

AMENDMENT

WSKC-CD Renewal Application

The instant renewal application is being amended to reflect that licensee, KM LPTV of Atlanta, LLC (“KM” or “Licensee”), has taken responsive actions relative to the Commission’s letter of June 27, 2023 (the “FCC Letter”). The FCC Letter instructed KM to take corrective actions relative to missing information in the WSKC-CD online public inspection file (“OPIF”). The corrective actions have been taken so that, to the best of Licensee’s ability, the missing information has been uploaded. However, some information could not be uploaded. However, KM’s response to the FCC Letter contains an explanatory exhibit. A copy of the response is attached hereto.

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August 11, 2023

VIA EMAIL (Barbara.Kreisman@fcc.gov)

Barbara A. Kreisman
Chief, Video Division, Media Bureau
Federal Communications Commission
45 L Street NE
Washington, DC 20554

**RE: WSKC-CD, Atlanta, GA
Facility ID No. 35090
Application for Renewal of License
LMS File No. 0000127304**

Dear Ms. Kreisman:

KM LPTV of Atlanta, L.L.C. (“KM” or “Licensee”), by its attorney, hereby responds to your letter of June 27, 2023 (copy attached). Subsequent to receipt of your letter, Licensee, through its counsel, has reviewed the entirety of the WSKC-CD online public inspection file (“OPIF”) and has submitted substantially all of the missing documentation¹ referenced in your letter, as well as other documentation which was discovered as also missing. Licensee has also amended the pending renewal application to reflect that the WSKC-CD’s OPIF is substantially current. Furthermore, attached is a Declaration, which is included with the amendment to the WSKC-CD renewal. Specifically, the Declaration reflects that KM has reviewed its OPIF and that substantially all the required documents are now present.

It should be noted, by way of explanation, that, in 2019, one of the individuals responsible for maintaining KM’s OPIF left the company. Eventually, a replacement was hired.

¹ Attached to the instant submission is an exhibit identifying the missing materials. Requisite certifications have been uploaded. In this regard, although programming was broadcast on the station addressing pertinent issues, reconstruction of certain missing Issues/Programs Lists reflecting the programming is not possible.

Shainis & Peltzman, Chartered

Barbara A. Kreisman
Federal Communications Commission
August 11, 2023
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However, that replacement was tasked with a multitude of duties, and made inadvertent errors relative to maintaining the OPIF. However, counsel for KM has been tasked with, going forward, reviewing the OPIF and making sure that it is properly maintained and kept current.

Respectfully submitted,

A handwritten signature in black ink that reads "Aaron P. Shainis". The signature is written in a cursive style with a large initial "A".

Aaron P. Shainis
Counsel for
KM LPTV of Atlanta, L.L.C.

Enclosures

cc w/ encl (via e-mail): Jeremy Miller



Federal Communications Commission
Washington, D.C. 20554

June 27, 2023

SENT VIA CERTIFIED MAIL AND ELECTRONIC MAIL

KM LPTV of Atlanta, L.L.C.
3654 West Jarvis Avenue
Skokie, IL 60076

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Re: WSKC-CD, Atlanta, GA
Facility ID No. 35090
Application for Renewal of License
LMS File No. 0000127304

Dear Licensee and Counsel:

Preliminary review of the above-captioned Application for Renewal of License (Application) for Class A television station WSKC-CD, Atlanta, Georgia (Station) has identified numerous and longstanding omissions in the online public inspection file (OPIF). At the time of filing, on November 25, 2020, the Application stated: "The Online Public Inspection file for station WSKC-CD is not up to date. This will be corrected as soon as possible." Well over two years later, the OPIF has still not been corrected, the Licensee has not submitted any of the missing documents and missed almost all filing deadlines since.

Specifically, the record indicates the following OPIF documents for the Station must be filed in order to process the Application:

- (1) Quarterly Children's Television Programming Reports for first, second and third quarters of 2019;¹
- (2) Annual Children's Television Programming Reports for calendar years 2020, 2021, and 2022;²

¹ 47 CFR § 73.3526(e)(11)(iii)(2019). As a result of changes in the Commission's safe harbor processing guidelines and children's programming filing requirements the final quarterly children's television programming report was due by October 10, 2019. The report was required to cover the period between July 1, 2019 and September 15, 2019. All children's television programming aired starting on September 16, 2019 was required to be reflected on a station's 2020 annual children's television programming report. See *Media Bureau Announces Effective Date and Provides Guidance on Transition Procedures for KidVid Report and Compliance with Revised Safe Harbor Processing Guidelines*, Public Notice, 34 FCC Rcd 7878 (MB 2019); *Children's Television Programming Rules; Modernization of Media Regulation Initiative*, Report and Order, 34 FCC Rcd 5822 (2019).\

² 47 CFR § 73.3526(e)(11)(iii).

- (3) Quarterly Issues and Programs lists for all quarters in 2019, 2020, 2021, 2022 and Q1 2023. We note that the Station's second quarter Issues and Programs list is due on July 10, 2023;³
- (4) Annual certifications regarding compliance with children's programming commercial limits for calendar years 2020, 2021, and 2022;⁴ and
- (5) Documentation sufficient to demonstrate that the Station has continued to meet the eligibility requirements for Class A television status since fourth quarter of 2019.⁵
- (6) A certification that the Station has aired the required local public notice announcements following the filing of the Application.⁶

Please file the missing OPIF documents within 30 days from the date of this letter.⁷ The Licensee must also review the Station's entire OPIF to confirm all documents not mentioned in this letter are also present. To the extent any other documents are missing they should also be filed. Once all documents are uploaded please amend the Application and explain why the Station failed to file the necessary public file documents in a timely manner and why it has taken well over two years for the Licensee to file these missing documents. The Licensee should also certify in its amendment that it has reviewed its OPIF and all required documents are now present. If the missing OPIF documents are not filed within 30 days we intend to take further steps to sanction the station and enforce compliance with the Commission's rules, including but not limited to the issuance of an Order to Show Cause why the license for the Station should not be downgraded from Class A to low-power status.⁸

The Licensee must support its response(s) with an affidavit or declaration made under penalty of perjury, signed and dated by an authorized officer of Licensee with personal knowledge of the representations provided in Licensee's response. The affidavit or declaration must verify the truth and accuracy of the information therein; state that all of the information requested by this letter that is in Licensee's possession, custody, control, or knowledge has been produced; and state that any and all documents provided in its responses are true and accurate copies of the original documents. In addition to

³ 47 CFR § 73.3526(e)(11)(i).

⁴ 47 CFR § 73.3526(e)(11)(ii).

⁵ 47 CFR § 73.3526(e)(17). To demonstrate compliance, the Video Division has generally accepted written certifications of compliance provided on a quarterly or annual basis.

⁶ 47 CFR § 73.3526(e)(13). *See* 47 CFR § 73.3580(c)(3).

⁷ Because of system restrictions, the missing Quarterly Children's Television Programming Reports can no longer be filed as quarterly reports in the Commission's Licensing and Management System (LMS). We therefore direct the Licensee to submit those filings in the Station's OPIF under the "Additional Documents" tab. To the extent the Station does not have copies of its missing quarterly Children's Television Programming Report, it should use previously filed quarterly reports to create an explanatory document that provides all information that would have been provided in a report. The Station may utilize any format it deems appropriate to provide all required information. *See* 47 CFR § 73.3526(e)(11)(i) (2019).

⁸ Even if the requested documents are filed within the timeframe requested, we reserve the right to pursue sanction against the Licensee for any apparent violation of the Commission's rules, including its failure to timely file and prepare required OPIF documents. We note that the Station has a history of failing to file and prepare required OPIF documents in a timely manner. *See KM LPTV of Atlanta, L.L.C. Licensee of Station WSKC-CD, Atlanta, Georgia, Order and Consent Decree, 29 FCC Rcd 1129 (MB 2014)*. We are frustrated by the repeated apparent lack of diligence during the current license term.

such general affidavit or declaration of the authorized officer of Licensee described above, if such officer (or any other affiant or declarant) is relying on the personal knowledge of any other individual rather than his or her own knowledge, the Licensee shall provide separate affidavits or declarations of each such individual with personal knowledge that identify clearly to which responses the affiant or declarant with such personal knowledge is attesting. All such declarations provided must comply with section 1.16 of the Rules,⁹ and be substantially in the form set forth therein.

This letter constitutes an order of the Commission to produce the documents and information requested herein.¹⁰ To knowingly or willfully make any false statement,¹¹ or to provide incorrect or misleading material factual information, or conceal any material fact in reply to this letter,¹² may subject you to sanction, up to and including license revocation.¹³ **Failure to respond accurately, truthfully, and fully to this letter as directed herein constitutes a violation of the Act and our Rules.**¹⁴

The Licensee is expected to provide a complete response and upload all missing OPIF documents by the deadline. If the Licensee cannot do so, it is instructed to file all missing OPIF documents it is able to file by the deadline, fully explain why certain documents could not be provided, and indicate when the remaining missing OPIF documents will be submitted.¹⁵ The Licensee is also reminded of its obligation to place a copy of this letter of inquiry into the Station's OPIF.¹⁶

As an alternative to a written response and filing the missing OPIF documents, the Licensee may (1) request voluntary downgrade of the Station's status from Class A to low power by writing a letter to Marlene H. Dortch, Secretary, Federal Communications Commission; or (2) submit the Station's license for cancellation and request withdrawal of all pending applications in LMS.

⁹ See 47 CFR § 1.16.

¹⁰ See 47 U.S.C. § 155(c)(3).

¹¹ See 18 U.S.C. § 1001.

¹² See 47 CFR § 1.17.

¹³ See 18 U.S.C. § 1001; see also 47 CFR § 1.17. See, e.g., *William L. Zawila*, Order to Show Cause, Notice of Opportunity for Hearing, and Hearing Designation Order, 18 FCC Rcd 14938, 14964 (2003) (motive present to misrepresent completion of construction), licenses revoked, Summary Decision, FCC 17M-28, 2017 WL 3499740 (ALJ, Aug. 10, 2017).

¹⁴ See, e.g., *Net One International, Net One, LLC, Farrahotel International, LLC*, Forfeiture Order, 29 FCC Rcd 264, 267, para. 9 (EB 2014) (imposing \$25,000 penalty for failure to respond to LOI) (forfeiture paid); *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7600, para. 28 (2002) (imposing \$100,000 penalty for failing to submit a sworn written response) (forfeiture paid).

¹⁵ We remind the Licensee that it is Commission policy that extensions of time shall not be routinely granted. 47 CFR § 1.46(a); see *Communications Satellite Corporation and Contel Corporation for Approval of Merger*, Order, 2 FCC Rcd 76, para. 3 (CCB 1986) (denying request for extension of time due to upcoming holidays as inadequate).

¹⁶ 47 CFR § 73.3526(e)(10).

Please email a copy of your explanatory amendment to the Application to Jeremy Miller at jeremy.miller@fcc.gov. Please direct any questions concerning the content of this letter to Jeremy Miller by phone (202.418.1507), or by e-mail.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau

ISSUES/PROGRAMS LISTS CERTIFICATION

WSKC-CD

2019 – Q2, Q3, Q4

2020, 2021 and 2022 – Q1 and Q2

The Issues/Programs List for WSKC-CD was submitted and uploaded to the station's online public inspection file for the first quarter of 2019. WSKC-CD is unable to prepare Issues/Programs Lists for the second, third, or fourth quarters of 2019. To the best of its knowledge and belief, the WSKC-CD licensee, KM LPTV of Atlanta, LLC, hereby certifies that the WSKC-CD public affairs programming aired during Q2, Q3, and Q4 of 2019 was comparable to the programming reflected in the station's Q1 2019 Issues/Programs List.

Additionally, WSKC-CD is unable to prepare Issues/Programs Lists for 2020, 2021 and the first and second quarters of 2022. To the best of its knowledge and belief, the WSKC-CD licensee, KM LPTV of Atlanta, LLC, hereby certifies that the WSKC-CD public affairs programming aired during these time periods was comparable to the programming reflected in the station's Q3 & Q4 2022 and Q1 & Q2 2023 Issues/Programs Lists.

By: 
Kun Chae Bae

August 11, 2023

DECLARATION OF K.C. BAE

Kun Chae Bae hereby states, under penalty of perjury, the following:

I am the Vice President of KM LPTV of Atlanta, LLC. I have reviewed the foregoing response and hereby state that, to the best of my knowledge, most of the missing information noted in the Commission's letter of June 27, 2023 has been produced and uploaded to the WSKC-CD public inspection file. More specifically, the online public inspection file for WSKC-CD has been substantially brought current. I have been advised that the items that are still missing are unable to be reconstructed. In addition, the WSKC-CD renewal application has been amended to reflect the current status of the online public inspection file. I am stating this in reliance on information provided to me by counsel.



Kun Chae Bae
Vice President, KM LPTV of Atlanta, LLC

Dated: August 11, 2023

DECLARATION OF SUSAN A. MARSHALL

Susan A. Marshall hereby states the following:

I am counsel to KM LPTV of Atlanta, LLC. In my capacity as one of the licensee's FCC attorneys, I have reviewed the online public inspection file for WSKC-CD, Atlanta, Georgia. I state, in support of K.C. Bae's Declaration that, to the best of my knowledge, at the present time, most required information has been uploaded to the station's online public inspection file. It should be noted that the content of the newly uploaded materials was provided to my firm by the licensee.

Susan A. Marshall

Susan A. Marshall, Counsel

Dated: August 11, 2023