



Federal Communications Commission
Washington, D.C. 20554

December 13, 2021

Sent via Certified Mail and Electronic Mail

CBTV, Inc.
589 Shavano St
Crested Butte, CO 81224
noah@cbtv.tv

**In re: K38LK-D, Jacks Cabin, CO
Facility ID No. 181742
Operational Status Inquiry**

Dear Licensee:

This concerns low power television (LPTV) station K38LK-D, Jacks Cabin, Colorado (Station) licensed on channel 38. All LPTV stations operating on channel 38 were required to cease operations no later than July 13, 2020.¹ Although the Station obtained a construction permit for a displacement channel 25,² Commission records do not indicate that you have commenced operations on this channel.³ Therefore, it appears the Station has been silent for more than one year. Pursuant to section 312(g) of the Communications Act of 1934, as amended (Act),⁴ the license of any station that fails to transmit a broadcast signal for any 12-consecutive month period automatically expires by operation of law.⁵

This letter provides you 30 days to provide evidence⁶ that our information is incorrect and that, in fact, the Station has either not been silent for more than one year or went silent but returned to the air with authorized facilities prior to its one-year silent anniversary. For any period the Station was operational

¹ See *In the Matter of Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567, 6841, para. 672 (2014) (Incentive Auction R&O) (subsequent history omitted).

² See LMS File No. 0000054545.

³ In a request for waiver of the tolling rules and subsequent amendment, you indicate that construction of the Station's displacement facilities is not yet complete. See LMS File No. 0000152065, as amended.

⁴ See 47 U.S.C. § 312(g); *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).

⁵ Section 312(g) of the Act provides that if a broadcast station fails to transmit broadcast signals with its authorized facilities 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 to promote equity and fairness. 47 U.S.C. § 312(g).

⁶ This evidence must indicate the location, effective radiated power and antenna height above ground level for **all periods of operation**. Also include copies of all leases, personnel records (including payroll records appropriately redacted to protect the privacy of individual employees), engineering records, and station records, including EAS logs, for all periods. In addition, you must provide copies of all invoices, bills, checks written or received, credit card charges, wire transfers or deposits of funds relating to the Station's operation. In addition, if the Station uses accounting software to maintain financial records, provide printouts of the data recorded for this period. You **must also include pictures** of the Station's studio facilities and transmission facilities during this timeframe and provide exact Station coordinates.

since July 13, 2020, please provide specific evidence of the Station's operation.⁷ For any period that the Station was silent, please provide an explanation for the Station's silence. The written response to this letter must be supported by a declaration by an individual with personal knowledge of the facts and signed under penalty of perjury that the facts and information provided in the response are both true and correct.⁸ As an alternative to a written response explaining the stations operational status, the Licensee may submit its license for cancellation.

If you fail to provide such documented evidence within 30 days from the date of this letter or provide a showing that reinstatement is warranted pursuant to the equity and fairness provision of section 312(g),⁹ the Commission's public and internal databases **WILL BE MODIFIED** to indicate that the broadcast license for the referenced station **IS EXPIRED**, that the station's license **IS CANCELED** as a matter of law, and that the station's call sign **IS DELETED**.

Documents sent in response to this letter shall be addressed to FCC, Office of the Secretary, 45 L Street, NE, Washington, DC 20554, and emailed to Shaun Maher at the address below.

Please direct any questions concerning the content of this letter to Shaun Maher, Attorney, phone (202-418-2324), or e-mail (Shaun.Maher@fcc.gov).

Sincerely,

/s/

Barbara Kreisman
Chief, Video Division
Media Bureau

⁷ See *supra* note 6

⁸ See 47 C.F.R. § 1.16.

⁹ See *e.g.* *A-O Broad. Corp.*, Memorandum Opinion and Order, 23 FCC Rcd 603, 617, para. 27 (“This limited, discretionary provision is phrased as an exception to the general rule that most affected licenses will be forfeited”). 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 control. See, *e.g.*, *V.I. Stereo Communications Corp.*, Memorandum Opinion and Order, 21 FCC Rcd 14259 (2006); *Community Bible Church*, Letter, 23 FCC Rcd 15012, 15014 (MB 2008); *Mark Chapman, Court-Appointed Agent*, Letter, 22 FCC Rcd 6578 (MB 2007). The Commission has declined to reinstate licenses where the failure to transmit a broadcast signal was due to the licensee's own actions, finances, and/or business judgment. See, *e.g.*, *A-O Broadcasting*, 23 FCC Rcd at 617, para. 27; *ETC Communications, Inc.*, Letter, 25 FCC Rcd 10686 (MB 2010); *Kirby Young, Letter*, 23 FCC Rcd 35 (MB 2008).