

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of

Application of G. I. G. of North Dakota, LLC
For Special Temporary Authority

Digital Television Station KCPM,
Grand Forks, North Dakota

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LMS File No. 0000049083

Facility Id. No. 86208

Accepted / Filed

To: Secretary
Attn: Chief, Video Division, Media Bureau

JUN - 7 2018

*Federal Communications Commission
Office of the Secretary*

REPLY TO OPPOSITION TO PETITION FOR RECONSIDERATION

Parker Broadcasting of Dakota License, LLC d/b/a Major Market Broadcasting (“MMB”), by its attorneys, hereby submits its Reply to the May 21, 2018 Opposition to Petition for Reconsideration filed by G.I.G. of North Dakota, LLC (“GIG”) in regards to the grant of the above-captioned application for Special Temporary Authority (the “STA”) for full-power Digital Television Station KCPM (the “Station”).¹

In its Opposition, GIG submitted statements from its managing member and an independent contractor to the effect that the Station resumed operations using the facilities described in its FCC license on January 27, 2018. GIG makes this assertion despite its own admission that it did not have a tower lease in place as of that date. Furthermore, GIG concedes that it went on the air at this time using an Andrew version of antenna PSILP160I-27, while the Station’s license only authorizes the PSI version of PSILP160I-27.² Section 73.1745(a) of the FCC’s Rules prohibits the operation of a broadcast station at variance from the terms of the

¹ This filing is timely pursuant to MMB’s “Request for Extension of Time for Reply” submitted via LMS (File No. 0000054501) on May 25, 2018.

² See File No. BLCDT-20100623ACO.

Station's authorization.³ By its own admission of its use of an alternate, unauthorized antenna, GIG violated Section 73.1745(a), failed to resume operations with authorized facilities, and thus forfeited the Station's license.⁴

Even if the Commission were to find that the Station's license was not forfeited as of January 31, 2018, the Station's operating status between January 27, 2018 and May 24, 2018 remains a mystery. GIG's managing member submits that it placed the Station on the air without legitimate access to its licensed site on January 27 to avoid automatic forfeiture of its license. GIG then filed for silent Special Temporary Authority on February 13, 2018, noting that the Station went silent on February 3, 2018, but the request was mysteriously dismissed and no superseding notice of silence or request for silent authority was filed.⁵ As noted in the Petition, however, the Station was not broadcasting from its licensed site on February 12, 2018 or March 16, 2018.⁶ With the February 13, 2018 silent Special Temporary Authority request dismissed, GIG did not have authority for the Station to be silent.

The Station also had not been operating pursuant to the STA for alternate facilities through at least early May, 2018. As reported by Jacob Bechtold in a Declaration to the Petition, the STA site had no antenna or transmission line installed as of May 2, 2018. Attached hereto as Exhibit A is a social media post from Corey Thompson, dated May 24, 2018, indicating that KCPM had "popped up overnight" on its alternate site authorized by the STA. Mr. Thompson

³ 47 C.F.R. § 73.1745(a).

⁴ *In re Eagle Broad. Grp., Ltd.*, 23 F.C.C. Rcd. 588, 592 (2008), *aff'd. sub nom. Eagle Broad. Grp. Ltd. v. F.C.C.*, 563 F.3d 543, 544 (D.C. Cir. 2009) (unauthorized, unlicensed broadcasts cannot constitute transmission of broadcast signals to avoid termination under Section 312(g)).

⁵ See LMS File No. 0000042037.

⁶ See Petition for Reconsideration, LMS File No. 0000053816, Declaration of Jacob Bechtold (May 4, 2018).

maintains a substation in close proximity to this alternate site, making him personally familiar with the site's status. If the Station was not operating at its licensed site or its alternate site, it must have been off the air, without authority from the Commission, between approximately February 12, 2018 and May 23, 2018.

GIG has demonstrated a longstanding willful disregard for reporting its operating status to the Commission. The Media Bureau has recently highlighted the importance of candor with the Commission and reiterated that it is unacceptable for licensees to inaccurately report the operating status of their stations.⁷ Moreover, this recent decision reminds licensees that Section 1.17(a)(2) of the Commission's rules is violated not only by misrepresenting material facts about operational status or operations at variance, but also by an *omitting* material information, even absent an intent to deceive, particularly where the omission has the effect of misleading the Commission and the public regarding the operating status of a station.⁸ While there is sufficient evidence to suggest intentional deception on the part of GIG, certainly the omissions of material information about the Station's operating status, both current and past, have had the effect of misleading the Commission and the public.

The record demonstrates that GIG has failed to resume operations sufficient to avoid automatic forfeiture of the Station's license. In the alternative, even if GIG somehow is found to have saved the Station's license from automatic forfeiture, the STA should nonetheless be rescinded and an investigation opened into the blatant lack of candor displayed by GIG at every turn. Accordingly, the Commission should grant MMB's Petition.

⁷ See generally *Roy E. Henderson*, DA 18-562, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 2018 WL 2461377 (MB 2018).

⁸ *Id.*, at para. 14.

June 7, 2018

Respectfully submitted,

**PARKER BROADCASTING OF
DAKOTA LICENSE, LLC
D/B/A MAJOR MARKET BROADCASTING**

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EXHIBIT A – MAY 24, 2018 SOCIAL MEDIA POST OF COREY THOMPSON



Corey Thompson

May 24 at 1:00pm

...

Popped up nearly overnight... KCPM-DT, which has been mostly silent for years - the tower they were on no longer exists, with a pending sale now has an STA for an alternate site and is operating (still intermittent hour to hour) from a 60 foot telco tower...Looks like the transmitter was set at the base of the tower.

Note: Dish and Yagi are used by the telco and were there long before and not part of the KCPM installation.



7 Comments



Like



Comment

CERTIFICATE OF SERVICE

I, Mark DeSantis, an attorney with the law firm of Fletcher, Heald & Hildreth, PLC, hereby state that copies of this REPLY TO OPPOSITION TO PETITION FOR RECONSIDERATION were sent via electronic mail this 7th day of June, 2018, to the following:

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