



Federal Communications Commission
Washington, D.C. 20554

October 2, 2023

SENT VIA CERTIFIED MAIL AND ELECTRONIC MAIL

Digital Networks-Midwest, LLC
Timothy K Hurley
P.O. Box 11409
Chattanooga, TN 37401
thurley@luken.tv

Re: License Expiration
W30ET-D, Flint, MI
Facility ID No.
File No. 0000159266

Dear Licensee:

This letter concerns low power television (LPTV) station W30ET-D, Flint, Michigan (W30ET-D or Station), licensed to Digital Networks-Midwest, LLC ((DNM) or Licensee). Based on Commission records the Station has been silent for more than one year and its license has automatically expired pursuant to section 312(g) of the Communications Act of 1934, as amended.¹ Accordingly, its license has been cancelled and its call sign deleted in all Commission databases.

Background. Section 312(g) of the 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...for any reason to promote equity and fairness.”² The Commission has exercised its discretion under section 312(g) to extend or reinstate a station’s expired license “to promote equity and fairness” only in limited circumstances where a station’s failure to transmit a broadcast signals for 12 consecutive months is due to “compelling circumstances” that were beyond the licensee’s control.³ For example, the Commission has granted section 312(g) relief to stations whose facilities were destroyed by natural disasters such as hurricanes;⁴ where silence was necessary in furtherance of public safety,⁵ where reinstatement of the station’s license was necessitated by court order;⁶ or where station silence was the

¹ See 47 U.S.C. § 312(g).

² *Id.* See also 47 CFR § 74.15(f).

³ See *A-O Broadcasting Corp.*, Memorandum Opinion and Order, 23 FCC Rcd 603, 617, para. 27 (2008) (*A-O Broad.*) (“This limited, discretionary provision is phrased as an exception to the general rule that most affected licenses will be forfeited”).

⁴ *V.I. Stereo Communications Corp.*, 21 FCC Rcd 14259, 14262, para. 8 (2006) (reinstating license where silence due to destruction of towers in hurricanes).

⁵ *Community Bible Church*, Letter Order, 23 FCC Rcd 15012, 15014 (MB 2008) (reinstatement warranted where licensee took all steps needed to return to air, but remained off air to promote air safety after discovering and reporting that FCC and FAA records contained incorrect tower information).

⁶ *Mark Chapman, Court-Appointed Agent*, Letter Order, 22 FCC Rcd 6578, 6580 (MB 2007) (reinstating license where silence necessitated by licensee’s compliance with court order).

result of governmental closure.⁷ The Commission has declined to exercise its section 312(g) discretion when a station's silence is the result of a licensee's own action or inaction, finances, and/or business judgment.⁸

W30ET-D was a former analog station that on September 15, 2020, was granted a digital license to operate on channel 30.⁹ On May 27, 2021, the Station filed a request for legal special temporary authority (Legal STA) stating that the Station "was taken off the air on 10/12/2020." This was just over one month after the grant of its digital license application.¹⁰ DNM stated that the Station went silent in order to move to a new transmitter site.¹¹ Five days later, on June 1, 2021, DNM filed an application to renew the Station's license.¹² In the renewal application, the Station included an "adherence exhibit" where it outlined the times the Station had been silent during its prior license term, including the above-referenced Legal STA where it had stated that the Station went silent on October 12, 2020.¹³ On September 13, 2021, nearly a year after the Station went silent in order to relocate to new transmitter site, DNM filed an application for minor modification to accomplish this move.¹⁴ This application was granted on September 14, 2021, and assigned a construction permit expiration date of September 14, 2024.

Discussion. Based on Commission records we find that W30ET-D has not operated and been silent since October 12, 2020. The Station has not filed a notice of resumption of operations or a license to cover its modified facilities. Based on statements made by DNM in its applications, the Station was silent as the result of its own apparent business judgment to relocate the Station to a new transmitter site.

⁷ *Universal Broadcasting of New York, Inc.*, 34 FCC Rcd 10319, (MB 2019) (finding that station's inability to file an STA to resume service due to a federal government shutdown was a compelling circumstance under section 312(g)).

⁸ *See, e.g., New Visalia Broadcasting, Inc.*, Memorandum Opinion and Order, 29 FCC Rcd 9744 (2014) (record did not show that health problems prevented the principals from resuming operations); *A-O Broadcasting*, 23 FCC Rcd 603 (transmission from unauthorized location not sufficient to avoid the consequences of section 312(g)); *Eagle Broadcasting Group, Ltd.*, Memorandum Opinion and Order, 23 FCC Rcd 588, 592, 589-90 (2008) (operation from unauthorized site insufficient to avoid the consequences of section 312(g)); *Mt. Rushmore Broadcasting, Inc.*, Letter Order, 32 FCC Rcd 3924, 3927 (MB 2017) (discretion unwarranted when station was either silent or engaging in brief periods of unauthorized operation for six years); *Zacarias Serrato*, Letter Order, 20 FCC Rcd 17232 (MB 2005) (station taken off the air due to a business decision); *Kingdom of God*, Letter Order, 29 FCC Rcd 11589 (MB 2014) (station's numerous periods of extended silence were a direct result of licensee's own business decisions); *Christian Broadcasting*, 30 FCC Rcd at 13976 (2015) (licensee provided no evidence that station's silence was beyond its control).

⁹ *See* LMS File No. 0000121598.

¹⁰ *See* LMS File No. 0000147686.

¹¹ *Id.* Because its request for silent authority was improperly filed as a Legal STA and not a request for silent STA, the Legal STA remains pending. This however has no bearing on whether the Station has been continuously silent since October 12, 2020, and would not have precluded DNM from either contacting Media Bureau staff to prosecute the application or from seeking withdrawal of it if the Station had resumed operation. The pending nature of the Legal STA also would not prevent the Station from filing an application for license to cover if it had completed construction of the facility proposed in the minor modification discussed below.

¹² *See* LMS File No. 0000149213

¹³ *See id.* at Adherence Exhibit.

¹⁴ *See* LMS File No. 0000159266.

As such we find reinstatement based on equity and fairness is not warranted. Therefore, we find that the Station's license automatically expired pursuant to section 312(g) of the Act¹⁵ on October 13, 2021.

Accordingly, we find that the Station's license has automatically expired pursuant to section 312(g) of the Act and the license of low power television station W30ET-D, Flint, Michigan **IS CANCELLED**, its call sign **DELETED**, and all pending applications **ARE DISMISSED**.¹⁶ All authority to operate the Station **HAS BEEN TERMINATED**. In addition, its construction permit has been canceled and its authority to construction the modified facility set forth under LMS File No. 0000159266 **HAS BEEN TERMINATED**.¹⁷

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Aaron Shainis, Esq.

¹⁵ 47 U.S.C. § 312(g).

¹⁶ See LMS File Nos. 0000147686 and 0000149213.

¹⁷ Pursuant to section 312(g) of the Act a station that has been silent for more than 12 consecutive months automatically expires, "notwithstanding any provision, term, or condition of the license to the contrary...." 47 U.S.C. § 312(g). While here the Station has a construction permit that does not expire until September 14, 2024, the precise language of section 312(g) makes clear that such an authorization has no bearing on whether the Station's license has automatically expired. Without an underlying license the station no longer has a facility by which to modify and as a result we are cancelling its construction permit.

