

Before the
FEDERAL COMMUNICATIONS COMMISSION DA 96-723
Washington, D.C. 20554

In the Matter of)	MM Docket No. 96-109
)	
The University of Kansas)	File No. BR-900208YC
)	
)	
For Renewal of License)	
for Station KFKU(AM))	
Lawrence, Kansas)	

HEARING DESIGNATION ORDER

Adopted: May 6, 1996

Released: May 9, 1996

By the Assistant Chief, Audio Services Division:

1. The Assistant Chief, Audio Services Division, Mass Media Bureau has before him for consideration: (a) the captioned application for renewal of license filed by The University of Kansas ("University"), licensee of AM Station KFKU, Lawrence, Kansas, and (b) the results of an investigation into the station's silent status.¹

2. The Commission's records indicate that KFKU(AM) has been off the air since December 21, 1987. KFKU(AM) operated non-commercially and shared time with WREN(AM), Topeka Kansas. In information submitted to the Commission in 1987 and again in the station's renewal application filed in 1990, University stated that it was forced to go silent when WREN(AM) went off the air because of financial difficulties. University further indicated that KFKU(AM) intended to resume operations and renegotiate a time-share agreement with WREN(AM) when that station resolved its financial problems and resumed operations. Although Commission records reveal that WREN(AM) commenced broadcasting on December 9, 1991, we have no indication that KFKU(AM) has returned to the air. Additionally, our records reveal that University failed to respond to a Commission request for information regarding deficiencies in its application for renewal of license. Thus, KFKU(AM) has been off-air for over eight years and is not authorized to remain silent.

¹ The Mass Media Bureau has been delegated authority to designate for hearing the renewal of license applications of silent broadcast stations. See Moenkopi Communications, Inc., 8 FCC Rccd 3990 (1993).

Consequently, University is in apparent violation of Sections 73.1740(a)(4)² and 73.1750³ of the Commission's Rules.

3. Accordingly, IT IS ORDERED, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the renewal of license application of KFKU(AM), Lawrence, Kansas, IS DESIGNATED FOR HEARING at a time and location to be specified in a subsequent Order, upon the following issues:

- (1) To determine whether The University of Kansas has the capability and intent to expeditiously resume the broadcast operations of KFKU(AM), consistent with the Commission's Rules.
- (2) To determine whether The University of Kansas has violated Sections 73.1740 and/or 73.1750 of the Commission's Rules.
- (3) To determine in light of the evidence adduced pursuant to the preceding issues, whether grant of the subject renewal of license application would serve the public

² Section 73.1740(a)(4) provides:

"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 the licensee make it impossible to comply with the allowed period, an informal written request shall be made to the FCC no later than the 30th day for such additional time as may be deemed necessary."

³ Section 73.1750 provides:

"The licensee of each station shall notify the FCC in Washington, D.C. of permanent discontinuance of operation at least two days before operation is discontinued. Immediately after discontinuance of operation, the licensee shall forward the station license and other instruments of authorization to the FCC, Washington, D.C. for cancellation."

interest, convenience and necessity.

4. IT IS FURTHER ORDERED, That, in the event it is determined that grant of the renewal of license application would serve the public interest, convenience and necessity, the grant will be conditioned on the expeditious resumption of operation, the precise period of time to be established in the hearing. Failure to resume operations within the time specified in the condition will result in the cancellation of the license and the deletion of the station's call letters.

5. IT IS FURTHER ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, both the BURDEN OF PROCEEDING with the introduction of evidence and the BURDEN OF PROOF with respect to the issues specified above shall be upon the LICENSEE, The University of Kansas.

6. IT IS FURTHER ORDERED, That, to avail itself of the opportunity to be heard, the licensee, pursuant to Section 1.221(c) of the Commission's Rules, SHALL FILE with the Commission, in person or by attorney, within twenty (20) days of the receipt of this Order a WRITTEN APPEARANCE stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

7. IT IS FURTHER ORDERED, That the licensee herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rules, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION

Stuart B. Bedell
Assistant Chief, Audio Services Division
Mass Media Bureau