



Federal Communications Commission
Washington, D.C. 20554

December 8, 2022

SENT VIA CERTIFIED MAIL AND ELECTRONIC MAIL

G.I.G., Inc.
Charles Poppen
PO Box 88336
Sioux Falls, SD 57109
cpoppen@kcpo.tv

In re: KCPM-LP, Fargo, ND

Facility ID No. 21187
File Nos. CDBS File Nos. BRTVL-
20140402AAR, BLTVL-20020207AAQ
and LMS File Nos. 0000176085 and
0000151969

Follow Up Operational Status Inquiry

Dear Licensee:

This letter is to follow up on our previous Operational Status Inquiry of February 8, 2022 (Inquiry Letter) regarding former analog low power television (LPTV) station KCPM-LP's (KCPM or Station) operation and its application for a digital companion channel and two pending license renewal applications, and G.I.G., Inc.'s (G.I.G. or Licensee) response dated April 6, 2022 (Response),¹ and its supplementary response dated April 19, 2022 (Supplement).² On review, we find that G.I.G.'s Responses are deficient and do not provide all the information requested in the Inquiry Letter. This letter provides you **30 days** to provide all missing information and correct all deficiencies.

Accordingly, G.I.G. is directed to provide the information and documents, as detailed in the attachment, and provide associated affidavits or declarations which comply with 47 CFR § 1.16, no later than **30 days** after the date of this letter. If you fail to reply to this letter or do not provide all requested information and documents within **30 days from the date of this letter**, the Commission's public and internal databases **WILL BE MODIFIED** to show that the application for digital companion channel (LMS File No. 0000151969) for KCPM, Fargo, North Dakota has been automatically **FORFEITED**,³ the license for station KCPM has been automatically **CANCELLED**,⁴ KCPM's pending applications for license renewal (CDBS File No. BRTVL 20140402AAR; LMS File No. 0000176085) will be

¹ Letter, from Aaron P. Shainis, Shainis & Peltzman, Chartered, Counsel for G.I.G., Inc. to Barbara A. Kreisman, Chief, Video Division (April 6, 2022) (on file under LMS main facility page for Facility ID No. 21187) (Response). Copies of the responses and related correspondence have been uploaded to the Station's facility page in the Commission's Licensing and Management System (LMS).

² Letter, from Aaron P. Shainis, Shainis & Peltzman, Chartered, Counsel for G.I.G., Inc. to Barbara A. Kreisman, Chief, Video Division (April 19, 2022) (on file under LMS main facility page for Facility ID No. 21187) (Supplement).

³ 47 CFR § 74.788(b).

⁴ 47 CFR § 74.731(m).

DISMISSED, its call sign will be **DELETED**,⁵ and all authority to operate the Station will be **TERMINATED**.⁶

Documents sent in response to this letter shall be addressed to FCC, Office of the Secretary, 45 L Street, NE, Washington, DC 20554, Attention: Robin Fagan, Video Division, Media Bureau, and emailed to Robin Fagan at the address below.

Please direct any questions concerning the content of this letter to Robin Fagan at Robin.Fagan@fcc.gov.

Sincerely,

/s/

Barbara Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Aaron P. Shainis, Esq. (aaron@s-plaw.com)

⁵ As a former analog low power television (LPTV) station, the Station's analog license was automatically canceled, without any affirmative action required by the Commission, after 11:59 p.m. on July 13, 2021. *See* 47 CFR § 73.731(m). The Commission has a long-established policy of the "single, unified station license" as part of the digital conversion process. *See Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*, Second Report and Order, 26 FCC Rcd 10732, 10755, para. 48 (2011) citing *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*, Report and Order, 19 FCC Rcd 19331, 19390, n.362 (2004) (stating that the Commission has always been clear that the station's two "authorizations" are part of a single, unified license). Therefore, an analog LPTV station whose analog license is automatically cancelled after 11:59 pm local time on July 13, 2021, and does not subsequently retain its digital construction permit, no longer has a facility to modify and convert to digital. Cancellation of a station's construction permit and deletion of its call sign by Media Bureau staff in the Licensing and Management System (LMS) is an administrative function and does not constitute an official Commission action nor require any affirmative cancellation by the Commission. *See Media Bureau Reminds Remaining Low Power Television and Television Translator Stations that the July 13, 2021 Digital Transition Date and Other Important Deadlines are One Week Away*, Public Notice, DA 21-786 (MB, rel. July 6, 2021); *Media Bureau Reminds Remaining Analog Low Power Television and Television Translator Stations Without Digital Construction Permits to File Immediately in Order to Ensure A Successful Digital Transition*, Public Notice, 36 FCC Rcd 9467, n.4 (MB2021); 86 FR 32262 (June 17, 2021).

⁶ We remind G.I.G. that it must continue to adhere to the requirements in the former station's authorizations pertaining to lighting of antenna structures. *See* 47 U.S.C. §303(q); 47 CFR §§17.1 *et seq.*, 73.1213 and 73.1740(a)(4). *See also Streamlining the Commission's Antenna Structure Clearance Procedure*, Report and Order, 11 FCC Rcd 4272, 4293 (1995) (tower owner bears primary responsibility for maintaining tower painting and/or lighting).

ATTACHMENT

Requests for Information

Unless otherwise indicated, the time covered by these inquiries is **July 23, 2008** to the present.

1. G.I.G. must provide the operational history of the Station for the time period in question. While G.I.G. provides some information about the Station's operational history, it fails to provide any information about the Station's operational history prior to February 7, 2017.⁷ Furthermore, some of the information provided about any operations or silence since February 7, 2017 is not complete. These deficiencies are specifically identified below.
 - a. State the **exact** time periods (day, month, and year) that the Station was either operational or silent. Dates should be the precise dates that the Station went silent or resumed operation, not, as provided in the Supplement, the status dates of applications filed with the Commission.⁸
 - b. All periods of silence disclosed in the Supplement appear to have been disclosed to the Commission as required.⁹ For any periods of silence not disclosed in the Supplement please provide an explanation for why the Station was silent, provide evidence that the Commission was properly notified of such silence, and if not why the Commission was not properly informed of such silence.
 - c. For any periods of operation provide the Station's technical operating parameters, mode of operation (i.e., analog or digital), and specific information pertaining to the Station's operation or silence throughout the entire period including exact coordinates for the location(s) of the Station's facilities (transmitter site, main studio (as applicable), office space, and any location from which the Station originated programming), how the Station received programming, the Station's effective radiated power, and the antenna height above ground level. Clearly state for each period of operation whether the Station's operations were digital or analog and the precise operational parameters requested above for each operational period.
 - d. For any periods of operation provide invoices or receipts for utilities that would be billed for usage at the Station's transmitter site, whether paid for by G.I.G. or a third party.
 - e. Provide copies of all leases, personnel records (including payroll records appropriately redacted to protect the privacy of individual employees), engineering records, and station records. For each employee of KCPM, provide the time periods each employee is/was affiliated with KCPM, the employee's job title and duties.
 - f. Provide copies of all Emergency Alert System (EAS) logs since January 1, 2018. Identify all Persons who prepared or helped prepare the logs. If EAS logs cannot be provided, please provide an explanation.
 - g. Provide receipts for any state/local/real estate taxes imposed on the Station or any of its locations referenced above.
 - h. Provide dated copies of payments received from advertisers.

⁷ See Supplement, Attach. A.

⁸ *Id.*

⁹ *Id.*; see generally LMS for Facility ID No. 21187.

- i. Provide copies of all invoices, bills, checks written or received, credit card charges, wire transfers or deposits of funds relating to the Station's operation.
 - j. If the Station used accounting software to maintain financial records, provide printouts of the data recorded for this period.
 - k. Provide dated pictures of the Station's studio facilities and transmission facilities during this timeframe and provide specific detail of what the pictures display and the exact location (coordinates or address) of where the pictures were taken.
2. G.I.G. provided to the Division a declaration that G.I.G. purports is from a viewer of KCPM.¹⁰ With regard to the declaration please, answer the following:
 - a. Fully describe all relationships between G.I.G. and Kent Lien (Declarant), whether direct (i.e., between G.I.G. and Declarant) or indirect (i.e., between G.I.G. and any Person affiliated or related to any Declarant, to include but not limited to, a spouse, family member, employer/employee/agent, or any other type of affiliation).
 - b. Explain fully how G.I.G. solicited and obtained the Declarant's declaration.
 - c. Identify all Persons who prepared, or helped prepare, the declaration.
 - d. State whether G.I.G. offered or provided any consideration, of any type, to the Declarant. If yes, describe each such offered or actual consideration.
 - e. Produce all documents associated with the creation of and process for obtaining the declaration.
3. The programs logs provided with G.I.G.'s response are not sufficient. They cover just one part of one day, some period after 3:00 p.m. on February 5, 2022, fail to explain the information contained within the logs, and do not provide when they were prepared, the means by which they were prepared, or who prepared them.¹¹ While we will not require the Station provide program logs for the entire time period at issue, we will focus on the period of time which it appears that the Station started operating for only very limited periods of time. As such, we request a copy of all program logs for the Station since February 2, 2020. Please provide a clear explanation of the information contained within the logs and how to interpret them. In addition, explain how the logs were prepared, when they were prepared, and identify all Persons who prepared or helped prepare the program logs.
4. In the Station's requests for special temporary authority filed on February 25, 2020 and February 8, 2021 that Station states that it "suspended operations due to equipment failure."¹² Please describe the precise nature of this equipment failure, including what equipment failed.
5. In G.I.G.'s Response it provides a declaration signed, under penalty of perjury, by Mr. Charles Poppen, President of G.I.G. which states, in part, that the Station's digital operations commenced on July 11, 2021.¹³ However, in G.I.G.'s Supplement, which is also supported by a declaration by Mr. Poppen and signed under penalty of perjury, it is stated that the Station was silent from February 6, 2021 and February 5, 2022.¹⁴ Please explain this factual inconsistency and why we

¹⁰ Response, Attach. F.

¹¹ Response, Attach. E.

¹² LMS File Nos. 0000106569 and 0000135782, attach. 2021-02-08_Silence_Explanation.

¹³ Response, Poppen Decl. at para. 3 (Apr. 4, 2022).

¹⁴ In the Supplement, G.I.G. fails to provide the exact date the Station went silent, this date is based on the date disclosed in the Station's silent STA. The date provided in the Supplement was February 25, 2021, Supplement,

should not consider Mr. Poppen's declarations to have been untruthful or misleading.

6. In G.I.G.'s Response it purports to provide a photograph "showing the digital construction of the station at its current site atop the Radisson Hotel."¹⁵ There is no explanation of precisely what the image shows or the date the photograph was taken. Further, the image itself is too dark to view. Please provide a viewable version of the picture and provide the date which it was taken and a declaration explaining what the photo depicts and its significance towards demonstrating the Station was constructed. This should be accompanied by a declaration.¹⁶
7. In G.I.G.'s Response it provided credit card statements purporting to show payments for the lease of its antenna site atop the Raddison Hotel. The line item on the credit card statements provided reads: "Radisson Hotel Fargo ND."¹⁷ It is not clear from these records what the payment was actually for and does not demonstrate that the Station in fact had authorization to operate atop the Raddison Hotel. Please provide a copy of any written agreement and all relevant documents between G.I.G. and the Raddison Hotel with regards to the Station's purported operation atop the Raddison Hotel. To the extent there is no formal written agreement or written correspondence, please obtain a declaration from an employee of the Raddison Hotel, its parent company, or the property owner describing the arrangement. Please also describe any relationship between G.I.G. and any person that signs any declaration, whether direct (i.e., between G.I.G. and the Raddison Hotel) or indirect (i.e., between G.I.G. and any Person affiliated or related to the Raddison Hotel, to include but not limited to, a spouse, family member, employer/employee/agent, or any other type of affiliation).
8. Provide copies of all documents that serve as the basis for the responses to all the inquiries above. The significance of all supporting documents provided must be fully explained. If G.I.G. believes certain information and documents have already been provided with the information requested please identify the date and page number of the response where such information was provided. If G.I.G. cannot provide the documents or information requested, then fully explain why that information is not available or cannot be provided/obtained.
9. Provide a detailed plan for completing construction of the Station's digital facility if the construction permit application were to be granted. This plan must include specific timeframes and supporting documents from vendors and third parties involved in the construction of the facility.
10. All information, documents and statements must be supported by a declaration prepared in accordance with 47 CFR § 1.16, by an individual with personal knowledge of the facts and signed under penalty of perjury attesting to their truthfulness and accuracy. All declarations must conform the requirements of 47 CFR § 1.16.
11. Provide any additional information that Licensee believes may be helpful in our consideration and resolution of this matter in order for us to determine the Station's operational history and whether the Station still has a valid underlying license by which Station's pending applications (*See* LMS File Nos. 0000151969, 0000176085, and BRTVL-20140402AAR) may be granted a waiver of our rules in order to file a license to cover for the digital facility it alleges to have constructed in accordance with its pending digital construction permit application.

Attach. A, no. 7, which is the last status date of the silent STA which lists the date the station went silent as February 6, 2021, LMS File No. 0000135782.

¹⁵ Response, Attach. B.

¹⁶ 47 CFR § 1.16.

¹⁷ Response, Attachs. C and D.