

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D. C. 20554

In re	)	
	)	
<b>CHINESE VOICE OF GOLDEN CITY</b>	)	File No. BLL-20171120AAB
<b>DKQLS-LP, Las Vegas, Nevada</b>	)	File No. BMLL-20190809AAL
	)	Facility ID # 194198
Expiration of License Pursuant	)	
To 47 U.S.C. §312(g)	)	

TO: Honorable Marlene H. Dortch  
Secretary of the Commission

ATTN: The Commission

**OPPOSITION TO MOTION FOR STAY**

Silver State Broadcasting, LLC (SSB), licensee of FM Translator Station K284CW, Winchester, Nevada, hereby respectfully submits this Opposition to the "Motion for Stay" filed February 17, 2020 by Chinese Voice of Golden City ("CVGC"), the former licensee of Low Power FM Station KQLS-LP, 103.1 MHz, Las Vegas, Nevada. In support whereof, the following is shown:

**Preliminary Statement**

1. This appears to be the third request filed by CVGC for a stay of the expiration of the KQLS-LP license on December 13, 2018. The Chief of the Media Bureau dismissed the first two requests, filed on December 5, 2019 ("Motion for Stay") and

December 17, 2019 ("Emergency Stay Request") in her **Memorandum Opinion and Order**, DA 20-75, ¶18, released January 15, 2020 (**MO&O**).

2. SSB's interest in the above-captioned application stems from its attempt to move K284CW from its current frequency assignment of 104.7 MHz to 103.1 MHz to resolve an interference dispute with the licensee of FM Broadcast Station KJUL, 104.7 MHz, Moapa Valley, Nevada, File No. 0000093597, filed December 17, 2019. CVGC's meritless requests for stay of the expiration of the KQLS-LP license required by both 47 U.S.C. §312(g) and 47 U.S.C. §312(a)(2) are delaying

**CVGC Is Not Entitled to an Administrative Stay**

3. To save space and time, we hereby incorporate by reference the matters and legal arguments raised in our Opposition to Application for Review filed today. We would also point out that CVGC's instant Motion for Stay is eleven pages long but does not include a Summary or a Table of Contents which are required for pleadings longer than ten pages by 47 C.F.R. §1.49(c). Therefore, the Motion for Stay is procedurally defective and should be dismissed.

4. It is well settled at the FCC that, in order to obtain an administrative stay, a movant such as CVGC must demonstrate the following four items: (1) that it is likely to prevail on the merits; (2) that it will suffer irreparable harm if a stay is not granted; (3) that other interested parties will not be harmed if

the stay is granted; and (4) that the public interest favors grant of a stay. *General Telephone Company of California*, 8 FCC Rcd 8753, ¶4, n.4 (1993), citing *Wisconsin Gas Co. v. FERC*, 758 F.2d 659 (D. C. Cir. 1985, *per curiam*); *Washington Metropolitan Area Transit Commission v. Holiday Tours, Inc.*, 559 F.2d 841, 842-43 (D. C. Cir. 1977); *Virginia Petroleum Jobbers Association v. FPC*, 259 F.2d 921, 925 (D. C. Cir. 1958).

5. CVGC lacks the likelihood of success on the merits, because the Media Bureau's **MO&O** was correctly decided. The principal argument preserved by CVGC, that it should have been permitted to correct its transmitter site geographic coordinates 20 months after it misrepresented that it had constructed KQLS-LP in accordance with its underlying construction permit, was defective from the start, as 47 C.F.R. §73.1690(c)(11), does not apply to low power FM stations such as KQLS-LP. **See** 47 C.F.R. §73.801. CVGC operated KQLS-LP for more than one year at an unauthorized site, in violation of 47 C.F.R. §73.875(b)(2). According to the FCC Audio Division's November 19, 2019 letter ruling, the KQLS-LP license expired as a matter of law at 12:01 a.m. on December 13, 2018. This ruling was affirmed in the **MO&O**.

6. Much of CVGC's Application for Review (AFR), particularly the legal arguments at pages 11 through 20 therein, were matters not raised in CVGC's Petition for Reconsideration (PFR). For example, CVGC did not contest the validity of the

ruling appellate precedent of **Eagle Broadcasting Group, Ltd. v. FCC**, 563 F.3d 543 (D. C. Cir. 2009) in its PFR, but launched an assault on that precedent in its AFR. 47 C.F.R. §1.115(c) clearly states that “no application for review will be granted if it relies on questions of fact or law upon which the designated authority has been afforded no opportunity to pass”. Therefore, the Commission *en banc* is obligated to disregard pages 11-20 of the AFR. The remainder of the AFR fails to state a case why the **MO&O** should be reversed or vacated. Therefore, CVGC has utterly failed to demonstrate that its AFR has any likelihood of success on the merits.

7. Furthermore, CVGC cannot show that other interested parties will not be harmed if its requested stay is granted. SSB would like to implement its plan to eliminate the possibility of present or future interference to KJUL by being able to move K284CW to 103.1 MHz from its present 104.7 MHz. SSB and SAI would be harmed if the requested stay is granted. Additionally, the public interest disfavors the warehousing of frequencies, which is what would happen if CVGC’s requested stay is granted. See e.g. **Cochise Broadcasting LLC**, 32 FCC Rcd 3932 (Consent Decree, Bureau, May 26, 2017)

8. We would also point out that when CVGC filed an FCC Form 319 application for its initial covering license on November 20, 2017, the day that the KQLS-LP construction permit expired, it

represented to the FCC that it constructed its station in accordance with its construction permit, which CVGC admitted to the FCC on August 9, 2019 was not true; its actual transmitter site was 256 feet away from its authorized site. Pursuant to 47 U.S.C. §312(a)(2-3), the FCC is authorized to revoke a license or construction permit either "because of conditions coming to the attention of the Commission which would warrant it in refusing to grant a license or permit on an original application" or "for willful or repeated failure to operate substantially as set forth in the license".

9. Therefore, CVGC has failed to demonstrate each of the four criteria which it is required to demonstrate in order to receive an administrative stay. Its instant motion for stay must be denied.

**WHEREFORE,** it is urged that the Motion for Stay filed by Chinese Voice of Golden City on February 17, 2020 **BE DISMISSED OR DENIED.**

Respectfully submitted,

**SILVER STATE BROADCASTING, LLC**

A handwritten signature in black ink, appearing to read "D. Kelly", written over a horizontal line.

By \_\_\_\_\_  
Dennis J. Kelly  
Its Attorney

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DATED AND FILED: February 28, 2020

## **CERTIFICATE OF SERVICE**

It is hereby certified that a true copy of the foregoing "Opposition to Motion for Stay" has been served by both e-mail and first-class United States mail, postage prepaid, on this 28<sup>th</sup> day of February, 2020 upon the following:

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Additionally, I have today provided a PDF file of this pleading to the following e-mail addresses:

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