



Federal Communications Commission
Washington, D.C. 20554

January 24, 2024

In Reply Refer to:
1800B3-ARR

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Cape Cod Regional Tech High School
c/o Burt Fisher
351 Pleasant Lake Ave.
Harwich, MA 02645
(Sent by electronic mail to: burt.fisher@gmail.com)

Re: **Cape Cod Regional Tech High School**
WCCT-FM, Harwich, Massachusetts
Facility ID No. 8574
Application File No. 0000185268

Notification of License Cancellation

Dear Licensee:

This letter is to inform you that the license of Station WCCT(FM), Harwich, Massachusetts (Station), licensed to Cape Cod Regional Tech High School (Licensee), has expired pursuant to section 312(g) of the Communications Act of 1934, as amended (Act).¹ Accordingly, the Media Bureau (Bureau) hereby dismisses Licensee's pending application for renewal of license² as moot. As a separate and independent basis, we dismiss the Station's license Renewal Application based on Licensee's failure to fully respond to the Operational Status Inquiry letter³ issued on November 29, 2023.

Licensee has been the licensee of the Station since 1992.⁴ In the Renewal Application, Licensee attaches a statement explaining that the building where its public file was held had been destroyed during construction of a new school, and that replacing the studio facility was a low priority.⁵ Licensee also answered the Application certification questions regarding Adherence to Minimum Operating Schedule, Silent Station, and Discontinued Operations with a "No" response, indicating that as of the Renewal Application submission date, the Station was silent and had been silent for more than 12 consecutive months.⁶ Licensee never filed a request for special temporary authority (STA) with the Bureau to request authority to remain silent.

¹ 47 U.S.C. § 312(g).

² Application File No. 0000185268 (filed Feb. 24, 2022) (Renewal Application).

³ See Letter from Albert Shuldiner, Chief, Audio Division, Media Bureau, FCC, to Cape Cod Regional Tech High School (Nov. 29, 2023) (OSI Letter), and 47 CFR §§ 73.3566(b) and 73.3568(a)(1).

⁴ See Application File No. BLED-19890905KA (filed Sept. 5, 1989).

⁵ Renewal Application at Attach. "websitepublicfile.pdf".

⁶ *Id.* at AM/FM/LPFM Certification.

Accordingly, the Bureau issued the *OSI Letter* on November 29, 2023, to evaluate whether the Station was silent or operating with unauthorized facilities for more than one year, in violation of section 312(g) of the Act.

Specifically, the Bureau requested documentation from the beginning of the license term to the present of: 1) the location, effective radiated power and antenna height above ground level; 2) leases, personnel records (including payroll records appropriately redacted to protect the privacy of individual employees), engineering records, and station records, including Emergency Alert System (EAS) logs; 3) invoices, bills, checks written or received, credit card charges, wire transfers or deposits of funds, and accounting software records; and 4) photographs of the Station's studio facilities and transmission facilities, and exact coordinates for the Station's transmitter site. Pursuant to section 73.3568(a)(1) of the Commission's rules,⁷ Licensee was required to respond in writing within thirty days of the date of the OSI.

On January 7, 2024, Burt Fisher, a representative of Licensee, emailed Bureau staff with a cursory response that did not address any of the requests in the *OSI Letter* or provide any documentation demonstrating that the Station had resumed operations at an authorized facility.⁸ Licensee has not requested any extension of time to respond to the OSI, nor submitted any other response or explanation, nor any of the documentation requested in the OSI.

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.⁹

Initially, we note that Licensee never filed an STA stating what date the Station went silent, nor did it specify in the Renewal Application, or any of its emails with the Bureau, on what specific date the Station ceased operations. Licensee has also not stated why the Station *ceased* operations.¹⁰ Rather, Licensee has only stated that *restoring* operations of the Station was a low priority. However, Licensee certified in the Renewal Application that the Station was silent at the time the application was filed, and had been silent for more than 12 consecutive months.¹¹ Accordingly, we find that the Station's license expired as a matter of law on February 24, 2022, if not earlier. Because we have determined that the Station's license expired as of this date, we decline to further evaluate the Station's operations after this date.¹²

⁷ 47 CFR § 73.3568(a)(1).

⁸ See Email from Burt Fisher, Cape Cod Regional Tech High School, to Keith Coburn, Broadcast Program Assistant, Audio Division, MB, FCC (Jan. 6, 2024, 10:15 EST) (*Fisher Email*).

⁹ 47 U.S.C. § 312(g); see also *Eagle Broad. Group, Ltd. v. FCC*, 563 F.3d 543, 545 (D.C. Cir. 2009).

¹⁰ Although Fisher claims that he informed the Bureau the Station's equipment was moved to the Licensee's new building and subsequently stolen, the Bureau staff has not been able to locate any email where this was stated. Moreover, such facts should have been fully explained in the Renewal Application and in response to the *OSI Letter*, to ensure that the Bureau had a full and complete record.

¹¹ See Renewal Application at Adherence to Minimum Operating Schedule, Silent Station, and Discontinued Operations.

¹² Although not dispositive to our determination, we note that a school newspaper published by Licensee indicates that the Station actually ceased operations in 2011. See *Tech Talk*, Vol. 3, No. 5 (Thursday Apr. 5, 2018), accessible at <https://fliphtml5.com/gked/kilj/basic> (accessed Jan. 18, 2024).

As a separate and independent basis for dismissing the applications, we find that the OSI Response is incomplete because other than one vague email and attachment, Licensee failed to otherwise respond to any of the interrogatories or explain why a response was not available.¹³ Licensee also failed to provide any of the requested documentation from the OSI.¹⁴ Moreover, because Licensee has failed to demonstrate that the Station's silence was due to factors outside its control, we decline to exercise our discretion under the "equity and fairness" provision of section 312(g) to reinstate the Station's license.¹⁵

Finally, we note that in a separate email on April 11, 2022, the Bureau staff informed Fisher that the Station's license may have expired but could potentially be reinstated, that the Bureau might require more information from the Licensee, and that the Station could operate while the Renewal Application remained pending.¹⁶ We thus reject Fisher's argument that the Bureau never responded to his April 2022 email.

For these reasons, the Commission's public and internal databases HAVE BEEN MODIFIED to indicate that the broadcast license for the referenced Station is EXPIRED, that the Station's license is CANCELLED as a matter of law, and that the Station's call sign is DELETED. In addition, the Station's Renewal Application (Application File No. 0000185268) IS DISMISSED as moot.

Finally, we note that it is imperative to the safety of air navigation that any prescribed painting and illumination of the Station's tower be maintained until the tower is dismantled. Accordingly, the

¹³ 47 CFR §§ 73.3566(b) ("If an applicant is requested by the FCC to file any additional documents or information not included in the prescribed application form, a failure to comply with such request will be deemed to render the application defective, and such application will be dismissed."), and 73.3568(a) ("... failure to respond to official correspondence or request for additional information, will be cause for dismissal."); *see also* *LPFM MX Group* 37, Memorandum Opinion and Order, 31 FCC Rcd 7512, 7517, para. 12 (2016) (dismissing application for failure to respond to letter of inquiry). The Station's license Renewal Application is subject to dismissal based on those rules.

¹⁴ *See Roy E. Henderson*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 33 FCC Rcd 5223, 5224 n.15 (listing these items as evidence the Bureau finds acceptable to support a finding that a station resumed operation) (MB 2018); *Omni Broadcasting, LLC*, Letter Order, DA 23-1208 (MB Dec. 27, 2023) (affirming dismissal of license renewal application where licensee failed to respond to specific interrogatories in a operational status inquiry letter concerning operating history of station).

¹⁵ *Compare WDGC-FM, School District #99*, Order and Consent Decree, 36 FCC Rcd 16382 (2021) (reinstating license of school district where licensee demonstrated that COVID-19 had prevented station from resuming operations within a year, and licensee had filed requests for special temporary authority to remain silent). *See also V.I. Stereo Commc'ns Corp.*, Memorandum Opinion and Order, 21 FCC Rcd 14259 (2006) (finding reinstatement of a 312(g)-cancelled license appropriate for a station that sustained damage from three hurricanes where original facilities were destroyed and the rebuilt facility also sustained damage); *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); *Sumiton Broadcasting Company, Inc.*, Letter Order, 22 FCC Rcd 6578, 6580 (MB 2007) (reinstating license where silence necessitated by licensee's compliance with court order); *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)).

¹⁶ Email from Alexander Sanjenis, Assistant Chief, Audio Division, FCC Media Bureau, to Burt Fisher (Apr. 11, 2022, 14:21 EDT).

owner of the tower where the referenced Station's transmitting antenna is located is required to maintain the tower in the manner prescribed by our rules and the terms of the cancelled license.¹⁷

Sincerely,

Albert Shuldiner
Chief, Audio Division
Media Bureau

¹⁷ See 47 U.S.C. §303(q); 47 CFR §§17.1 *et seq.* and 73.1213. See also *Streamlining the Commission's Antenna Structure Clearance Procedure*, Report and Order, 11 FCC Rcd 4272, 4293 (1995) (tower owner bears primary responsibility for maintaining tower painting and/or lighting).

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Cape Cod Regional Tech High School
c/o Burt Fisher
351 Pleasant Lake Ave.
Harwich, MA 02645



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