

January 8, 2024

To: Marlene S. Dortch
Office of the Secretary
Federal Communications Commission
45 L Street N.E.,
Washington, DC, 20554

Victoria McCauley
Attorney / Advisor
Audio Division, Media Bureau
Federal Communications Commission
Email: Victoria.McCauley@fcc.gov

Re: **Reference to: 1800B3-VM**
Preliminary Response to Operational Status Inquiry
and Request for Extension of Time – to January 22, 2024

WQNB-LP FM
FCC Facility ID. 196346
Miami, Florida

Dear Victoria McCauley, and Secretary Dortch;

On behalf of WQNB-LP FM, I am following up on our email and voice message exchanges during the winter break. Given the circumstances, we respectfully request a two week extension until Monday, January 22, 2024 that we may work with counsel and provide a complete response to the letter of inquiry with supporting documentation. We seek confirmation of this message, and concurrence to our request, due to the following developments:

On Wednesday, December 27th 2023, an associate discovered a PDF copy of a letter within the FCC Facility Details page for WQNB-LP on the Licensing and Management System (LMS). The letter, scanned on December 12th, comprised of an operational status inquiry for the station sent by certified mail, but was returned undelivered to the Media Bureau due to an incomplete address.

We regret the confusion and inconvenience. Upon learning of the error that day, I immediately filed an Administrative Update to include my current contact information. I then sent an email message to Victoria McCauley requesting an extension of time, and I also left a voice message on December 28th.

Although I received a brief response from Ms. McCauley on December 29th, she indicated having not yet seen the email and would be out of town until the week of January 8th, 2024. The reply also seemed to confuse the voice message as request as for extension to an STA, rather than the letter of inquiry.

Given the circumstances, we will appreciate an extension to provide a more complete response to the letter of inquiry with supporting documentation. Having provided updated contact information, I will ensure a prompt response to any emails, phone calls or mailings concerning WQNB-LP FM.

For the interim, I respectfully tender the following statement, submitted under penalty of perjury:

**Statement of Levan Joseph concerning the current status WQNB-LP
Submitted on January 8, 2024**

I, Levan Joseph, Vice President and Administrator of Nonprofit organization, Beware, Inc., an Licensee of WQNB-LP hereby submit the following:

- On December 27th 2023, I became aware of a PDF letter scanned on the Licensing Management System from the Federal Communications Commission concerning the status of WQNB-LP FM. The PDF included a receipt indicating the certified letter was returned due to an incomplete address.
- Immediately upon receiving the letter, we filed an Administrative Update with my direct contact information to help ensure a more prompt exchange of communications. As directed in the letter, I then sent an email to Victoria McCauley, and left a voice message the next day, December 28 2023 seeking an extension of time to provide a full respose with supporting documentation.
- In September 2023, I personally filed STA application 0000221443 seeking authorization to continue temporary operations on the property located at 15221 NE 6th Ave in North Miami. I have since submitted application 0000233023 to updated coordinates where the antenna was erected, alongside the rear parking lot.
- WQNB-LP, was originally authorized to remain Silent as of October 3rd 2022. Operations actually resumed operations as of Sunday, October 1st, 2023 with reduced facilities. I was present and assisted the installation of antenna and equipment. The silent period did not exceed limitations under 312(g).
- Attached to this Declaration are photos taken upon installation and operations resumed on October 1st. I also filed the application for Resumption, which inadvertently listed the first weekday - October 2nd - but which cannot be amended to reflect the actual date we resumed operations. Additional declarations along with additional photos will be provided attesting to the facility was installed on October 1st.
- As required under 47 CFR § 73.850, we sought to resume operations with five hours minimum daily. However, we also had make several adjustments from early on to ensure continuous operation. More information will be provided from our logs and notes.
- Emergency Alert logs are not available at this time. Although our temporary transmission system was installed October 1st 2023, we had yet to fully reconfigure our Emergency Alert unit. We were since advised that all EAS units were to be upgraded by December 12th, 2024, which forced us into assessing whether to upgrade or replace the EAS unit.
- We were advised of the FCC rules under 47 CFR § 11.35 which state that a broadcast station may operate without the equipment pending its repair or replacement for a period not to exceed 60 days. The rule goes on to state if repair or replacement of equipment is not completed within 60 days, we must submit an informal request for additional time to their assigned FCC field office.
- I did make efforts to contact the last known Director for Emergency Management in Miami-Dade County, Florida, Mr. Curt Sommerhoff, who was listed as part of the committee that produced the statewide emergency plan. When I didn't receive a timely response by email or the phone number listed, I checked my email 'spam' folder and discovered my message had bounced back. I've since learned that Mr. Sommerhoff moved on to work for the state college system, closed during the winter break. However, Mr. Sommerhoff did reply and gave another contact, who may still be on vacation.

In my full response, I will include the email communications and updates concerning the status of our EAS configuration and logs.

- As to the unexpected appearance of the competing FM Translator application that sought a move to our frequency on 100.3 MHz, we were initially confused. Before the announcement of the 2023 Low Power FM window, our plans were to move further north. We were previously advised by LPFM advocates and consultants on the possibility of Translators suddenly appearing in the FCC database, which may introduce a 'short-spacing' condition, thereby forcing LPFMs to move further away.

In August 2023 before we could finalize a new location before the Filing Freeze, the LPFM Channel Finder tool at FCC.gov suddenly indicated that WQNB was now short-spaced from the north by an FM Translator. Until this inquiry, we were not fully knowledgeable as to the short-spacing rules, nor aware whether the Translator application was even legitimate; we only assumed it was.

- By way of this inquiry, it has since come to our attention that the Translator application – filed in July 2023 - was not merely premature in regards to 47 CFR 312(g), but failed to protect our still-active authorization for the channel.

- We are now further advised the Translator application improperly imposed an illegal and extreme short-spaced condition before the Low Power FM Freeze by overlapping our 60 & 40 dBu contours, and more than two months before the silent period for WQNB-LP would actually exceed 312(g). Such an application is elsewhere considered premature, and should not have been Accepted for Filing.

- With this Inquiry since making us aware of complaints of the Translator applicant were made against our own organization by name, we now are also concerned of violations of *ex parte* rules. We were never contacted by the Translator applicant, nor timely served with a properly petition, objection or even notification of their complaint, which was instead cloaked as a 'waiver', thereby foreclosing a the opportunity allowing us to respond sooner.

The Translator application, later amended, gives a false appearance of filing after the LPFM Freeze.

I understand the above information concerning the Translator application does not constitute a proper objection. We have been referred for further consultation with counsel to examine and consider action as necessary 'on the record' through a proper proceeding.

Given the context and circumstances, we believe an extension until January 22, 2024 is a reasonable request that we may gather more documentation and consult with counsel. We look forward to your concurrence. My direct contact information is provided below so as to ensure prompt response.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Executed on this 8th day of January, 2024

Respectfully yours,

A handwritten signature in blue ink that reads "Levan Joseph". The signature is written in a cursive style with a large initial 'L'.

Levan Joseph

Vice-President, Beware, Inc.

Licensee, WQNB-LP - FCC Facility ID. 196346

Non-Commercial FM - 100.3 MHz

direct phone: (786) 859-1180

Mailing Address:

8462 NW 34th Manor

Sunrise, FL 33351

Email: levan.joseph@hotmail.com

Cc: Edward Maldonado, Esq.
Maldonado Law
2850 Douglas Road Suite 303,
Coral Gables, 33134

Attachments:

- 1) Photo of FM Antenna . WQNB-LP - as installed October 1, 2023
- 2) Emergency Alert Unit & FM Transmitter

Attachments:

- 1) Photo of FM Antenna . WQNB-LP FM - as installed October 1, 2023
> Antenna extruding above treeline – perimeter of parking lot



- 2) Emergency Alert Unit & FM Transmitter

