

W18BB-D
LICENSE RENEWAL EXHIBIT

Adherence to Minimum Operating Schedule and Adherence to Operating Parameters

The applicant has responded in the negative to the certifications that state: “Licensee certifies that during the preceding license term the station has not been silent (or operating for less than its prescribed minimum operating hours) for any period of more than 30 days,” and “Licensee certifies that during the preceding license term, the station has operated pursuant to authorized operating parameters, either pursuant to the terms of its license, special temporary authority, or as otherwise permitted under the Commission’s rules.” Accordingly, the applicant provides the following additional information as to “the exact dates on which the station was silent or operating at less than its prescribed minimum operating schedule” and the surrounding context.

On August 8, 2016, by certified letter sent to the attention of FCC Secretary Marlene Dortch, the applicant notified the FCC that W18BB-D had gone silent as of August 2, 2016, due to an equipment failure with the station’s ATSC encoder.¹ On September 1, 2016—prior to 30 days of silence—the applicant filed a request for a Silent STA given that the faulty encoder had not yet returned from repair (a repair which the applicant had promptly sought). *See* LMS File No. [0000013905](#). Unfortunately, the applicant inadvertently filed the STA request as an “LPTV Experimental STA Application,” and erroneously believed that the request had been granted, rather than dismissed, on September 6, 2016. The applicant ultimately resumed operations on October 6, 2016, approximately two months after it first went silent and approximately one month after it mistakenly believed it had received STA to remain silent.

The applicant respectfully submits that this brief period of silence due to an isolated, honest mistake in STA filing neither adversely affects the applicant’s qualifications as W18BB-D’s licensee nor warrants enforcement action. *See Application of Tea-Visz, Inc.*, Memorandum Opinion and Order, Notice of Apparent Liability For Forfeiture, 32 FCC Rcd 10204, ¶ 9 (2017) (determining that failure to follow silent station procedures did “not constitute a material failure to serve the public interest under Section 309(k)(1) of the Act or warrant a fine”; forfeiture proposed for other rule violations); *Hometown Media, Inc.*, Summary Decision of Administrative Law Judge, 11 FCC Rcd 11413, 11417 (1996) (determining that three months of inadvertent, unauthorized silence was a “short duration and not a deliberate flouting of the Commission’s Rules,” and therefore granting renewal with no enforcement action or other adverse consequences).

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¹ The letter is currently available as an [“Attachment”](#) at the bottom of the “Facility Details” tab for W18BB-D (Facility ID No. 19250).

Biennial Ownership Report

The applicant has responded in the affirmative to the certification that states: “Licensee certifies that the station’s Biennial Ownership Report (Form 2100, Schedules 323 or 323-E) has been filed with the Commission, as required by 47 CFR Section 74.797.” However, out of an abundance of caution, the applicant provides the following additional information.

The applicant timely filed its biennial ownership report for 2017. *See* LMS File No. [0000047612](#); *In re Promoting Diversification in the Broadcasting Services*, Order, DA 17-813 (rel. Sept. 1, 2017) (extending filing deadline to March 2, 2018). However, the applicant mistakenly omitted W18BB-D from its 2017 filing, instead listing only the applicant’s radio station WRVS-FM (facility ID 19249). Nonetheless, any member of the public could have searched for and obtained information regarding the applicant via its timely 2017 ownership filing. Further, as is evident from the fact that Elizabeth City State University is the licensee of W18BB-D, the licensee is governed by the Board of Trustees of Elizabeth City State University and at all relevant times during the license term information regarding the Board of Trustees has been publicly disclosed on the internet (for instance, on the Elizabeth City State University website, *see, e.g.*, <https://www.ecsu.edu/about/leadership/board-of-trustees-2018/index.html>) and in other publicly available local records. Accordingly, because information regarding the members of the licensee’s governing board has been consistently available to the public via multiple points of access, the applicant respectfully submits that neither the public nor the Commission were materially prejudiced by the applicant’s one-time omission of W18BB-D from its timely biennial ownership report filings.

In apparent recognition of the lack of prejudice caused by a failure of a public-education institutional licensee to comply with the biennial ownership report filing requirement (likely because of the already-public nature of the relevant information of the members of the governing boards of such licensees), Commission Staff has previously granted multiple license renewal applications without sanction notwithstanding the respective licensees’ biennial ownership report filing deficiencies, including two for licensees at Elizabeth City State University’s “sister” institutions. *See, e.g.*, BRED-20110801AGK, Exs. 9 & 12 (WZMB, licensed to East Carolina University, disclosed a failure to file and place in the public file biennial ownership reports for the entire duration of the license term; application granted without sanction); BRED-20110719ABD, Exs. 9 & 12 (WWCU, licensed to Western Carolina University, disclosed a failure to timely file and place in the public file two biennial ownership reports during the license term; application granted without sanction). The applicant respectfully requests similar treatment for W18BB-D with respect to its omission from the applicant’s timely filed 2017 biennial ownership report.