



Federal Communications Commission
Washington, D.C. 20554

September 13, 2021

Sent via Certified Mail and Electronic Mail

Brenda Barnhart, Executrix
212 Rock Street
Pomeroy, OH 45769
wjostv@yahoo.com

In re: WJOS-LD, Pomeroy, OH
Facility ID No. 72479

Notification of License Expiration

Dear Licensee:

The station referenced above was licensed on digital channel 45.¹ Pursuant to the Commission's *Incentive Auction R&O*, low power television and television translator stations on channel 45 were required to cease operations no later than the end of the post-Incentive Auction transition period: July 13, 2020.² It appears the Station has been silent for the prior 12 consecutive month period. There is no Commission record that the station has resumed operations by July 13, 2021. Therefore, pursuant to section 312(g) of the Communications Act of 1934, as amended (Act),³ the station's license has expired as a matter of law.⁴

This letter provides you 30 days to provide evidence⁵ that our information is incorrect and that, in fact, the station operated with authorized facilities since July 13, 2020. Please provide the operational status of the station since July 13, 2020, including the date(s) the station has been silent, the date(s) the station operated, and the channel(s) on which the station operated. We also note that in the station's license renewal application, which was filed on June 1, 2021, almost eleven months after the station was required to go silent, the licensee certified that the station was "currently on the air broadcasting

¹ See CDBS File No. BLDL-20120614ABJ.

² See *In the Matter of Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567, 7021-22, paras. 128-29 (2014) (*Incentive Auction R&O*).

³ See 47 U.S.C. §312(g); *Eagle Broad. Group, Ltd. v. FCC*, 563 F.3d 543 (D.C. Cir. 2009); *A-O Broad. Corp.*, Memorandum Opinion and Order, 23 FCC Rcd 603 (2008).

⁴ 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. 47 U.S.C. §312(g).

⁵ This evidence must indicate the location, effective radiated power and antenna height above ground level for **all periods of operation**. Also include copies of all leases, personnel records (including payroll records appropriately redacted to protect the privacy of individual employees), engineering records, and station records, including EAS logs, for all periods. In addition, you must provide copies of all invoices, bills, checks written or received, credit card charges, wire transfers or deposits of funds relating to the Station's operation. In addition, if the Station uses accounting software to maintain financial records, provide printouts of the data recorded for this period. You **must also include pictures** of the Station's studio facilities and transmission facilities during this timeframe and provide exact Station coordinates.

programming intended to be received by the public.”⁶ Please clarify whether this certification was accurate, what channel the station was operating on, and under what authorization the station was operating. If the certification was incorrect, please provide an explanation. The written response to this letter must be supported by a declaration by an individual with personal knowledge of the facts and signed under penalty of perjury that the facts and information provided in the response are both true and correct.

If you fail to provide such documented evidence within 30 days from the date of this letter or provide a showing that reinstatement is warranted pursuant to the equity and fairness provision of section 312(g),⁷ the Commission's public and internal databases **WILL BE MODIFIED** to indicate that the broadcast license for the referenced station is **EXPIRED**, that the station's license is **CANCELED** as a matter of law, and that the station's call sign is **DELETED**.

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 owner of the towers 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 licenses.⁸

Documents sent in response to this letter shall be addressed to FCC, Office of the Secretary, 45 L Street, NE, Washington, DC 20554, and emailed to Shaun Maher at the address below.

Please direct any questions concerning the content of this letter to Shaun Maher, Attorney, phone (202-418-2324), or e-mail (Shaun.Maher@fcc.gov).

Sincerely,

/s/

Barbara Kreisman
Chief, Audio Division
Media Bureau

cc (via electronic mail): Benjamin Perez

⁶ See LMS File No. 0000149111.

⁷ See e.g., *A-O Broad. Corp.*, Memorandum Opinion and Order, 23 FCC Rcd 603, 617, para. 27 (“This limited, discretionary provision is phrased as an exception to the general rule that most affected licenses will be forfeited”). The Commission has exercised its authority to reinstate an expired license to “promote equity and fairness” only where the station failed to provide service for 12 consecutive months due to compelling reasons beyond the licensee's control. See, e.g., *V.I. Stereo Communications Corp.*, Memorandum Opinion and Order, 21 FCC Rcd 14259 (2006); *Community Bible Church*, Letter, 23 FCC Rcd 15012, 15014 (MB 2008); *Mark Chapman, Court-Appointed Agent*, Letter, 22 FCC Rcd 6578 (MB 2007). The Commission has declined to reinstate licenses where the failure to transmit a broadcast signal was due to the licensee's own actions, finances, and/or business judgment. See, e.g., *A-O Broadcasting*, 23 FCC Rcd at 617, para. 27; *ETC Communications, Inc.*, Letter, 25 FCC Rcd 10686 (MB 2010); *Kirby Young*, Letter, 23 FCC Rcd 35 (MB 2008).

⁸ 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).