



Federal Communications Commission
Washington, D.C. 20554

May 21, 2020

In reply refer to: 1800B3-VM

SENT VIA MAIL ONLY

Ms. Pam J. Allred
Albany Broadcasting Company
PO Box 400
Albany, KY 42602

In re: WANY(AM), Albany, KY
Facility ID No. 835
File No. 0000112319
Notice of License Expiration

Dear Licensee:

This letter is in reference to the application for renewal filed on April 16, 2020, File No. 0000112319 (Application) by Albany Broadcasting Company (ABC), licensee of AM Station WANY, Albany, Kentucky (Station). Attached to the Application is an exhibit stating that the Station is currently silent and has been off the air for over a year. However, Commission records show that ABC has indicated that the Station is licensed and operating, and no requests for Special Temporary Authority (STA) to remain silent have been filed.

Section 312(g) of the Communications Act of 1934, as amended (Act) provides that [i]f a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary, except that the Commission may extend or reinstate such station license if the holder of the station license prevails in an administrative or judicial appeal, the applicable law changes, or for any other reason to promote equity and fairness. The following exhibit, entitled "Exhibit for Discontinued Operations" attached to the Application, states:

WANY AM 1390, has been non-operational for just over a year. Due to circumstances beyond our control, we have not succeeded in replacing the 60's model Gates transmitter that expired. We serve a rural area, and our AM & FM have always been simulcast, therefore, we do not receive revenue for the AM. We are in the process now of acquiring a solid-state AM transmitter, and with FCC approval, we hope to put AM back on the air with all Gospel programming. Many residents in our community that listen to other gospel stations are in support of the new local format. The sales from the Gospel programs will generate additional revenue to offset the operational expenses for AM. Since we are silent at this time, the filing announcements for AM have been published in the Local Newspaper, and aired on FM. We apologize for this situation, and ask for your understanding in this matter.

Based on the above exhibit, we have determined that the Station's license has expired pursuant to section 312(g) of Act. Your exhibit is insufficient for us to consider as a request for the Commission to exercise its discretion under section 312(g) to extend or reinstate an expired license "to promote equity and fairness." You may supplement your filing with a detailed request providing the information described below within 30 days from this email, in an email to the email address provided below.

Any supplement should include documentation and proof that the Station was silent for more than 12 consecutive months due to reasons beyond ABC's control. We would also require documentation that ABC had taken tangible steps to get the Station back on the air prior to the expiration of the license due to 12 consecutive months of silence, and an explanation of why those steps did not place the Station back on the air prior to expiration.

The Commission's discretion under section 312(g) is severely limited.¹ The Commission has exercised its authority to reinstate an expired license to "promote equity and fairness" only where the station failed to provide service for 12 consecutive months due to compelling reasons beyond the licensee's control² Conversely, the Commission has declined to reinstate licenses where the failure to transmit a broadcast signal for more than 12 months was due to the licensee's own actions, finances, and/or business judgments.³

If you file a supplement, please provide proof of the circumstances beyond ABC's control that prevented it from resuming operation of the Station prior to expiration of the license. In addition, list all tangible steps taken to return the Station to air prior to the expiration of the license. These include purchase of all replacement equipment and arrangements to secure sufficient funds, staff and programming to operate. If any of these cannot be provided, please state the reason.

We also note that it is imperative to the safety of air navigation that any prescribed painting and illumination of the Station's tower shall be maintained.⁴

Failure to respond to this letter within the specified time will result in adverse actions jeopardizing both the Station's license and call letters. If you have any questions concerning the content of this letter, please contact Victoria McCauley, Attorney, by e-mail at (Victoria.McCauley@fcc.gov).

Sincerely,

Albert Shuldiner

Albert Shuldiner
Chief, Audio Division
Media Bureau

Sent via email to wanyradio@hotmail.com

¹ See *A-O Broad. Corp.*, Memorandum Opinion and Order, 23 FCC Rcd 603, 617, para. 27 (2008) ("This limited, discretionary provision is phrased as an exception to the general rule that most affected licenses will be forfeited").

² See, e.g., *V.I. Stereo Commc'ns Corp.*, Memorandum Opinion and Order, 21 FCC Rcd 14259 (2006) (hurricane destruction); *Community Bible Church*, Letter, 23 FCC Rcd 15012, 15014 (MB 2008) (FCC and FAA records contained incorrect tower information); *Mark Chapman, Court-Appointed Agent*, Letter, 22 FCC Rcd 6578 (MB 2007) (compliance with a court order).

³ See, e.g., *A-O Broad. Corp.*, 23 FCC Rcd at 617, para. 27 (failure to complete construction at an alternate site); *ETC Communications, Inc.*, Letter, 25 FCC Rcd 10686 (MB 2010) (chose not to operate station while offering it for sale); *Kirby Young*, Letter, 23 FCC Rcd 35 (MB 2008) (not financially able to restore operations after transmitter failed). See also *Kingdom of God*, Letter, 29 FCC Rcd 11589 (MB 2014) (failure to promptly find a permanent and suitable transmitter site).

⁴ See 47 CFR §§ 17.6 and 73.1740(a)(4).