



Federal Communications Commission
Washington, D.C. 20554

March 30, 2021

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

In Reply Refer to:
1800B3-AR

Eternity Media Group, WETI, LLC
c/o Donald H. Pugh Sr.
P.O. Box 6424
Laurel, MS 39441
EHLDONALD@COMCAST.NET

In re: **Eternity Media Group, WETI, LLC**
WETI(FM), Lake Village, AR
Facility ID 191531

Letter of Inquiry – Response Required

Dear Licensee:

We are currently evaluating a Petition to Deny and two Informal Objections filed against the license renewal application (Renewal Application) of Station WETI(FM), Lake Village, Arkansas (Station).¹ Eternity Media Group, WETI, LLC (Licensee) filed the Renewal Application on February 10, 2020. The Petition to Deny (Petition) was filed on April 30, 2020, by Larry G. Fuss, (Fuss).² An Informal Objection (Nichols Objection) was filed by John Nichols on April 30, 2020.³ An Informal Objection (Stuart Objection) was also filed by Joelle Stuart on April 30, 2020.⁴ As of the date of this letter, Licensee has not filed an Opposition to the pleadings. In order to evaluate the arguments raised, we request the additional information described below.

Background. The Media Bureau (Bureau) is investigating potential statutory and rule violations of section 319(c) and 312(g) of the Communications Act of 1934, as amended (Act), and section 73.3598(e) of the Commission's rules (Rules), related to construction permit deadlines, requirements for filing an application for license to cover construction permit, and license expiration due to extended periods of silence or unauthorized operation.

Section 73.3598(e) of the Rules provides that "[a]ny construction permit for which construction has not been completed and for which an application for license has not been filed, shall be automatically

¹ Renewal Application, Application File No. 0000105725.

² Petition, Pleading File No. 0000112928 (filed Apr. 30, 2020).

³ Nichols Objection, Pleading File No. 0000112926 (filed Apr. 30, 2020).

⁴ Stuart Objection, Pleading File No. 0000112942 (filed Apr. 30, 2020).

forfeited upon expiration without any further affirmative cancellation by the Commission.”⁵

Section 319(c) of the Act provides that “[u]pon completion of any station for the construction or continued construction of which a permit has been granted, and upon it being made to appear to the Commission that all the terms, conditions, and obligations set forth in the application and permit have been fully met . . . the Commission shall issue a license to the lawful holder of said permit for the operation of said station.”⁶ After completion of construction, an FM permittee is required to file Form 2100, Schedule 302 in LMS, formerly FCC Form 302 in CDBS,⁷ which requires the applicant to certify that the application satisfies each of the pertinent standards and criteria set forth in the application instructions and that the facility was constructed as authorized in the underlying construction permit.

Section 312(g) of the Act provides that “if 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....”⁸

Specifically, the Bureau is investigating (a) whether the Station was constructed according to the parameters of its underlying construction permit⁹ prior to expiration of the construction permit, (b) whether grant of the license application¹⁰ was appropriate if the Station was never constructed, temporarily constructed, or constructed with unauthorized equipment or parameters, and (c) if the Station was properly constructed, whether the Station has been silent for extended periods of time warranting expiration of the license under section 312(g).¹¹ We direct the Licensee, pursuant to sections 4(i), 4(j), 308(b) and 403 of the Act,¹² to provide responses to the following inquiries, within thirty (30) calendar days from the date of this letter. The Licensee may supplement its responses with additional relevant information pursuant to sections 1.17 and 1.88 of the Rules.¹³

Accordingly, Licensee is directed to submit, within thirty (30) days of the date of this letter, truthful and complete responses to the following inquiries, with a copy served on each entity listed as receiving a copy of this letter. **We will dismiss Licensee’s Renewal Application pursuant to section 73.3568(a)(1) of the Rules¹⁴ unless we receive a complete response to this letter from that Licensee within 30 calendar days of the date of this letter.**

⁵ 47 CFR § 73.3598(e).

⁶ 47 U.S.C. § 319(c).

⁷ 47 CFR § 73.3536.

⁸ 47 U.S.C. 312(g); Implementation of Section 403(l) of the Telecommunications Act of 1996, 11 FCC Rcd 16499 (1996); 47 CFR § 73.1740(c). *See also* Eagle Broad. Group, Ltd. v. FCC, 563 F.3d 543 (D.C. Cir. 2009); A-O Broad. Corp., Memorandum Opinion and Order, 23 FCC Rcd 603 (2008).

⁹ Permit Application, File No. BNPH-20130723AAE.

¹⁰ License Application, File No. BLH-20161118AAR.

¹¹ *See* 47 CFR §§ 73.855 and 73.860; 47 U.S.C. § 399b.

¹² 47 U.S.C. §§ 154(i), 154(j), 308(b), and 403

¹³ 47 CFR §§ 1.17, 1.88.

¹⁴ 47 CFR § 73.3568(a)(1) (“Failure to prosecute an application, or failure to respond to official correspondence or request for additional information, will be cause for dismissal.”).

Instructions

If Licensee requests that any information or Documents, as defined herein, responsive to this letter be treated in a confidential manner, the Licensee shall submit, along with such information or Documents a request for confidential treatment which complies with the requirements of section 0.459 of the Rules,¹⁵ including the standards of specificity set forth therein. Accordingly, “blanket” requests for confidentiality of a large set of Documents are unacceptable. Pursuant to section 0.459(c), the Bureau will not consider requests that do not comply with the requirements of section 0.459.

If Licensee withholds any information or Documents under claim of privilege, it shall submit, together with any claim of privilege, a schedule of the items withheld that states, individually as to each such item, the numbered inquiry to which each item responds and the type, title, specific subject matter, and date of the item; the names, addresses, positions, and organizations of all authors and recipients of the item; and the specific ground(s) for claiming that the item is privileged.

Each requested Document (including photographs), as defined herein, shall be submitted in its entirety, even if only a portion of that Document is responsive to an inquiry made herein, unless the Document is a recording or transcript, in which case it should be provided only for the period of time of the broadcast specified in the pertinent inquiry herein. The Document shall not be edited, cut, or expunged, and shall include all appendices, tables, or other attachments, and all other Documents referred to in the Document or attachments. All written materials necessary to understand any Document responsive to these inquiries must also be submitted.

If a Document responsive to any inquiry made herein existed but is no longer available, or if Licensee is unable for any reason to produce a Document responsive to any inquiry, the Licensee shall identify each such Document by author, recipient, date, title, and specific subject matter, and explain fully why the Document is no longer available or why the Licensee is otherwise unable to produce it.

With respect only to Documents responsive to the specific inquiries made herein and any other Documents relevant to those inquiries, Licensee is directed to retain the originals of those Documents for twelve (12) months from the date of this letter unless Licensee is directed or informed by the Bureau in writing to retain such Documents for some shorter or longer period of time.

The specific inquiries made herein are continuing in nature. Licensee is required to produce in the future all Documents and information that are responsive to the inquiries made herein but not initially produced at the time, date and place specified herein. In this regard, Licensee must supplement its response (a) if Licensee learns that, in some material respect, the Documents and information initially disclosed were incomplete or incorrect or (b) if additional responsive Documents or information are acquired by or become known to Licensee after the initial production. The requirement to update the record will continue for twelve (12) months from the date of this letter unless the Station is directed or informed by the Bureau in writing that the Station’s obligation to update the record will continue for some shorter or longer period of time.

For each Document or statement submitted in response to the inquiries below, the Licensee shall indicate, by number, to which inquiry it is responsive and identify the person(s) from whose files the Document was retrieved. If any Document is not dated, the Licensee shall state the date on which it was

¹⁵ 47 CFR § 0.459.

prepared. If any Document does not identify its author(s) or recipient(s), state, if known, the name(s) of the author(s) or recipient(s). Licensee must identify with reasonable specificity all Documents provided in response to these inquiries.

Unless otherwise indicated, the period of time covered by these inquiries is November 1, 2013, to the present.

Definitions

For purposes of this letter, in addition to the terms defined elsewhere in this letter, the following definitions apply:

The word “any” shall be construed to include the word “all,” and the word “all” shall be construed to include the word “any.” Additionally, the word “or” shall be construed to include the word “and,” and the word “and” shall be construed to include the word “or.” The word “each” shall be construed to include the word “every,” and the word “every” shall be construed to include the word “each.”

“Document(s)” and “Documentation” shall mean the complete original (or in lieu thereof, exact copies of the original) and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any taped, recorded, transcribed, written, typed, printed, filmed, punched, computer-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated, or made, including but not limited to any broadcast, radio or television program, advertisement, book, pamphlet, periodical, contract, correspondence, letter, facsimile, e-mail, file, invoice, memorandum, note, text message, report, record, handwritten note, working paper, routing slip, chart, graph, photograph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minutes, marketing plan, research paper, preliminary drafts, or versions of all of the above, and computer material (print-outs, drives, disks and such codes or instructions as will transform such computer materials into easily understandable form).

“FCC” or “Commission” means the Federal Communications Commission.

“Licensee” shall mean Eternity Media Group, WETI, LLC, and any predecessor-in-interest, affiliate, parent company, wholly or partially owned subsidiary, other affiliated company or business, and all owners, including but not limited to, partners or principals and receivers, and all directors, officers, employees, or agents, including consultants and any other persons working for or on behalf of the foregoing at any time during the period covered by this letter.

“Renewal Application” shall mean the pending license renewal application of Eternity Media Group, WETI, LLC (FCC Application File No. 0000105725), including any amendments submitted to the FCC as of the date of this letter by or on behalf of the Station.

“Station” shall mean WETI(FM), Lake Village, Arkansas.

Inquiries: Documents and Information to Be Provided

We direct you, pursuant to sections 4(i), 4(j), 308(b) and 403 of the Act, 47 U.S.C. §§ 154(i), 154(j), 308(b), and 403, to respond to the following inquiries, *within thirty (30) calendar days* from the date of this letter:

1. Provide all Documentation of or relating to the Station's operational status since November 1, 2013.
2. Provide Documentation of the location, effective radiated power and antenna height above ground level for all periods of operation from November 1, 2013, to the present.
3. Provide all Documentation of leases, personnel records, (including payroll records appropriately redacted to protect the privacy of individual employees), engineering records, and station logs, including EAS logs, from November 1, 2013, to the present.
4. Provide all Documentation or correspondence relating to reasons for requests for special temporary authorization on file with the Commission, including ongoing staffing issues and repairs and damages related to the transmission line.
5. Submit all Documentation including copies of all invoices, bills, including utility bills, checks written or received, credit card charges, wire transfers or deposits of funds relating to the Station's operation.
6. Provide photographs of the Station's studio facilities and transmission facilities during this timeframe, including the dates applicable to each photograph are taken, and provide exact Station coordinates.

Instructions

The Station's responses to Questions 1-6 must be supported by declarations attesting that the responses are complete and accurate, signed either by representatives of the Station, or by one or more persons with personal knowledge of the response. In addition to the affidavits or declarations above, we direct the Station to support its responses to these inquiries with a declaration under penalty of perjury, signed and dated by one of their directors, verifying the truth and accuracy of the information therein and that all of the information and Documentation specified by this letter which are in the possession, custody, control or knowledge of the Station (including all parties to the Applications) have been produced. If multiple board members or representatives contribute to the response, in addition to such general affidavit or declaration of a Station director, the Station must provide separate affidavits or declarations of each such individual with personal knowledge that identify clearly to which responses the affiant or declarant with such personal knowledge is attesting. To knowingly and willfully make any false statement or conceal any material fact in reply to this letter is punishable by fine or imprisonment.¹⁶ Failure to respond appropriately to this letter may constitute a violation of the Act and the Rules.¹⁷

The Station shall direct its letter responses, if any, to the attention of Federal Communications Commission, Office of the Secretary, 45 L St. N.E., Washington, DC 20554, and sent via email to alexander.sanjenis@fcc.gov. Additionally, copies must be served on **Larry G. Fuss, John Nichols, and Joelle Stuart at the address provided below. Larry G. Fuss, John Nichols, and Joelle Stuart will have an opportunity to submit comments within fifteen days of Licensee's filing of the responses,**

¹⁶ See 18 U.S.C. § 1001; see also 47 CFR § 1.17.

¹⁷ See *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589 (2002); *Globcom, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 18 FCC Rcd 19893, n.36 (2003); *World Communications Satellite Systems, Inc.*, Forfeiture Order, 19 FCC Rcd 2718 (EB 2004); *Donald W. Kaminski, Jr.*, Forfeiture Order, 18 FCC Rcd 26065 (EB 2003).

with a copy to be served on Licensee and its counsel, where applicable.

Any request for an extension of time in which to respond to this letter must be: 1) filed prior to the thirty-day deadline for filing a response; 2) supported by a declaration from a party to the Renewal Application; and 3) served on Larry G. Fuss, John Nichols, and Joelle Stuart, at the addresses provided below.

Conclusion

Failure to respond in full within the time period specified shall result in dismissal of the subject application for failure to respond to official correspondence pursuant to section 73.3568(a)(1) of the Rules.¹⁸

Sincerely,

Albert Shuldiner
Chief, Audio Division
Media Bureau

cc: Larry G. Fuss
9408 Grand Gate Street
Las Vegas, NV 89143
larry@larryfuss.com

John Nichols
204 Caperton Lane
Apt. 29
Cleveland, MS 38732
flyinggdude@aol.com

Joelle Stuart
1609 N. Lakeshore Drive
Lake Village, AR 71653
joellestuart@sbcglobal.net

¹⁸ 47 CFR § 73.3568(a)(1).

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Eternity Media Group, WETI, LLC
c/o Donald H. Pugh Sr.
P.O. Box 6424
Laurel, MS. 39441



9590 9402 6129 0209 4989 23

2. Article Number (Transfer from service label)

7020 2450 0000 9710 7284

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
(over \$500)

- ☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☒ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Received & Inspected

MAR 30 2021

FCC Mail Room

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®

OFFICIAL USE

Certified Mail Fee

\$

3.60

Extra Services & Fees (check box, add fee as appropriate)

- ☐ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

2.85

Postage

\$

1.20

Total Postage and Fees

\$

7.65

Sent To

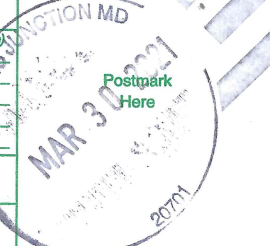
Street

City, State

PS Form

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Laurel, MS. 39441

Instructions



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9590 9402 6129 0209 4989 23

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7020 2450 0000 9710 7284

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
(over \$500)

- ☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☒ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt