the station as a low power television station.

10. Pursuant to Section 1.87 of the Commission’s Rules, Mr. Wilson may, no later than April 20, 2012, file a written statement why the above-captioned license should not be modified as proposed herein. The written statement, if any, must be mailed to Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, Attention: Barbara A. Kreisman, Chief, Video Division, Media Bureau. An electronic copy should also be sent to David Brown, Associate Chief, Video Division at the e-mail address listed below. Upon review of the statement and/or additional information, the Commission may grant the modification, deny the modification, or set the matter for hearing. If no written statement is filed by April 20, 2012, the licensee will be deemed to have consented to the modification of its license from Class A television status to low power television status, and the modification proposed in this *Order to Show Cause* will be deemed to serve the public interest.

11. IT IS FURTHER ORDERED, That a copy of this *Order to Show Cause* shall be sent by Certified Mail, Return Receipt Requested, to Mr. Wilson and to its counsel, as indicated below:

Mr. James Wilson III
4106 Ross Clark Circle
Dothan, Alabama 44974

Dan J. Alpert, Esq.
The Law Office of Dan J. Alpert
2120 N. 21st Road

¹⁶ File No. BLDTL-20100713AOZ, granted August 30, 2010.

¹⁷ File Nos. BLSTA-20110105AAZ and BLSTA-20110105ABA.

¹⁸ 47 C.F.R. § 73.6001(d).

¹⁹ *M O & O on Recon*, 16 FCC Rcd at 8257, n.76.

Arlington, Virginia 22201

12. For further information concerning the proceeding, contact David J. Brown, Associate Chief, Video Division, Media Bureau, at David.Brown@fcc.gov or (202) 418-1645.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau