



Federal Communications Commission
Washington, D.C. 20554

November 22, 2023

In reply refer to: 1800B3-VM

Certified Mail Return Receipt Requested

BEWARE Inc.
15221 NE 6th Ave
North Miami, FL 33162
pioneerswampdog.ls@gmail.com

Re: WQNB-LP, Miami, FL
Facility ID No. 196346
**Operational Status Inquiry – Response
Required**

Dear Licensee:

It has come to our attention that Low Power FM Station WQNB-LP, Miami, Florida (Station), licensed to BEWARE Inc. (BEWARE), may have been silent or operating with unauthorized facilities for more than a year. However, Commission records show that the Station is licensed and operating. Pursuant to section 73.1015 of the Commission's rules (Rules), BEWARE is required to clarify this matter in writing within forty-five (45) days of the date of this letter.

Background. Our records show that the Station went silent on October 3, 2022, due to high winds and heavy rain from Hurricane Ian, which caused its tower structure and wiring harness to become unstable.¹ On July 6, 2023, Hispanos Communications LLC ("Hispanos"), licensee of FM translator station W254DV, Miramar, Florida, filed a request for waiver of section 74.1203(a)(3) of the Rules pertaining to interference that its proposed use of Channel 262 would cause to the Station.² At that time, Hispanos argued that the Station was silent and not likely to return to operation, based on its observation that the Station was not broadcasting after its STA expired, the antenna at the Station's transmitter site was not operational, and that there was no other broadcast equipment on site.³ In addition, Hispanos stated that the building manager at the licensed site stated that the previous tenants had been gone a "long time," and the space was for rent.⁴ On September 25, 2023, BEWARE filed an application for STA to operate at variance from its license proposing a new site, using a 15-meter tall, one bay, omni-directional antenna.⁵ On October 3, 2023, BEWARE filed a notice of resumption of operations, stating that the Station had resumed operation on October 2, 2023 using the STA facility. On October 10, 2023, Hispanos filed a supplement to its waiver request, stating that its Station Engineer visited the Station's STA site, the Ola Condominium complex at 15225 NE 6th Avenue, Miami, Florida 33162, on October 4, 2023, and no signal was detected from the Station.⁶ In addition, the Station Engineer did not see any

¹ Application File No. 0000202486 (gr. Oct. 28, 2022, exp. Apr. 27, 2023, no extension requested).

² Application File No. 0000218218, Request for waiver of 47 C.F.R. § 74.1203(a)(3), filed by Hispanos Communications LLC (July 6, 2023) at 1.

³ *Id.* at 2.

⁴ *Id.* at 3.

⁵ Application File No. 0000221443 (gr. Sept. 26, 2023).

⁶ Application File No. 0000218218, Supplement to request for waiver of 47 C.F.R. § 74.1203(a)(3), filed by Hispanos Communications LLC (Oct. 10, 2023) at 3; Attachment 1.

antennas on the buildings.⁷ Hispanos further states that its General Manager spoke to a representative of Ola Condominium management, and was told that no antennas are allowed on the roofs of the buildings. Hispanos includes drone pictures of the building complex's roofs to show that no antennas are on any of the roofs.⁸

Based on this information, it appears that the Station may have been silent (or failed to operate with authorized facilities) for more than one year. Pursuant to section 312(g) of the Communications Act of 1934, as amended, **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.**⁹

This letter provides BEWARE 45 days to provide evidence of the Station's operation with authorized facilities between October 2, 2022 and the present date. If BEWARE fails to provide such documented evidence within 45 days from the date of this letter, the Commission's public and internal databases WILL BE MODIFIED to indicate that the broadcast license for the Station is EXPIRED, that the Station's license is CANCELED as a matter of law, and that the Station's call sign is DELETED.

Information and Materials Requested. *Operational Status.* The materials required to establish the operational status of the Station are as follows. First, BEWARE must provide a narrative statement that indicates the Station's operational status between October 2, 2022, and the present date. BEWARE must indicate the dates on which the Station was silent, operated with its licensed facilities, or operated with technical parameters other than those specified in its license. For all dates, BEWARE must indicate the effective radiated power, antenna height above ground level and geographic coordinates and address. With respect to any dates on which the Station operated at a variance from its licensed parameters, BEWARE should indicate whether it requested STA to do so. With respect to any dates on which the Station was silent, BEWARE should indicate whether it notified the Commission of the Station's silence, and whether it requested STA for the Station to remain silent.

In addition to the narrative statement, BEWARE must submit copies of all leases, engineering records, utility bills, and station records (including EAS logs) for the Station from October 2, 2022 to the present. BEWARE also must provide copies of monthly accounting records relating to the Station's operation, as well as copies of all utility bills.¹⁰ BEWARE must include dated pictures of the Station's transmission facilities during this timeframe.

Affidavits or Declarations. In addition to the documentation noted above, BEWARE must support its response with an affidavit or declaration under penalty of perjury, signed and dated by an

⁷ *Id.*

⁸ *Id.* at 4; Attachment 2.

⁹ 47 U.S.C. § 312(g) (emphasis added). 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, such as a natural disaster. *See, e.g., 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").

¹⁰ In addition, if BEWARE uses accounting software to maintain financial records for the Station, it must provide printouts of the data recorded for the time period at issue (*i.e.*, October 2, 2022 to the present).

authorized representative of BEWARE, with personal knowledge of the representations provided in the response, verifying the truth and accuracy of the information therein and that all of the information requested by this letter which is in BEWARE's possession, custody, control or knowledge has been produced. If multiple persons contribute to the response, in addition to such general affidavit or declaration of the authorized representative of BEWARE noted above, any such person (or any other affiant or declarant) that is relying on the personal knowledge of any other individual, rather than his or her own knowledge, 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. All such declarations provided must comply with section 1.16 of the Rules,¹¹ and be substantially in the form set forth therein. We remind BEWARE that to knowingly and willfully make any false statement or conceal any material fact in reply to this inquiry is punishable by fine or imprisonment.¹² Moreover, failure to respond appropriately to this letter of inquiry may constitute a violation of the Act and the Rules.

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.¹³

All submissions must include a cover letter addressed to Marlene S. Dortch, Secretary, FCC 45 L Street N.E., Washington, DC, 20554, and **sent via email ONLY**, to Victoria.McCauley@FCC.gov.¹⁴

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 phone at (202) 418-2136 or via e-mail at the address above.

Sincerely,

Albert Shuldiner

Albert Shuldiner
Chief, Audio Division
Media Bureau

¹¹ 47 CFR § 1.16.

¹² 47 CFR §1.17.

¹³ See 47 CFR §§ 17.6 and 73.1740(a)(4).

¹⁴ In the event that a submission would exceed 5 MB, you must first contact Ms. McCauley to explain the nature of the documentation and seek guidance as to whether the submission should be reduced by providing representative documents, rather than all documents, of a particular nature.