

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

**FILED/ACCEPTED
JUL 18 2012
Federal Communications Commission
Office of the Secretary**

In the Matter of)
)
GLENN A. BAXTER) WT Docket No. 11-7
)
Application to Renew License for Amateur) FCC File No. 0002250244
Radio Service Station K1MAN)

To: Marlene Dortch, Secretary
Attn: Richard L. Sippel, Chief Administrative Law Judge

**ENFORCEMENT BUREAU'S MOTION TO COMPEL
RESPONSES TO REQUEST FOR ADMISSION OF FACTS**

1. The Enforcement Bureau (Bureau), pursuant to Order, FCC 12M-34 (ALJ, rel. July 17, 2012) (Order) and Section 1.246 of the Commission's rules, 47 C.F.R. § 1.246, hereby moves for an order compelling Glenn A. Baxter (Baxter) to fully and properly respond to the Enforcement Bureau's First Request For Admission of Facts. In support hereof, the Bureau states as follows:

2. On June 14, 2012, the Bureau served on Baxter its First Request for Admission of Facts (RFAs) (each request an RFA), pursuant to Order, 11M-04 (rel. Feb. 15, 2011) and Section 1.246 of the Commission's rules. The Bureau received Baxter's response to the RFAs by mail on July 10, 2012.¹ Copies of the RFAs and Baxter's response are attached. Only one of Baxter's responses clearly, unequivocally, and without qualification, admits or denies a Bureau RFA. Baxter did not respond at all to nine of the RFAs and his responses to the remaining 13 RFAs were unresponsive, conditional and/or uninformative, and not in compliance with the Commission's rules.

¹ See "Response to Enforcements Bureau's Second First Request For Admission of Facts," postmarked June 29, 2012. Baxter's responses were due to the Bureau on June 24, 2012.

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Therefore, the Bureau hereby respectfully requests that the Presiding Judge compel Baxter to provide a proper response to each and every one of the RFAs or, in the alternative, deem them admitted.

3. In order to avoid a request being deemed admitted, Section 1.246(b) of the Commission's Rules requires the party upon whom a request for admissions has been served to provide either "(1) [a] sworn statement denying specifically the matters of which an admission is requested or setting forth in detail why he cannot truthfully admit or deny those matters, or (2) written objections on the ground that some or all of the requested admissions are privileged or irrelevant or that the request is otherwise improper in whole or in part."² A casual examination of his responses reveals that Baxter has almost completely failed to comply with Section 1.246(b). He does not provide a sworn statement; he does not explain why he cannot truthfully admit or deny the matters of which an admission is requested; and he does not object to requests on the basis that they are privileged, irrelevant or improper. In fact, of the 23 RFAs served on him, Baxter provides an unqualified and clear response to just one.

4. Baxter generally qualifies his responses such that it remains unclear whether he has admitted or denied the matters addressed therein. The Commission's rules do not contemplate "conditional admissions" and, for all practical purposes, such conditional responses are meaningless because they do not clearly admit or deny the RFA. As such, they do not serve to narrow the controversies in this case or to ease the burdens on both the parties and the Presiding Judge in preparing for and participating in the hearing process. Baxter should either affirmatively admit the truth of each RFA or, if

² 47 C.F.R. § 1.246(b).

he cannot, should deny them. There should be no doubt going forward as to what Baxter has and has not admitted. Specific RFAs and Baxter's responses thereto are discussed below.

5. ***RFA No. 1.*** Baxter initially denies this RFA but qualifies the denial by adding his opinion that Station control is and has been in "full compliance with all FCC rules."

6. ***RFA No. 2.*** Baxter initially admits to this RFA but qualifies the admission by adding his opinion that recordings are transmitted "in full compliance with the Commission's rules," which is a matter at issue in this proceeding.

7. ***RFA No. 3.*** Baxter's response is totally unresponsive and neither admits nor denies the RFA.

8. ***RFA No. 4.*** Baxter's response is totally unresponsive and neither admits nor denies the RFA.

9. ***RFA No. 5.*** Baxter's response is totally unresponsive and neither admits nor denies this RFA.

10. ***RFA No. 6.*** Baxter initially denies this RFA but then qualifies the denial by adding his opinion there has been a control operator "in full compliance with all FCC rules." Baxter also improperly expands the RFA by representing that he is not required to maintain a log or monitor transmissions.

11. ***RFA No. 7.*** Baxter's response is totally unresponsive and neither admits nor denies the RFA.

12. **RFA No. 8.** Because of conflicting qualifying terms in his response, *i.e.*, “legal” interference, and his improper expansion of the RFA with unresponsive and irrelevant information, it is unclear whether Baxter is admitting or denying this RFA.

13. **RFA No. 9.** Because of conflicting qualifying terms in his response, *i.e.*, “legal” interference, and his improper expansion of the RFA with unresponsive and irrelevant information, it is unclear whether Baxter is admitting or denying this RFA.

14. **RFA No. 10.** Because of conflicting qualifying terms in his response, *i.e.*, “legal” interference, and his improper expansion of the RFA with unresponsive and irrelevant information, it is unclear whether Baxter is admitting or denying this RFA.

15. **RFA No. 11.** Because of conflicting qualifying terms in his response, *i.e.*, “legal” interference, and his improper expansion of the RFA with unresponsive and irrelevant information, it is unclear whether Baxter is admitting or denying this RFA.

16. **RFA No. 12.** Baxter admits to this RFA.

17. **RFA No. 13.** Baxter initially denies this RFA but then adds a qualifying statement which alters the RFA statement.

18. **RFA No. 14.** Baxter qualifies his response so that he neither admits nor denies the RFA.

19. **RFA No.15-23.** Baxter totally ignores these RFAs and does not respond at all to any of them.

20. Based on the foregoing, Baxter has failed to properly respond to all but one of the Bureau’s RFAs and has failed to offer any reasonable explanation why he cannot either admit or deny the remaining RFAs without qualification. Accordingly, the Presiding Judge should enter an order requiring Baxter to promptly serve by a date

certain complete, sworn, responses to the Bureau's RFAs that comply fully with Section 1.246(b) of the Commission's Rules. In the event that Baxter again fails to provide proper responses, each of the RFAs should be deemed admitted.

Respectfully submitted,
P. Michele Ellison
Chief, Enforcement Bureau

A handwritten signature in black ink that reads "Judy Lancaster". The signature is written in a cursive, flowing style.

Judy Lancaster, Attorney
Investigations and Hearings Division
Enforcement Bureau

Federal Communications Commission
445 12th Street, SW, Room 4-C330
Washington, D.C. 20554
(202) 418-1420

July 18, 2012

ATTACHMENTS

**ENFORCEMENT BUREAU'S
FIRST REQUEST FOR ADMISSIONS OF FACT**

and

**RESPONSE TO ENFORCEMENT BUREAU'S FIRST
REQUEST FOR ADMISSION OF FACTS**

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

FILED/ACCEPTED

JUN 14 2012

Federal Communications Commission
Office of the Secretary

In the Matter of)	WT Docket No. 11-7
)	
GLENN A. BAXTER)	FCC File No. 0002250244
)	
Application to Renew License for Amateur)	
Radio Service Station K1MAN)	

To: Glenn A. Baxter

**ENFORCEMENT BUREAU'S
FIRST REQUEST FOR ADMISSION OF FACTS**

The Enforcement Bureau, pursuant to Order (11M-04) (released February 15, 2011), and Section 1.246 of the Commission's rules, 47 C.F.R. § 1.246, hereby requests that Glenn A. Baxter (Baxter) admit to the truth of the facts set forth in the numbered paragraphs below. Each response shall be labeled with the same number as the subject admission request and shall be made under oath or affirmation of the person providing the response. Baxter shall deliver his responses to the offices of the Investigations and Hearings Division, Enforcement Bureau, Suite 4-C330, 445 12th Street, S.W., Washington, DC 20554 within 10 calendar days of the service of this request.

Baxter is reminded that "[a] denial shall fairly meet the substance of the requested admission, and when good faith requires that a party deny only a part or a qualification of a matter of which an admission is requested he shall specify so much of it as is true and deny only the remainder." 47 C.F.R. § 1.246(b).

Requests For Admissions

1. Station K1MAN has been automatically controlled.
2. Station K1MAN has transmitted recordings.
3. On July 16, 2009, Baxter transmitted a pre-recorded program regarding amplifiers over Station K1MAN on frequency 14.275 MHz.
4. On July 16, 2009, Baxter transmitted a pre-recorded and unintelligible program regarding amplifiers over Station K1MAN on frequency 14.275 MHz.
5. On July 16, 2009, Baxter transmitted a pre-recorded and unintelligible program regarding amplifiers over Station K1MAN for approximately eighty (80) minutes on frequency 14.275 MHz.
6. Station K1MAN was under automatic control on July 16, 2009, during the time when it transmitted a pre-recorded program regarding amplifiers on frequency 14.275 MHz.
7. Baxter was the station operator of Station K1MAN on July 16, 2009, during the time when a pre-recorded program regarding amplifiers was transmitted over Station K1MAN on frequency 14.275 MHz.
8. On July 16, 2009, at approximately 4:00 p.m., Station K1MAN's transmission on frequency 14.275 MHz. disrupted ongoing communications on that frequency.
9. On July 17, 2009, at approximately 1:28 p.m., Station K1MAN began transmitting on frequency 14.275 MHz while other radio communications were ongoing on that frequency.
10. On July 25, 2009, at approximately 4:45 p.m., Station K1MAN transmitted on frequency 14.275 MHz on top of on-going communications on that frequency.
11. On July 25, 2009, at approximately 4:45 p.m., Station K1MAN transmitted on frequency 14.275 MHz on top of on-going communications on that frequency and forced

amateur stations in Spain that were engaged in a contest to relocate to frequency 14.279 MHz in order to continue the contest.

12. A schedule is regularly posted on www.K1MAN.com stating when and on which frequencies information bulletins will be transmitted over Station K1MAN.

13. Station K1MAN is programmed to automatically transmit information bulletins in accordance with a transmission schedule that is regularly posted on www.K1MAN.com.

14. The station operator for Station K1MAN always checks the frequency to be used to send a scheduled information bulletin immediately prior to transmitting the bulletin in order to determine whether that frequency is being used by other amateur radio operators.

15. Some transmissions over Station K1MAN have not been monitored by a radio control operator.

16. The July 14, 2009, July 16, 2009, July 17, 2009, and July 25, 2009, transmissions discussed in paragraph 9 of the Hearing Designation Order in this proceeding are not the only transmissions over Station K1MAN that have interrupted or interfered with the on-going communications of amateur radio operators since March 30, 2006.

17. Baxter considers the interference with the on-going transmissions of other radio operators that results from the transmission of information bulletins over Station K1MAN to be incidental interference.

18. Baxter considers the incidental interference caused to other amateur radio operators by the transmission of information bulletins over Station K1MAN in accordance with the transmission schedule that is posted on www.K1MAN.com to be acceptable.

19. Baxter has made no attempt to eliminate the interference to other amateur radio communications that is caused by transmission of information bulletins by Station K1MAN.

20. Programming has been transmitted by Station K1MAN continuously 24 hours per day, 7 days per week.

21. Programming has been transmitted by Station K1MAN over the same frequency continuously for 24 hours per day, 7 days per week.

22. Physics and/or math programming has been transmitted over Station K1MAN on behalf of the International Amateur Radio Network (IARN) and/or the American Amateur Radio Association (AARA).

23. Programming promoting membership in the International Amateur Radio Network (IARN) and/or the American Amateur Radio Association (AARA) has been transmitted over Station K1MAN.

Respectfully submitted,
P. Michelle Ellison
Chief, Enforcement Bureau



Judy Lancaster
Attorney Advisor, Investigations and Hearings Division
Enforcement Bureau

Federal Communications Commission
445 12th Street, S.W., Room 4-C330
Washington, D.C. 20554
(202) 418-1420

June 14, 2012

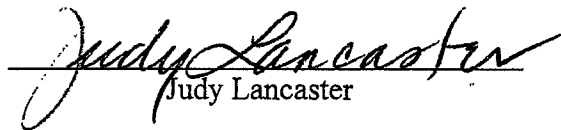
CERTIFICATE OF SERVICE

Judy Lancaster, an Attorney Advisor, in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has, on this 14th day of June 2012, sent by first class United States mail and e-mail, copies of the foregoing "Enforcement Bureau's First Request For Admissions of Fact" to:

Glenn A. Baxter
K1MAN
RR 1, Box 776
Belgrade Lakes, ME 04918
Email to: k1man14275@aol.com and Institute@K1MAN.com

and by hand-delivery to

Chief Administrative Law Judge Richard L. Sippel*
Federal Communications Commission
445 12th Street, S.W., Suite 1-C768
Washington, D.C. 20054


Judy Lancaster

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	WT Docket No. 1107
GLENN A. BAXTER)	FCC File No. 0002250244
Application to renew License for Amateur Radio)	FRN 0013164975
Service Station K1MAN)	

One copy mailed postage prepaid this date to the Hearings Division, Enforcement Bureau, Suite 4-330, 445 12th Street, S.W., Washington, D.C. 20554

Three copies mailed postage prepaid this date to Marlene H. Dortch, Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554

Faxed this date to FCC Administrative Law Court number (202) 418-0195

E-mailed this date to Richard.Sippel@fcc.gov, Mary.Gosse@fcc.gov, Judy.Lancaster@fcc.gov, Gary.Shonman@fcc.gov

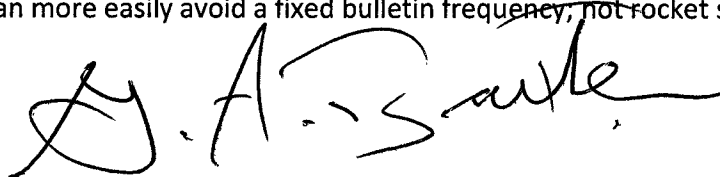
RESPONSE TO ENFORCEMENTS BUREAU'S SECOND FIRST REQUEST FOR ADMISSION OF FACTS

1. K1MAN has never been automatically controlled. There is and has always been a control operator at the control point in full compliance with all FCC rules.
2. K1MAN has transmitted recordings in full compliance with all FCC rules.
3. K1MAN is not required to keep a log.
4. K1MAN is not required to keep a log or to monitor transmissions.
5. K1MAN is not required to keep a log or to monitor transmissions.
6. K1MAN has never been automatically controlled. There is and has always been a control operator at the control point in full compliance with all FCC rules. K1MAN is not required to keep a log or to monitor transmissions.
7. K1MAN is not required to keep a log or to monitor transmissions.
8. K1MAN has never disrupted another radio signal except for legal incidental interference, such as often happens with the American Radio Relay League's amateur radio information bulletin station W1AW. However stations such as K3VR have frequently anticipated K1MAN information and have caused intentional interference in criminal violation of federal statutes.

Notarized complaints by K1MAN and others about this have been filed with the FCC and the Department of Justice and in all cases ignored, this itself being a criminal violation of federal statutes.

9. K1MAN has never disrupted another radio signal except for legal incidental interference, such as often happens with the American Radio Relay League's amateur radio information bulletin station W1AW. However stations such as K3VR have frequently anticipated K1MAN information and have caused intentional interference in criminal violation of federal statutes. Notarized complaints by K1MAN and others about this have been filed with the FCC and the Department of Justice and in all cases ignored, this itself being a criminal violation of federal statutes.
10. K1MAN has never disrupted another radio signal except for legal incidental interference, such as often happens with the American Radio Relay League's amateur radio information bulletin station W1AW. However stations such as K3VR have frequently anticipated K1MAN information and have caused intentional interference in criminal violation of federal statutes. Notarized complaints by K1MAN and others about this have been filed with the FCC and the Department of Justice and in all cases ignored, this itself being a criminal violation of federal statutes.
11. K1MAN has never disrupted another radio signal except for legal incidental interference, such as often happens with the American Radio Relay League's amateur radio information bulletin station W1AW. However stations such as K3VR have frequently anticipated K1MAN information and have caused intentional interference in criminal violation of federal statutes. Notarized complaints by K1MAN and others about this have been filed with the FCC and the Department of Justice and in all cases ignored, this itself being a criminal violation of federal statutes.
12. Yes.
13. No. K1MAN has never been under automatic control where a control operator is not required by FCC rules to be at the control point.
14. Not required under FCC rules and also not done by W1AW. However, since 2009, K1MAN does always check for a clear frequency before transmitting and moves to a clear frequency if requires, which actually causes more problems than before since Radio Amateurs can more easily avoid a fixed bulletin frequency, not rocket science here!

(signed)



Glenn A. Baxter, P.E.

Dated: 28 June 2012

CERTIFICATE OF SERVICE

Applicant Glenn A. Baxter, P.E., K1MAN hereby certifies that a copy of this brief was on 28 June 2012 e-mailed to Judy.Lancaster@fcc.gov and also mailed, postage prepaid, to Judy Lancaster, Esq., Federal Communications, 445 12th Street, S.W., Suite 4A267, Washington, D.C. 20554.

(signed)

A handwritten signature in black ink, appearing to read "G. A. Baxter". The signature is written in a cursive style with a large initial "G" and "A".

Glenn A. Baxter

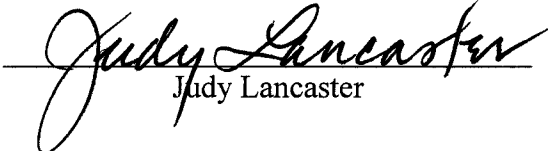
Certificate of Service

Judy Lancaster, an Attorney Advisor, in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has, on this 18th day of July 2012, sent by first class United States mail and e-mail, copies of the foregoing "Enforcement Bureau's Motion To Compel Responses to Request For Admission of Facts," including two attachments thereto to:

Glenn A. Baxter
Station K1MAN
310 Woodland Camp Road
Belgrade Lakes, ME 04917*
Email to: k1man14275@aol.com and Institute@K1MAN.com

and by hand-delivery to

Chief Administrative Law Judge Richard L. Sippel
Federal Communications Commission
445 12th Street, S.W., Suite 1-C768
Washington, D.C. 20054



Judy Lancaster

*The last known address of Glenn A. Baxter