

FCC MAIL SECTION

FEDERAL COMMUNICATIONS COMMISSION

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Washington, D.C. 20554

MAR 30 1999

In Reply Refer To:
1800B2-SML

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Malcom Decell, Esquire
105 Vernon Street
Monroe, LA 71291

In re: KTRY(AM), Bastrop, LA
Jamie Patrick Broadcasting, Ltd.

Dear Mr. Decell:

This letter concerns the operational status of AM radio station KTRY, Bastrop, Louisiana.

On October 9, 1997, the staff received information from a member of the public that KTRY(AM) suspended operations sometime between 1993 and 1997. By letter dated December 17, 1997, the Commission solicited information from Jamie Patrick Broadcasting, Ltd. ("JPB"), the licensee of KTRY, concerning KTRY's operational status. Noting JPB's possible suspension of operations, our letter requested submission of information concerning the licensee's compliance with Section 73.1740 (Minimum Operating Schedule) of the Commission's Rules¹ and required that the licensee clarify KTRY's operational status and the exact date that the station went silent. JPB was afforded 30 days to respond to our inquiry.

A review of our records indicates that JPB neither responded to our letter nor filed a request for special temporary authority for KTRY to remain silent. In light of JPB's failure to address the matter and provide evidence that KTRY had been silent for less than twelve months consecutively, by letter dated May 5, 1998, the staff notified JPB that KTRY's

¹ Section 73.1740(a)(4) provides that:

"In the event that causes beyond the control of a licensee make it impossible to adhere to the operating schedule of this section or to continue operating, the station may limit or discontinue operation for a period of not more than 30 days without further authority from the FCC. Notification must be sent to the FCC in Washington, D.C. not later than the 10th day of limited or discontinued operation. During such period, the licensee shall continue to adhere to the requirements in the station license pertaining to the lighting of antenna structures. In the event normal operation is restored prior to the expiration of the 30 day period, the licensee will so notify the FCC of this date. If the causes beyond the control of the licensee make it impossible to comply within the allowed period, informal written request shall be made to the FCC no later than the 30th day for such additional time as may be deemed necessary."

license had expired as a matter of law.² The letter stated that unless we received documented evidence within 30 days indicating that our records incorrectly reflected the operational status of KTRY and confirming that in fact the station returned to the air at some time between April 1, 1996, and April 2, 1997, the Commission's public and internal databases would be modified to indicate that the broadcast license for the station had expired, the station's license was cancelled and that the station's call sign was deleted.³

On May 28, 1998, the Commission received JPB's response to the staff's May 5, 1998, letter. JPB acknowledged that KTRY was silent for a considerable period of time, but failed to provide documentation that KTRY returned to the air sometime between April 1, 1996, and April 2, 1997.⁴ The staff subsequently contacted JPB by telephone on June 3, 1998, in an attempt to obtain this essential information.

On June 5, 1998, JPB responded to our request for definitive information. Although JPB further acknowledged that KTRY had been off the air over the past several years, it failed to offer any detailed evidence of KTRY's resumption of operations between the noted dates.

Based on the information submitted, we find that JPB has not provided documented evidence for the staff to conclude that KTRY's license has not expired. We further find that JPB has violated Section 73.1740(a)(4) of the Commission's rules and that KTRY(AM) has

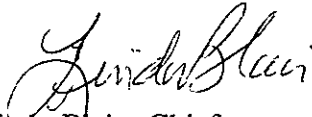
² Section 403(1) of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 403(1)(1996), codified in 47 U.S.C. §312(g) and 47 C.F.R. §73.1740 provides that "if a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary." The effective date of this provision was February 8, 1996.

³ Because KTRY(AM) was listed as a dark station in the 1996 Broadcasting and Cable Yearbook (published March 31, 1996), the staff believes that KTRY(AM) has been silent at least since April 1, 1996. Therefore, the KTRY license would have expired on April 1, 1997, if the station did not return to the air prior to that date.

⁴ We have on file a Petition to Declare Void the license of KTRY(AM) and other related pleadings filed by Pollack Broadcasting Company ("Pollack"), licensee of AM radio station KSUD, West Memphis, Arkansas. Pollack claims that KTRY(AM) was off the air continuously for the years 1995 and 1996, through at least the first third of 1997, and perhaps longer. On November 26, 1997, Pollack filed an application (File No. BP-971126AE) for an increase in the operating power of KSUD. Pollack asserts that the KSUD modification application is mutually exclusive with the allegedly void KTRY authorization.

been silent for a one year consecutive period of time. Accordingly, the license of KTRY(AM) IS HEREBY CANCELLED and your call sign KTRY(AM) IS DELETED.

Sincerely,

A handwritten signature in cursive script, appearing to read "Linda Blair".

Linda Blair, Chief
Audio Services Division
Mass Media Bureau

cc: Jamie Patrick Broadcasting, Ltd.
Pollack Broadcasting Company, Inc.
Barry D. Wood, Esq.
Hans K. Wild, Esq.