



Federal Communications Commission
Washington, D.C. 20554

October 18, 2023

SENT VIA CERTIFIED MAIL AND ELECTRONIC MAIL

New York Spectrum Holding Company, LLC
Michael Do
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Suite 115
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Re: Letter of Inquiry
WNYX-LD, New York NY
WNYX-LD, New York NY
Facility ID Nos. 29233 and 29236
LMS File Nos. 0000209069,
0000209071, 0000217987 and
0000217985

Dear Licensee:

The Video Division of the Media Bureau (Bureau) is issuing this letter of inquiry (LOI) to develop the record regarding the operational status of the above-captioned low power television (LPTV) stations WNYX-LD, New York, New York (WNYX-LD) and WNYX-LD, New York, New York (WNYX-LD), (collectively Stations) licensed to New York Spectrum Holding Company, LLC (NYSHC or Licensee). Based on information received by the Commission it appears the Station may have been silent for more than one year.¹ This letter provides you **thirty (30) days** to provide evidence that the Station has either not been silent for more than one year or went silent but returned to the air with authorized facilities prior to its one-year silent anniversary.

Operational History. The Stations are LPTV stations licensed to operate on channels 5 (WNYX-LD) and 10 (WNYX-LD) with shared facilities.² Since the grant of its last license renewal application in March 2016, the Stations have had a spotty record of operations, have gone silent on numerous occasions for extended periods of time in many cases only to resume operations days prior to their one-year silent anniversary and then almost immediately going silent again.³ Each time, NYSHC maintained that the Stations had gone silent due to ongoing negotiations with the Stations' proposed tower owners.⁴

¹ Section 312(g) of the Communications Act of the 1934 (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. *See* 47 U.S.C. § 312(g). *See e.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) (*A-O Broad.*).

² *See* LMS File Nos. 0000060581 and 0000063306.

³ *See e.g.,* LMS File Nos. 0000062935, 0000063318, 0000063479, 0000072179, 0000072180, 0000083804, 0000084381, 0000085661, 0000085655, 0000113328, 0000113330, 0000124410, 0000124272.

⁴ *Id.*

Most recently, on July 19, 2022, NYSHC filed a request for silent authority stating that the Stations were taken silent on July 18, 2022, while their facilities “are being moved to a new tower and transmitter site” as authorized by their minor modification construction permits granted six months prior in January 2022.⁵ Those requests for silent authority were granted on August 5, 2022 and later renewed in January 2023.⁶ One day prior to its one-year silent anniversary, on July 17, 2023, NYSHC filed requests for engineering STA for the Stations to resume operations using a temporary facility.⁷ NYSHC recognized in its STA its fast approaching section 312(g) deadline stating that it “must return to on-air operation by 11:59 pm July 17, 2023.” It stated further that “[a]fter significant delays finalizing a lease at the site in the (Stations’) outstanding construction permits and without the ability to return to the authorized site in its license(s) . . . NYSHC seeks authority to operate from a new site in order to get the station back on the air before the one-year off air deadline.”⁸ NYSHC went on to represent that it “has located a new site (at the Trump Palace in New York City) at which it can install its equipment expeditiously and is contemporaneously filing application(s) for modification to move to this new site.”⁹

In a letter dated July 17, 2023, the Bureau granted the Stations’ engineering STAs with certain conditions.¹⁰ The STAs stated that they would expire on August 16, 2023, and were conditioned upon NYSHC providing certain information, in writing, to the Bureau no later than July 31, 2023.¹¹ This information that NYSHC was required as a condition of its STA to provide to the Bureau included: 1) evidence that the facilities set forth in the STA requests have been constructed, including, photographs of the Stations’ equipment in operating condition and any written leases or other documentation with the owner or designated representative of the antenna structure; 2) evidence that the facilities have been operating during the term of STA and the programming that was aired on each Station; 3) an affidavit from any person(s) who took any requested photographs that describes what is depicted in the photographs, where and when the photographs were taken, and an attestation by the photographer verifying the accuracy of the date of the photographs and the images depicted therein; 4) a detailed timeline plan for how the Stations intend to complete construction of the permanent facilities set forth in their outstanding construction permits including dates for each step of the plan, an estimated date for completion, and any supporting documentation; and 5) a demonstration of how the Stations intend to continue operating and evidence that they have the ability to continue operating from their temporary facilities until construction of the Stations’ permanent facilities are complete.¹²

On July 17, 2023, NYSHC filed notices that the Stations had resumed operations that day and “the technical parameters of operation are those set forth in the Special Temporary Authority. . . .”¹³

⁵ See LMS File Nos. 0000178115 and 0000195282.

⁶ See LMS File Nos. 0000207062 and 0000207063.

⁷ See LMS File Nos. 0000217987 and 0000217985.

⁸ *Id.*

⁹ *Id.*

¹⁰ See Letter to New York Spectrum Holding Company, LLC from Mark J. Colombo, Associate Chief, Video Division (July 17, 2023) (STA), copies of which are available at LMS File Nos. 0000217987 and 0000217985).

¹¹ STA at 1.

¹² *Id.* at 2.

¹³ See LMS File No. 0000218042.

NYSHC STA Condition Response. On July 31, 2023, in a series of e-mails to staff, NYSHC submitted documents in response to the STA conditions.¹⁴ NYSHC included a written statement that the Stations were rebroadcasting the programming of Station W33ET-D, New York, New York (W33ET-D).¹⁵ NYSHC further provided a description and a catalog picture of the Stations' shared antenna and a timeline for completing construction in which it proposed to "file an application this week to modify its exist (sic) construction permits at the Empire State Building for Stations WNX-Y-LD and WNYX-LD, to provide for a new site at the Trump Palace."¹⁶ NYSHC reported that "[n]ew equipment has been ordered that will be specified in the modification applications, and delivery is expected to be quick."¹⁷ NYSHC went on to assert that "[i]f the modification applications are granted the week of August 7th, then construction of the new facilities can be completed prior to August 16th."¹⁸ Finally, NYSHC concluded that "[g]iven the short deadline proposed above, NYSHC will have the ability to continue operating from their temporary facilities until construction of the Stations' permanent facilities are complete."¹⁹

Sworn Statements. NYSHC submitted several sworn statements in support of its contention that it had completed construction of the Stations and commenced operations on July 17, 2023. First NYSHC included the sworn statement of its principal, Charles Wong, wherein he declared that he had read the documentation included with NYSHC's response and that "the statements therein are true and correct to the best of my knowledge, information, and belief."²⁰ Mr. Wong further declared that all of the information requested in the STA "that is in NYSHC's possession, custody, control, or knowledge has been produced, and any and all documents provided in its responses are true and accurate copies of original documents."²¹

NYSHC also submitted the sworn statement of Ricardo Corrales, executed July 31, 2023, "an employee of J.A. Lee" who was hired to install the Stations' equipment.²² Mr. Corrales stated that he "took the photos to which are attached to this Declaration on July 31, 2023" and those photos "depict the transmitters, antennas, monitors and cabling for the installations my team and I did at the (Trump) Palace."²³ Mr. Corrales adds that "[t]he date on the photographs is accurate, and the photos accurately depict the equipment and signals of Stations WNX-Y LD and WNYX LD, as they are currently operating."²⁴

¹⁴ Letter from New York Spectrum Holding Company to Video Division, Media Bureau (Jul. 31, 2023) (Condition Response). Copies of the e-mails and all attached documents referred to herein can be found at LMS File Nos. 0000217987 and 0000217985.

¹⁵ Condition Response – Attachment "Programming on Ch 5 and Ch 10" (Programming). We note that W33ET-D, Fac. ID No. 60554, is licensed to Major Market Broadcasting of New York Inc.

¹⁶ *Id.* Condition Response at 2.

¹⁷ *Id.*

¹⁸ *Id.* We note that that over two months later still no modification applications have been filed.

¹⁹ *Id.*

²⁰ Condition Response – Attachment – "Declaration of Charles Wong, July 31, 2023."

²¹ *Id.*

²² Condition Response – Attachment – "Declaration of Richard Corrales, July 31, 2023" (Corrales Declaration).

²³ *Id.*

²⁴ *Id.*

Finally, NYSHC submitted the sworn statement, executed on July 31, 2023, of Tom Crowley, the President of NAMSI, LLC, who is responsible for overseeing and approving leases for space on Trump Palace.²⁵ Mr. Crowley stated that he authorized NYSHC to locate operating facilities at Trump Palace and “given the very short window for getting the stations on the air, I allowed them to install and commence operations with facilities sought in the now granted (STA) ... before a written lease was signed.”²⁶ Mr. Crowley went on to state that “[e]fforts to document a lease are ongoing and moving forward.”²⁷

Facility Photographs. NYSHC submitted a series of photographs depicting the constructed facilities. The first set of photographs were labeled “As built facilities Ch 5 and Ch 10 - Photos taken 7-31-23 5:35-5:40 PM.”²⁸ This showed three photographs of various pieces of equipment and included notations that they were taken on July 31, 2023, at 5:40 p.m. ET and the coordinates and address of where they were taken – 1150 Third Avenue, New York, New York.²⁹ In the second series of photographs, NYSHC provided photographs of the Stations’ equipment including the notation: “Photos of . . . NYC Chs. 5 and 10 -- Facility ID Nos.: 29233 and 29236 - All Shot today 7/31/23 and sent at 4:38 pm.”³⁰

Inconsistencies in NYSHC Response. Missing from NYSHC responsive documents was any documentary evidence to discern where and when the various photographs were taken, photographic evidence that the Stations were in operation on July 17, 2023, the date they were reported to have resumed operations, and photographs of any of the Stations’ programming as it aired. In fact, the photographs and subsequent statement from Mr. Corrales to Division staff appear to indicate that the Stations began operations on July 31, 2023, *not* July 17, 2023 as NYSHC represented.³¹ This was confirmed during a phone call that occurred on August 30, 2023, between Bureau staff, Mr. Corrales, and another employee of J.A. Lee, Chris Lee (August Phone Call). During the August Phone Call, Mr. Corrales confirmed that the pictures were taken on the day construction was completed, which according to Mr. Corrales was July 31, 2023.³² Mr. Corrales again confirmed this in an e-mail response to Bureau staff (Bureau Confirmation) in which he verified the accuracy of the following written statement: “The pictures were taken on July 31, 2023, as time stamped, which was also the date the installation was conducted and completed.”³³

²⁵ Condition Response – Attachment “Declaration of Tom Crowley, July 31, 2023.”

²⁶ *Id.*

²⁷ *Id.*

²⁸ Condition Response – Attachment – “Photos of NYSHC Ch 5 and Ch 10 Facilities as of 7-31-23” at 1-3 (Photos).

²⁹ *Id.*

³⁰ *Id.* at 4-6.

³¹ *Id.* at 2-3; *See infra* n. 33.

³² We note that between August 1 and August 30, 2023, Division staff made numerous attempts by e-mail and phone, through the Licensee’s counsel, to arrange a phone call with the Licensee and those involved in the construction of the facility. The Licensee failed to respond to those requests and as such Division staff proceeded with contacting and speaking with though involved in construction without the Licensee being present. Counsel for the Licensee was informed of this fact and did not object. The information provided by Mr. Corrales during the phone call was confirmed in writing by Division staff.

³³ E-mail from Richard Corrales to Mark Colombo, Associate Chief, Video Division (Sept. 21, 2023) (Corrales E-mail).

In addition, the photographs themselves reveal additional problems. Most notably, while the photograph of the antennas installed shows the correct antennas, at least one is oriented incorrectly. The STAs specify that the antennas must be aimed at 70 degrees and 315 degrees, a difference of 115 degrees. Oriented correctly, the two antennas should have formed an “L” shape slightly wider in angle than a perfect “L”.³⁴ The photographs supplied by NYSHC clearly show two antennas that are back-to-back and are thus aimed approximately 180 degrees from each other in azimuth.³⁵ In addition, given the background terrain in the photos that appears to be New York’s Central Park, it appears that the antenna that was supposed to be aimed at 70 degrees (east-northeast) was actually aimed in a western direction and the antenna that should have been aimed at 315 degrees (northwest) was aimed in an eastern direction.³⁶ Therefore, it appears from NYSHC own photographic evidence that the Stations’ antennas were not installed in accordance with the terms of the STA. The improper orientation of the Stations’ antennas was confirmed during the August Phone Call when Division staff was informed that those installing the antennas were not given any specific instructions with regards to the aim of the antennas. This was later confirmed by Mr. Corrales when he verified the following written statement from the Bureau Confirmation: “The outdoor antennas are not aimed at any particular azimuth.”³⁷

Additionally, in the photograph showing the inside of one of the transmitter cabinets, the receiver appears to be tuned to channel 20, which is the channel for WNYK-LD, Teaneck, New Jersey (WNYK-LD).³⁸ This is inconsistent with NYSHC’s statement that the stations were rebroadcasting the programming of W33ET-D, which broadcasts on channel 33.³⁹ As such, it appears that at least one of the stations – WNYK-LD – was airing programming different from what NYSHC stated in the Condition Response. Section 74.784(b) of our rules states that a station cannot rebroadcast another station without its permission.⁴⁰ Further, given the lack of photographic evidence that the station was airing programming, it is unclear whether or not the station was successfully rebroadcasting the programming of any station – be it WNYK-LD or W33ET-D – and thus whether it was airing any programming at all.

Letter of Inquiry. Given the above-outlined inconsistencies based on the information provided by NYSHC and information subsequently obtained by Bureau staff, there appears to be a material questions of fact as to whether the Stations (a) actually commenced operation on July 17, 2023, as represented in the Resumption Notice; (b) when the Stations resumed operation whether they did so pursuant to the STA parameters; and (c) what programming the Stations were rebroadcasting and whether they had permission to rebroadcast that programming.

The attachment to this LOI includes inquiries to which Licensee must respond, filing requirements, instructions for your response, and definitions for certain terms used in this LOI. Licensee’s response to this LOI should be filed in accordance with the instructions set forth in the attachment.

³⁴ Photos at 4-5.

³⁵ *Id.*

³⁶ *Id.*

³⁷ Corrales E-mail, *infra* n. 33.

³⁸ WNYK-LD, Facility ID No. 74502, is licensed to Local Media TV New York, LLC.

³⁹ Programming at 1.

⁴⁰ 47 CFR § 74.784(b).

This LOI constitutes an order of the Commission to produce the documents and information requested herein.⁴¹ To knowingly or willfully make any false statement, to provide incorrect or misleading material factual information, or to conceal any material fact in reply to this letter may subject Licensee to sanction including fine and license revocation.⁴² As an alternative to a written response to this LOI, you may submit the Station's license for cancellation and request withdrawal of all pending applications in the Commission's Licensing and Management System.

If you fail to provide the information requested **within 30 days from the date of this letter demonstrating that the Station resumed operation no later than July 18, 2023**, we will conclude that the Station has been silent since July 18, 2022, and the Commission's public and internal databases **WILL BE MODIFIED** to indicate that pursuant to section 312(g) of the Act the broadcast license for the referenced station **IS EXPIRED**, that the station's license **IS CANCELED** as a matter of law, that the station's call sign **IS DELETED**, and any pending applications will **BE DISMISSED**.

If you have any questions about this matter, please contact Shaun Maher, Attorney-Advisor, Video Division, at (202) 418-2324 or Shaun.Maher@fcc.gov.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail):
Kathleen Victory, Esq.
Paul Feldman, Esq.

⁴¹ See 47 U.S.C. § 155(c)(3).

⁴² See 18 U.S.C. § 1001; see also 47 CFR § 1.17. See, e.g., *William L. Zawila*, Order to Show Cause, Notice of Opportunity for Hearing, and Hearing Designation Order, 18 FCC Rcd 14938, 14964 (2003) (motive present to misrepresent completion of construction), licenses revoked, Summary Decision, FCC 17M-28, 2017 WL 3499740 (ALJ, Aug. 10, 2017); *Net One International, Net One, LLC, Farrahtel International, LLC*, Forfeiture Order, 29 FCC Rcd 264, 267, para. 9 (EB 2014) (imposing \$25,000 penalty for failure to respond to LOI) (forfeiture paid); *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7600, para. 28 (2002) (imposing \$100,000 penalty for failing to submit a sworn written response) (forfeiture paid).

ATTACHMENT

Inquiries: Information and Documents to be Provided

You must provide the following information and documents as requested below, and in accordance with the Instructions and Definitions that follow the inquiries. To ensure you provide complete and full responses to all inquiries, carefully review the Definitions that follow these inquiries and the Instructions regarding Document production and retention.

Unless otherwise indicated, or necessary to accurately and fully respond to an inquiry, the time covered by these inquiries is **July 17, 2023 to the present**.

Requests for Information

1. Answer the following and produce all Documents that support your responses regarding the operation of the Stations' facilities:
 - a. Provide the following information related to the Stations purported operations under the STA:
 - i. the manufacturer, make, model, and serial number of all equipment installed at all sites, and the dates on which construction was completed for each such site;
 - ii. copies of any and all purchase orders, invoices and bills related to the construction of such facilities including equipment invoices, bills of lading, tax invoices, installation and service invoices, invoices for engineering services, invoices for legal services, and copies of payment of such invoices;
 - iii. the current operational status of the Stations. If the Stations are currently silent, please provide the date the Stations discontinued operations. For any period of operation, provide visual evidence of the Stations' programming as it aired, the Stations' programming source (i.e., satellite dish/receiver, playout server, internet, rebroadcasting another station, etc.), copies of the Stations' EAS and program logs and any other evidence that would demonstrate the Stations' operations; and
 - iv. identify any Person or entity (whether compensated or not) that performed any services, performed any work for, assisted NYSHC in securing the Stations' transmitter sites, and provided equipment or other goods, services or merchandise related to the construction or operation of the Stations. Provide the mailing address, email address, and telephone number for all such Persons.
2. Explain the inconsistency between NYSHC's statement made in its July 17, 2023 resumption notice that it had resumed operations on July 17, 2023 and statements made by its contractor that the Stations were in operation on July 31, 2023.
3. Provide an affidavit made under penalty of perjury and signed and dated by all persons involved in the commencing of operations on July 17, 2023 from Trump Palace. If the Station did not commence operations on July 17, 2023, as stated in the Resumption Notice, provide an explanation as to why the date the Stations' resumed operations was misrepresented in Commission filings.
4. Provide an explanation as to why the equipment displayed in the July 31, 2023 photographs does not appear to have been installed pursuant to the terms of the STA, notably the antennas appear to not be properly installed and the Station appears to be rebroadcasting a different channel from the one specified in the Condition Response.
5. Provide a precise timeline of the Licensee's plans to construct permanent facilities for the Stations.

6. Provide any additional information that Licensee believes may be helpful in our consideration and resolution of this matter.
7. Provide copies of all Documents that serve as the basis for the responses to all the Inquiries above, to the extent not already requested above.
8. Provide the full legal name of each Person employed or relied upon by Licensee to respond to or answer this LOI. Provide the mailing address, email address, and telephone number for all such Persons.
9. Licensee is expected to reply a complete response by the deadline. **If Licensee cannot provide all requested information or Documents by the deadline, it must submit all information it is able to obtain by the deadline, fully explain why certain information could not be provided, and indicate when such information will be submitted. We also remind Licensee that it is Commission policy that extensions of time shall not be routinely granted.**¹

Filing Requirements

Affidavit Requirement. We direct Licensee to support its responses with an affidavit or declaration **made under penalty of perjury, signed and dated by an authorized officer of Licensee with personal knowledge of the representations provided in Licensee's response.** The affidavit or declaration **must verify the truth and accuracy of the information therein, state that all of the information requested by this letter that is in Licensee's possession, custody, control, or knowledge has been produced, and state that any and all Documents provided in its responses are true and accurate copies of the original documents.** In addition to such general affidavit or declaration of the authorized officer of Licensee described above, if such officer (or any other affiant or declarant) is relying on the personal knowledge of any other individual rather than his or her own knowledge, and if multiple Licensee employees contribute to the response, Licensee shall provide separate affidavits or declarations of each such individual with personal knowledge that identify clearly to which responses the affiant or declarant with such personal knowledge is attesting. All such declarations provided must comply with 47 CFR § 1.16, and be substantially in the form set forth therein. Failure to support your responses with a sworn affidavit could subject you to forfeiture. **All affidavits provided in response to this letter must include the full legal name of and contact information for the signatory (address, phone number, and e-mail address (if applicable)).**

Delivery Requirements. Licensee shall both send its response by commercial overnight courier or by First-Class or overnight U.S. Postal Service mail and transmit an electronic copy to the individuals designated below.

If sent by commercial overnight mail (other than U.S. Postal Service Express Mail or Priority Mail), the response should be sent to the attention of Shaun Maher, Attorney-Advisor, Video Division, Media Bureau, Federal Communications Commission, BrightKey, 9050 Junction Drive, Annapolis Junction, MD 20701.

If sent by first-class, Express, or Priority Mail, the response should be sent to Shaun Maher, Attorney-Advisor, Video Division, Media Bureau, Federal Communications Commission, 45 L Street, NE, Room 4-444, Washington, DC 20554.

¹ 47 CFR § 1.46(a); see Communications Satellite Corporation and Contel Corporation for Approval of Merger, Order, 2 FCC Rcd 76, para. 3 (CCB 1986) (denying request for extension of time due to upcoming holidays as inadequate).

Electronic Copy. Licensee shall also transmit a copy of the response and any attachments or exhibits via email to VideoLOI@fcc.gov and Shaun.Maher@fcc.gov. The electronic copy shall be produced in a format that allows the Commission to access and use it, together with instructions and all other materials necessary to use or interpret the data, including record layouts, data dictionaries, and a description of the data's source.

Instructions

Format of Responses. The response must be organized in the same manner as the questions asked, i.e., the response to Inquiry 1 should be labeled as responsive to Inquiry 1, etc.

Method of Producing Documents. Licensee shall submit each requested Document in its entirety, even if only a portion of that Document is responsive to an inquiry made herein, including all appendices, tables, or other attachments, and all other documents referred to in the Document or attachments. Licensee shall not edit, cut, expunge, or otherwise take any action to modify any Document submitted in response to this LOI. In addition to any Document Licensee submits in response to any inquiry, Licensee shall also submit all written materials necessary to understand any Document responsive to these inquiries.

Identification of Documents. For each Document or statement submitted in response to the inquiries stated in the cover letter, indicate, by number, to which inquiry it is responsive and identify the persons from whose files the document was retrieved. If any Document is not dated, state the date on which it was prepared. If any Document does not identify its authors or recipients, state, if known, the names of the authors or recipients. Licensee must identify with reasonable specificity all Documents provided in response to these inquiries.

Documents No Longer Available. If a Document responsive to any Inquiry made herein existed but is no longer available, or if Licensee is unable for any reason to produce a Document responsive to any Inquiry, identify each such Document by author, recipient, date, title, and specific subject matter, and explain fully why the Document is no longer available or why Licensee is otherwise unable to produce it.

Retention of Original Documents. With respect only to Documents responsive to the specific Inquiries made herein and any other Documents relevant to those Inquiries, Licensee is directed to retain the originals of those Documents for 60 months from the date of this letter unless (a) Licensee is required to retain Documents for a longer period of time pursuant to a Commission order or rule; (b) Licensee is directed or informed by the Bureau in writing to retain such Documents for some shorter or longer period of time; or (c) the Bureau or the Commission releases an item on the subject of this investigation, including, but not limited to, a Notice of Apparent Liability for Forfeiture or an order disposing of the issues in the investigation, in which case, Licensee must retain all such Documents until the matter has been finally concluded by payment of any monetary penalty, satisfaction of all conditions, expiration of all possible appeals, conclusion of any enforcement action brought by the United States Department of Justice, or execution and implementation of a final settlement with the Commission or the Bureau.

Confidentiality. In addition to providing the requested information and documents, any request for confidentiality of certain information or documents must strictly comply with the requirements of

section 0.459 of the Commission's rules,² including a statement of the reasons for withholding the materials from inspection. The request must include a schedule of the information or documents for which confidentiality is requested that states, individually as to each such item, the information required by section 0.459(b) of the Commission's rules including, but not limited to, identifying the specific information for which confidential treatment is sought; explaining the degree to which the information is commercial or financial, or contains a trade secret or is privileged; and explaining how disclosure of the information could result in substantial competitive harm.³ Accordingly, a "blanket" request for confidentiality or a casual request, including simply stamping pages "confidential," will not be considered a proper request for confidentiality, and those materials will not be treated as confidential.⁴

Claims of Privilege. If the Licensee withholds any information or documents under claim of privilege, it shall submit, together with any claim of privilege, a schedule of the items withheld that states, individually as to each such item: the numbered inquiry to which each item responds and the type, title, specific subject matter and date of the item; and the specific grounds for claiming that the item is privileged.

Prior Responses. If a document responsive to any inquiry made herein has already been provided to the Commission during this or any other investigation, identify each such document, when and how it was produced, and the facility identification number under which such document was filed.

Definitions

For purposes of this LOI, the following definitions apply. The definitions in this section apply regardless of whether the first letter of the defined term appears in upper or lower case.

"Document" shall mean the complete original (or in lieu thereof, exact copies of the original) and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any taped, recorded, transcribed, written, typed, printed, filmed, punched, computer-stored, electronically-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated, or made.

"NYSHC" or "Licensee" shall mean New York Spectrum Holding Company, LLC and any predecessor-in-interest, affiliate, parent company, wholly or partially owned subsidiary, other affiliated company or business, and all owners including, but not limited to, trustees, partners or principals, and all directors, officers, employees, time brokers, or agents, including consultants and any other persons working for or on behalf of NYSHC at any time during the period covered by this LOI, whether in exchange for compensation or on a voluntary or other basis. Although this LOI refers to NYSHC to collectively include each person or entity listed in this definition, any responses must specifically detail and distinguish between the actions or responsibilities of each entity or individual.

² See 47 CFR § 0.459.

³ See 47 CFR § 0.459(b).

⁴ See 47 CFR § 0.459(c). If the [Licensee] withholds any information or documents under claim of privilege, it shall submit, together with any claim of privilege, a schedule of the items withheld that states, individually as to each such item: the numbered Inquiry to which each item responds and the type, title, specific subject matter and date of the item; the names, addresses, positions, and organizations of all authors and recipients of the item; and the specific grounds for claiming that the item is privileged.

“Person” shall mean any natural person or any non-natural person, including but not limited to a business, company, corporation, enterprise, institution, organization (educational, religious, or otherwise), partnership, proprietorship, or any other entity, whether for-profit or non-profit and whether of general or limited liability and all of such non-natural person’s advisers, agents, consultants, directors, employees, members, officers, owners, partners, principals, representatives, and any other persons working for or on behalf of the foregoing, whether in a paid or unpaid status.

“STA” shall mean the special temporary authority granted in LMS File Nos. 0000217987 and 0000217985.

“Stations” shall mean WNYX-LD, New York, New York and WNYX-LD, New York, New York, Facility ID Nos. 29233 and 29236.

“Transmitter Site” shall mean the permanent, physical location, and all associated equipment necessary for the transmission of broadcast television programming consistent with Part 73 and Part 74 of the Rules and as specified in any construction permit or authorization granted to the Stations.