



Federal Communications Commission
Washington, D.C. 20554

April 5, 2024

SENT VIA CERTIFIED MAIL AND ELECTRONIC MAIL

Bleu 24 Communications, LLC
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In re: WEYW-LP, Key West, FL
Facility ID No. 130765
LMS File No. 0000123545
License Cancellation

Dear Licensee:

This letter is to inform you that the license of low power television (LPTV) station WEYW-LP, Key West, Florida (Station), licensed to Bleu 24 Communications, LLC (Bleu or Licensee), has automatically expired pursuant to section 312(g) of the Communications Act of 1934, as amended (Act),¹ its license is cancelled, its call sign is deleted, and its pending application for renewal of license is dismissed.

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) of the Act 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 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.*, Memorandum Opinion and Order, 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

Station History. WEYW-LP is an LPTV station licensed on channel 19.⁹ On July 31, 2020, the Station was assigned from Bellizzi Broadcasting Network, Inc. to Bleu.¹⁰ Two months later, on October 2020, Bleu submitted an application for renewal of license (Renewal App) for the Station and reported that the Station "is currently silent because its licensed site is unavailable. Bleu 24 is in the process of acquiring a new site and expects to resume broadcast operations shortly."¹¹ Bleu also stated that "WEYW-LP has been silent since July 31, 2020, when Bleu 24 consummated its acquisition of the station, due to the unavailability of its licensed site. Bleu 24 expects to file a Minor Change Application for a replacement site shortly."¹² Six months later, on April 14, 2021, the Station filed an application for minor modification seeking to relocate the Station to a new tower location that was granted a day later on April 15, 2021 with an expiration date of April 15, 2024.¹³ Since that time, the Station has not made any other filings and the Commission has no record of the Station having resumed operations.

In light of the representations made in its Renewal App and its apparent silence since July 31, 2020, the Bureau's Video Division (Division) issued a Letter of Inquiry (LOI) seeking to resolve the Station's pending Renewal App and determine whether the Station continued to have a valid license.¹⁴ The LOI was issued on February 9, 2024, and provided Bleu 30 days to provide all requested information and documents, or as an alternative to a response Bleu could relinquish the Station's license.¹⁵ The LOI went on to state that failure to respond to the LOI within the specified time period would result in the

⁷ *Universal Broadcasting of New York, Inc.*, Letter Order, 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* CDBS File No. BLDLTL-20131108AEZ

¹⁰ *See* CDBS File No. BALDTL-20200513AAI.

¹¹ *See* LMS File No. 0000123545 – Silent Station – WEYW-LP.

¹² *Id.* - Adherence to Minimum Operating Schedule.

¹³ *See* LMS File No. 0000143465.

¹⁴ Letter to Bleu 24 Communications, LLC from Barbara A Kreisman, Chief, Video Division (Feb. 9, 2024) (*LOI*) a copy of which is available at LMS Facility ID No. 130765.

¹⁵ LOI at 3.

Bureau concluding that the Station has been silent for 12 consecutive months and its license had expired as a matter of law, pursuant to section 312(g) of the Act.¹⁶

Having not received a response to its LOI, on March 13, 2024, Division staff contacted Bleu via electronic mail noting that no response had been received and reminding Bleu that “failure to respond will mean we will conclude that the station was silent for more than 12 consecutive months and that its license has cancelled per section 312(g) of the Communications Act.”¹⁷ On March 20, 2024, Division staff discussed this matter via telephone with a Bleu principal and provided Bleu until March 25, 2024 to file a response, otherwise the Division would proceed with cancelling the Station’s license.¹⁸ To date, a response has not been filed and the Station’s license has not been relinquished.

Discussion. Given the above referenced facts, we conclude that the Station has been silent since July 31, 2020. Bleu failed to respond to the Division’s LOI and provide support that the Station has operated since July 31, 2020. Based on the record before us, we find that the Station’s license automatically expired pursuant to section 312(g) of the Act¹⁹ on July 31, 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 WEYW-LP, Key West, Florida, **IS CANCELLED**, its call sign **DELETED**, and its pending application for renewal of license **IS DISMISSED**.²⁰ All authority to operate the Station **HAS BEEN TERMINATED**.²¹

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

¹⁶ *Id.* 47 U.S.C. § 312(g).

¹⁷ See E-mail to jtomas@samotconsulting.com from Shaun Maher, Attorney Advisor, Video Division (Mar. 13, 2024) a copy of which is available at LMS Facility ID No. 130765.

¹⁸ During the call, the principal for Bleu informed Division staff that he had been in the hospital for an extended period of time and had not seen the LOI until March 19, 2024. While the principal claimed the station was on the air until November 2023, it was not clear from which facilities they were operating with – the prior licensed facilities or the ones in the minor mod CP. In light of these facts, Bleu was given additional time to provide the requested information. The Licensee did not object to the March 25, 2024 deadline to provide the information requested in the LOI and following the call no requests for additional time have been received by Division staff. We note that a copy of the LOI was also sent to the legal counsel listed on Station’s LMS facility page. It unclear if counsel forwarded a copy to Bleu or if that person still represents Bleu.

¹⁹ 47 U.S.C. § 312(g).

²⁰ See LMS File No. 0000123545.

²¹ We remind Bleu that it must continue to adhere to the requirements in the former station’s authorization pertaining to lighting of antenna structures. See 47 U.S.C. §303(q); 47 CFR §§17.1 *et seq.*, 73.1213 and 73.1740(a)(4). 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).