

Received & Inspected

APR 30 2013

April 30, 2013

FCC Mail Room

To: Federal Communications Commission

Re: Petition to Deny License Renewal and Transfer of Ownership of Tallgrass Broadcasting

Zia Broadcasting and its stations, KCLV-AM & FM, KTQM-FM KWKA AM, all of Clovis, New Mexico, wish to file a Petition to Deny on current filings pending regarding the following Tallgrass Broadcastings stations:

- KICA-AM #61577
- KICA-FM #61578
- KKYC-FM #33402
- KMUL-AM #61572

The respective license renewals, and the filed purchase contract for transfer KICA FM, and KMUL AM, licensed to Farwell Texas, and KICA AM and KKYC FM licensed to Clovis New Mexico.

All of these stations have been DARK and are in the final days of the darkness period before all licenses are returned for lack of establishing operations and programming on these frequencies.

Tallgrass Broadcasting has major problems in license renewal of all these stations and transfer of ownership of the group.

Regarding license renewal, all the stations are dark so they have used local newspapers in the cities of license to post the pre-filing and post-filing announcements in a timely fashion. The stations licensed to Clovis, New Mexico used the Clovis News Journal, and the stations licensed to Farwell, Texas, used the Farwell State Line Tribune.

Major problems exist in these required filings as posted in both newspapers:

- The location of the public inspection file is not in the market of license, or even the area. It is listed as being some 350 miles away, in Oklahoma City, Oklahoma (please see Exhibit A)
- When a member of the public, in an effort to view the public file, went to this location and requested the file, it was determined there was no public file at the location and its exact location, if it indeed existed, could not be determined at that time. A statement to this effect by KTQM and KWKA Station Manager Bob Coker is attached (please see Exhibit B)
- In the process of asking to extend the license of a station there is a strong requirement of public access to the information regarding the station's performance over the last

license term, with issues and answers and more. The Tallgrass stations were not compliant in providing access to local groups, with little, if any, public affairs programming heard on the stations for years while on-air during this license period. The public file would show the information required by law if the public file does indeed exist.

Several major problems exist regarding the character of Tallgrass Broadcasting, as well:

- Tallgrass Broadcasting, its owner and its first receiver, Chris Oldroyd, had on-going character issues as outlined in the attached documents provided by Chris Russell, Operations and Programming Director of Tallgrass's Clovis stations, and Rick Sanchez, the sales person for the station. The documents relate a continuing pattern of refusing to pay employees, not paying music licensing fees as required, not honoring network contractual agreements, and lack of paying employment taxes to the state resulting in terminated employees being unable to receive unemployment benefits. Tallgrass also had, and continues to have, inoperative EAS system equipment on all four stations.(please see Exhibit C)
- Ernie Kos, Executive Director of the Clovis Chamber of Commerce, told us Tallgrass Broadcasting promised the Chamber of Commerce \$15,000 in cash and another \$30,000 in advertising support for the Clovis Music Festival. Ms. Kos informed us that Tallgrass reneged on their promise, never paid the Chamber a penny, and although she was unsure how much, if any, advertising was run by Tallgrass, she was certain it was far less than \$30,000. This failure to follow through on their promise placed the event in jeopardy(please see Exhibit D)

In the Tallgrass filings before the Commission, there are irregularities in the contract for sale. Although one section of the contract specifically says the two stations licensed to Texas are exempted from the proposed sale, there is other language in the contract that alludes to the sale of all four stations. This is also reflected in contour maps provided as part of that information. It appears Tallgrass is at least unsure what they are proposing to sell, and at worse are attempting to confuse the issue and pull off something underhanded, which relates back to the character of Tallgrass and its owners.

As for the stations themselves being on the air, all stations have had intermittent operations since April 18<sup>th</sup>. However, operations have been very irregular, with the stations going on and off the air, being below required power, and unable to cover their city of license. No management from Tallgrass was present to oversee the operations of the stations, with this being left to an engineer, by his own admission, from Tejas Broadcasting, the proposed buyer of the stations. Operation on the four stations began on April 18<sup>th</sup>, with an LMA beginning on April 20, 2013. Clearly Tejas was operating these stations without a license. Also, Tallgrass had no operable EAS system when they went dark and likely have none now, needing four, one for each transmitter site.

KICA AM on the air the most, KKYC-FM and KICA-FM were only on for minutes at a time, often re-transmitting other stations in the market illegally. KMUL-AM was only on a short period of time, and was never able to reach its city of license, Farwell, Texas, as it was only operating with 25 watts of power and not its full 1100 watts. Farwell is approximately 25 miles from the tower site of KMUL-AM. None of the stations filled even a modest part of their service area, and did not and could not provide required service to their listenership

A technicality or minor explanation of failed operations of these frequencies would in noway provide the need or right to extend the darkness periods on any of these stations by any amount of time. Under the letter of the law, these stations have had a more than adequate amount of time to solve any problems related to returning to the air. Tallgrass has made no effort to operate these stations to any measurable standard. Pursuant to FCC Regulation 73.1704,"the FCC CAN NOT grant an STA to remain silent unless the reason for the stations silence is beyond the control of the licensee." However, since the above-referenced regulation clearly states the FCC cannot have granted an STA unless Tallgrass was dark through no fault of their own, it is obvious there is an STA and Tallgrass misled the FCC to obtain said STA. Tallgrass IS NOT off the air through events out of their control. Indeed, Tallgrass simply pulled the plug on their operations in Clovis, New Mexico, and Farwell, Texas, one year ago. They did not leave the air for technical reasons. At the time they left the air, voluntarily, they were more than capable of continuing operations. To the best of our knowledge, Tallgrass made a decision, completely at their discretion, to voluntarily cease operations on these four stations.

The deceptive public file operations of Tallgrass, their lack of managerial character, and the lack of desire to operate these stations as evidenced by the lack of any attempt by Tallgrass to return to the air for almost a full year are the impetus behind this Petition to Deny. Tallgrass, as well as Tejas Broadcasting, should be required to play by the same rules all other broadcast entities are required to play by. Intentional oversight in management of the stations should require the non-acceptance of license renewal and pending sale of some or all of the stations. Therefore, we ask for the enforcement of the FCC rules and regulations in this instance, and ask that stations KICA-AM and KKYC-FM, both of Clovis, New Mexico, and KICA-FM and KMUL-AM, both of Farwell, Texas, be removed from the table of assignments, and for a determination that these stations qualify and are due permanent darkness.

I remain,

Sincerely Yours,.

Rick Keefer, General Manager, Zia Broadcasting

Cc: Mr. Lonnie Allsup, President, Zia Broadcasting

## Exhibit A

Legal 1300  
April 2, 2013  
April 16, 2013  
May 1, 2013  
May 16, 2013  
June 4, 2013  
June 16, 2013

#### LEGAL NOTICE

KKYC (FM) and KICA  
On April 6, 2007, Tall-  
grass Broadcasting,  
LLC was granted li-  
censes to operate  
KKYC (FM) and KICA  
(AM),  
New Mexico, to serve  
the public interest as a  
public trustee until Octo-  
ber 1, 2013.

These licenses will expire  
on October 1, 2013. We  
must file applications for  
renewal with the FCC  
by June 1, 2013. When  
filed, a copy of these  
applications will be  
available for public in-  
spection at 210 Park  
Avenue, Suite 2920,  
Oklahoma City, Okla-  
homa 73102 during nor-  
mal business hours.  
They contain informa-  
tion concerning the sta-  
tions' performance dur-  
ing the last six years.  
Individuals who wish to  
advise the FCC of facts  
relating to our renewal  
applications and to  
whether these stations  
have operated in the  
public interest should  
file comments and peti-  
tions with the FCC by  
September 1, 2013.

Further information con-  
cerning the FCC's  
broadcast license re-  
newal process may be  
obtained from the FCC,  
Washington, DC 20554.

## **KCLV**

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**From:** "State Line Tribune" <tribune@plateautel.net>  
**To:** <kclv@allsups.com>  
**Sent:** Thursday, April 18, 2013 2:22 PM  
**Subject:** From rob

On April 2, 2007, radio station KMUL, licensed to Farwell, TX; KICA-FM, licensed to Farwell, TX; KMUL-FM, licensed to Muleshoe, TX were granted a license by the Federal Communications Commission to serve the public interest as a public trustee until August 1, 2013. The station(s) is (are) currently silent.

Our license will expire on August 1, 2013. We must file an application for renewal with the FCC by April 1, 2013. When filed, a copy of this application will be available for public inspection during our regular business hours. It contains information concerning this station's performance during the last six years. Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the FCC by July 1, 2013.

Further information concerning the FCC's broadcast license renewal process is available at 120 North Robinson, Suite 1920, Oklahoma City, Oklahoma 73102 or may be obtained from the FCC, Washington, DC 20554.

4/18/2013

## Exhibit B

On Monday, April 22, 2013, I arrived at 210 Park Avenue, Suite 2920 in Oklahoma City, Oklahoma. This is the address listed in the Public Notice where the Public File for Tallgrass Broadcasting could be accessed. I arrived that morning at 8:50am and was greeted by a receptionist at an office location with no identification on the door or inside the office. I asked if this was the location of the Public File for Tallgrass Broadcasting. After a surprised look from the receptionist I asked again if this was the location to look at the Public File. After a long pause, the receptionist who identified herself as Laurie Fuller finally said "We handle Tallgrass Broadcasting". I asked again to see the Public File. I was told to wait while the receptionist went to an office out of view of the lobby. After a few minutes the receptionist returned and said the files were not there..She believed they were in Tulsa, Oklahoma. I asked how I could access them and she told me if I let her know what I wanted to see they would make a copy of it and send it to me in Clovis, New Mexico. I gave her a list of all documents required to be in the Public File and asked that she send them. As of 4/26/2013 no documents had been received.



Bob Coker  
Station Manager  
KTQM/KWKA Radio  
Clovis, New Mexico

4/26/13

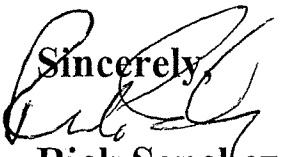


## Exhibit C

During my employment at Tallgrass Broadcasting LLC, I experienced personally the following:

1. Insufficient funds by Tallgrass Broadcasting that were our paychecks. I was promised that my bank service fees would be reimbursed but never were.
2. Although an extensive and confusing reason was given, there were numerous times when my commission check was short with one reason I recall in particular was that some commissions were rolling over to the next month but never did.
3. I was witness to a new "entity" by Joe Walker named Copperson to where many accounts were moved under this name as accounts "belonging" to Copperson but never really were. This was a company not a sales person.

I understand many people that were employed at Tallgrass Broadcasting LLC before and even after Joe Walker were affected financially and mentally. The building and can attest that Tallgrass Management during my entire time there was in major disarray.

Sincerely,  
  
Rick Sanchez  
04/26/13

## **KCLV**

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**From:** "Chris Russell" <radioguy99@gmail.com>  
**To:** <kclv@allsups.com>  
**Sent:** Friday, April 26, 2013 12:49 PM  
**Subject:** Tallgrass

While in employ during my employ with Tallgrass Broadcasting LLC from 11/09 through 12/10, as Operations and Programming manager, paychecks were not honored due to funds not available. Music licensing fees went unpaid.

Compliance with network affiliate agreements not upheld by ownership (ie moving the Bob & Tom program to KICA-AM against terms of agreement with Premiere Networks).

We were notified of non utility payments for telephone service to KMUL-AM transmitter site, and notice of failure on behalf of ownership to pay employment taxes to the state of New Mexico.

After the roof of the building collapsed in the early winter of 2010, and adjustor from the Hartford Insurance Group made his findings, ownership declined to expense any costs to insure equipment were not exposed to elements.

The resulting roof leak rendered audio processing equipment inoperable. The leak also rendered the EAS equipment for the 3 stations in the building (KICA-AM/FM, KKYC-FM) inoperable as noted in operator logs.

Stations KMUL-AM/FM in Muleshoe were operating without operable EAS equipment as well during that period.

Chris Russell

## Exhibit D

In 2007 Tallgrass Broadcasting signed a contract with the Clovis Chamber of Commerce to be the exclusive Lead Sponsor of the Clovis Music Festival, an annual event that draws people from all over the world. In exchange for exclusive marketing and promotional rights from the Clovis Chamber of Commerce, Tallgrass Broadcasting was supposed to pay the Clovis Chamber fifteen thousand dollars (\$15,000) cash and provide the Clovis Chamber with thirty thousand dollars (\$30,000) in promotional advertising. According to Clovis Chamber of Commerce Executive Director Ernie Kos the chamber never received their money and they do not know how much advertising was provided because they never received any documentation from Tallgrass Broadcasting. Executive Director Ernie Kos says the chamber made numerous attempts to collect their money but to no avail. Kos say she even tried calling Tallgrass owner Bill Kurtis in Chicago but he would not take her call. Kos says Tallgrass Broadcasting received all rights and priviledges of the contract with the Clovis Chamber but never honored their part. Ernie Kos's comments may be verified by calling her at the Clovis Chamber of Commerce. 575-763-3435.