



Federal Communications Commission
Washington, D.C. 20554

June 8, 2022

Sent via Certified Mail and Electronic Mail

Cocola Broadcasting Companies, LLC
Gary M. Cocola
706 W. Herndon Avenue
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Re: Request for Special Temporary
Authority
KMCF-LD, Visalia, CA
Fac ID No. 20560
LMS File No. 0000191063

Dear Licensee,

This concerns the above-referenced request for special temporary authority (Request) filed by Cocola Broadcasting Companies, LLC (CBC), licensee of low power television (LPTV) station KMCF-LD, Visalia, California (KMCF-LD or Station). For the reasons set forth below, the Request is denied and CBC is ordered to cease and desist any and all analog operations.

Background. KMCF-LD was an LPTV station that previously operated on digital channel 47.¹ The Station's digital channel 47 facilities were displaced by the Incentive Auction and repacking process and the Station filed a digital displacement application for channel 6 that was granted on August 23, 2018.² The Station completed construction of its digital channel 6 facilities and began operating on August 23, 2021.³

In January 2022, CBC began operating in ATSC 3.0 digital format.⁴ The Station's ATSC 3.0 license grant contained the following condition:

"Analog operations, including those utilizing an analog FM audio carrier, are not permitted on the station's frequency. The station is only permitted to provide digital operations."

In its instant Request, CBC seeks special temporary authority (STA) "to operate an analog FM audio carrier as an ancillary or supplementary service within the Station's assigned digital channel frequencies."⁵ CBC maintains that when it filed for an ATSC 3.0 license it expressly stated in its license application that it "wished to convert the operation of the Station to ATSC 3.0 format."⁶ CBC argues that "under the (Commission's) existing rules, it is permitted to offer an audio signal available at 87.75 FM on

¹ See LMS File No. 0000001547.

² See LMS File No. 0000053703.

³ See LMS File No. 0000157810.

⁴ See LMS File No. 0000179075.

⁵ Request at 1.

⁶ *Id.*

an ancillary or supplementary basis.”⁷ If permitted to provide analog service, it agrees to provide “at least one stream of synchronized video and audio programming on the ATSC 3.0 portion of the spectrum on a full time (24x7) basis;” that “the video programming can be satisfactorily viewed on consumer receiving equipment based on the ATSC 3.0 standard;” and should any interference occur to other stations, it will modify its operation so as to eliminate the interference.⁸

Discussion. We deny CBC’s request for STA. We find that its request to operate an analog FM radio carrier on KMCF-LD’s digital frequency is in direct contravention with the condition placed on the Station’s ATSC 3.0 license. By accepting the grant of its Station license, CBC accepted the condition that it would not be permitted to operate an analog FM radio carrier on the Station’s digital frequency. CBC did not seek reconsideration of the conditional license grant and, accordingly, it became a final action 30 days later on February 26, 2022.⁹ In its Request, filed almost three months after its license grant, CBC does not even mention the fact that its ATSC 3.0 license contains a condition that directly contravenes its requested relief nor does it ask that the condition be waived or otherwise removed.

Although the Media Bureau has permitted other ATSC 3.0 digital channel 6 LPTV stations to provide analog FM radio operations through an engineering STA, we find those situations to be significantly different from the one here. Specifically, none of those stations’ ATSC 3.0 licenses was restricted in the same manner as KMCF-LD.¹⁰ This is because each of those stations were providing similar analog FM radio operations (FM6 operations) while they were operating on channel 6 in analog mode prior to the July 13, 2021 digital LPTV transition.¹¹ The Media Bureau permitted these FM6 stations to continue to provide their existing FM6 operations via an ATSC 3.0 engineering STA in order to maintain the status quo while the Commission considers whether to permit channel 6 digital LPTV stations to provide analog FM radio services on an ancillary or supplementary basis in its ongoing

⁷ *Id.* at 1-2 citing 47 CFR § 73.624(c).

⁸ *Id.* at 2.

⁹ Section 405(a) of the Communications Act, as amended (Act), provides that a “petition for reconsideration must be filed within thirty days from the date upon which public notice is given of the order, decision, report, or action complained of.” 47 U.S.C. § 405(a). Section 1.106(f) of the Commission’s rules implements section 405(a) of the Act and provides that the “petition for reconsideration and any supplement thereto shall be filed within 30 days from the date of public notice of the final Commission action.” 47 CFR § 1.106(f). *See also Virgin Islands Telephone Corp. v. FCC*, 989 F.3d 1231, 1237 (D.C. Cir. 1993) (“Although section 405 does not absolutely prohibit FCC consideration of untimely petitions for reconsideration, we have discouraged the Commission from accepting such petitions in the absence of extremely unusual circumstances.”).

¹⁰ *See, e.g.*, KBKF-LD, San Jose, California; WMTO-LD, Norfolk, Virginia; KXDP-LD, Denver, Colorado; WTBS-LD, Atlanta, Georgia; WRME-LD, Chicago, Illinois; KZNO-LD, Big Bear Lake, California; KEFM-LD, Sacramento, California; WEYS-LD, Miami, Florida; WDCN-LD, Fairfax, Virginia; KRPE-LD, San Diego, California; KGHD-LD, Las Vegas, Nevada; WPGF-LD, Memphis, Tennessee; and WNYZ-LD, New York, New York.

¹¹ *See* 47 CFR §§ 74.731(m) and 74.788(a) that provided that all LPTV stations were required to terminate analog operations and begin operating in digital no later than July 13, 2021.

rulemaking proceeding.¹² In contrast, KMCF-LD was never authorized to operate in analog on channel 6 (it was originally authorized to operate on channel 47 and issued a *digital* displacement construction permit for channel 6) and, therefore, could not have previously operated an FM6 service. This fact distinguishes KMCF-LD from other FM6 stations that have been granted STAs.¹³ Because KMCF-LD does not have a legacy analog FM6 operation to preserve, unlike other FM6 stations, and because it was expressly prohibited from providing analog services, we do not find the public interest would be served by grant of its Request.

The above facts considered, the request for special temporary authority filed by Cocola Broadcasting Companies, LLC for KMCF-LD, Visalia, California **IS DENIED**. To the extent that the Station may have already done so, any operation of an analog FM audio carrier on the Station's digital frequency **MUST CEASE IMMEDIATELY**.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division Media Bureau

cc (via electronic mail): Ari Meltzer, Esq.

¹² See *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations*, Fifth Notice of Proposed Rulemaking, MB Docket No. 03-185, FCC 22-40 (rel. June 7, 2022) (*NPRM*). In the *NPRM*, the Commission stated that the Media Bureau granted FM6 STAs "in order to preserve a pre-existing FM6 service." *NPRM* at para. 15. The Commission also proposed limiting future FM6 service to only those stations operating with an FM6 STA on the release date of the *NPRM* in order to "ensure continued service to consumers who have relied upon this (FM6) service" and to serve the Commission's goal of "preventing harmful interference to other services." *NPRM* at paras. 42 and 43. In addition, the Commission sought comment on whether to permit FM6 operations by LPTV stations that, as of the release date of the *NPRM*, have pending applications for construction permits and a significant history of providing FM6 to the public. *NPRM* at para. 44.

¹³ We disagree with CBC's assertion that, "under the FCC's existing rules," CBC is permitted to offer an analog FM radio service "on an ancillary or supplementary basis." Request at 1-2. As CBC acknowledges, that question is presently before the Commission in the pending rulemaking proceeding. See *NPRM* at paras. 22-33. Until that proceeding is concluded, we do not deem that such FM operations may be conducted "under the FCC's existing rules."