



Federal Communications Commission
Washington, D.C. 20554

January 23, 2024

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED AND E-MAIL

Southern Media Interactive LLC
PO Box 876
Fitzgerald, GA 31750
wdorminy@scpdist.com

In re: WSN(AM), Brunswick, GA
Facility ID No. 29131
W279BC, Brunswick, GA
Facility ID No. 151451

**Second Operational Status Inquiry –
Response Required**

Dear Licensee:

We hereby request that you clarify and supplement your response (Response)¹ to our August 2, 2023, Operational Status Inquiry (LOI).² The LOI requested that you provide a narrative statement and supporting documentation regarding your operation of WSN(AM), Brunswick, Georgia, and its associated FM translator, W279BC, Brunswick, Georgia, between April 25, 2022, and the present. While you did submit a narrative statement and some documents in response to the LOI, the Response did not include all of the information and/or materials that we requested, and contained information that conflicted with information in the Commission's records. Accordingly, we request that you clarify certain aspects of the Response, and submit the information and materials set forth in the Attachment. You must do so within **30 days** of the date of this letter.

This letter constitutes an order of the Commission to produce the documents and information requested herein.³ To knowingly or willfully make any false statement, or conceal any material fact in reply to this letter, is punishable by fine or imprisonment.⁴ **Failure to respond appropriately to this letter constitutes a violation of the Act and the Commission's rules.**⁵

¹ Letter from Cary S. Tepper, counsel for Southern Media Interactive LLC, to Marlene S. Dortch, Secretary, FCC (dated Sept. 18, 2023); Letter from Tammy Minshew, Southern Media Interactive LLC, to Marlene S. Dortch, Secretary, FCC (dated Oct. 23, 2023) (collectively, Response).

² Letter from Albert Shuldiner, Chief, Audio Division, Media Bureau, to Southern Media Interactive LLC (dated Aug. 2, 2023).

³ See 47 U.S.C. § 155(c)(3).

⁴ See 18 U.S.C. § 1001; see also 47 CFR § 1.17.

⁵ See 47 U.S.C. § 503(b)(1)(B); see also e.g., *Aura Holdings of Wisconsin, Inc.*, Notice of Apparent Liability for Forfeiture, 33 FCC Rcd 3688, 3696, para. 21 (2018), *aff'd*, Forfeiture Order, 34 FCC Rcd 2540 (2019) (imposing a \$19,693 penalty for failure to respond to letter of inquiry); *ABC Fulfillment Services LLC d/b/a HobbyKing USA LLC and HobbyKing.com*, and *Indubitably, Inc. d/b/a HobbyKing USA LLC, HobbyKing and HobbyKing.com*, Notice of Apparent Liability for Forfeiture, 33 FCC Rcd 5530 (2018) *aff'd*, Forfeiture Order, 35 FCC Rcd 7441 (2020), *recon. denied*, Memorandum Opinion and Order, 36 FCC Rcd 10688 (2021) (imposing \$39,278 forfeiture for failure to respond to letter of inquiry).

The Attachment to this letter includes filing requirements and instructions for your response and definitions for certain terms in this letter. Requests for confidential treatment or claims of attorney-client privilege or attorney work product must strictly meet the requirements stated in the attached instructions.

If you have any questions about this matter, please contact Heather Dixon at 202-418-1132, or Heather.Dixon@fcc.gov.

Sincerely,

Albert Shuldiner
Chief, Audio Division
Media Bureau

Attachment

ATTACHMENT

Information and Documents to be Provided

Licensee must provide the following information and documents as requested below, and in accordance with the Instructions and Definitions that follow the Inquiries. To ensure that Licensee provides complete and full responses to all inquiries, Licensee should carefully review the Definitions that follow these Inquiries and the Instructions regarding Document production and retention. We retain the right to ask Licensee for additional information and documents.

Inquiries

1. Answer the following and produce all Documents that support Licensee's responses. If Licensee is unable to provide any of the information or Documents requested below, it must explain why that is the case.
 - a. State the date in 2022 on which WSFN(AM) vacated its licensed transmitter site and went off the air. In responding to this Inquiry, Licensee must address the discrepancy between the date listed in the request for silent authority that Licensee submitted on October 31, 2022,⁶ and the Response.⁷
 - b. State whether WSFN(AM) resumed operations between the date on which it vacated its licensed transmitter site, and January 1, 2023. In responding to this Inquiry, Licensee must explain the inconsistent statements made to the Commission regarding this time period. Specifically, Licensee must explain why the Commission's records indicate WSFN(AM) was silent from September 1, 2022, to January 1, 2023,⁸ while the Response suggests WSFN(AM) went back on the air at some point before November 1, 2022, and then went back off the air on that date and remained silent until January 1, 2023.⁹ If WSFN(AM) did resume operations between the date on which it vacated its licensed transmitter site, and January 1, 2023, Licensee must (1) state the dates on which WSFN(AM) operated, and the effective radiated power, antenna height above ground level and geographic coordinates and address for those operations, (2) provide the name, official mailing address, email address, and telephone number of all property owners, tower owners, and/or tower managers of any site WSFN(AM) utilized during this time period, and (3) submit all Documents related to WSFN(AM)'s use of any tower or transmitter site during this time period, including but not limited to purchase or rental contracts, invoices, receipts of payment, tax receipts, and utility bills.
 - c. State the effective radiated power, antenna height above ground level, and geographic coordinates and address for WSFN(AM)'s operations between January 1, 2023, and the

⁶ See Application File No. 203085 (stating WSFN(AM) went silent on September 1, 2022) (WSFN Silent STA Request).

⁷ Response, at Decl. of Bill Shanks (stating that WSFN(AM) "vacated the tower property September 8, 2022").

⁸ WSFN Silent STA Request (stating WSFN(AM) went silent on September 1, 2022); Application File No. 206240 (notifying Commission that WSFN(AM) resumed operations on January 1, 2023).

⁹ Response, at Decl. of William J. Dorminy ("We turned WSFN and W279BC off Nov 1, 2022"), and Decl. of Bill Shanks ("We turned off WSFN on November 1, 2022. It was off for two months.")

present. Licensee must explain why the Response includes a declaration stating that, during this time period, WSNF(AM) has operated from a site located at 31° 08' 20.69" North, 81° 37' 28.07" West,¹⁰ which is neither the station's licensed transmitter site¹¹ nor the site specified in the special temporary authority (STA) granted to Licensee on December 15, 2022, and September 27, 2023.¹² Additionally, Licensee must provide a complete copy of the Radio Tower Lease entered into by itself and J + J Property Partners LLC on October 18, 2022.¹³

- d. Explain how Licensee has monitored (and continues to monitor) operation of WSNF(AM) with the facilities specified in the STA granted to Licensee on December 15, 2022, and September 27, 2023. As part of this explanation, Licensee must address why, until it received the LOI on August 2, 2023, it was unaware that WSNF(AM) had been off the air for months. Finally, given Licensee's admission in the Response that it is unable to remotely monitor WSNF(AM)'s operations with the facilities authorized in the STAs, Licensee must provide Documents to support its assertion that WSNF(AM) has been on the air most of 2023,¹⁴ and to support its claims in the issues/programs lists uploaded to WSNF(AM)'s online public inspection file that WSNF(AM) aired various public affairs programming in the first and second quarters of 2023. At a minimum, Licensee must submit the following Documents: (1) station logs for WSNF(AM) for January 1, 2023, to the present,¹⁵ (2) utility bills for the site specified in the STAs for this same time period,¹⁶ and (3) dated photographs of the transmission facilities utilized by WSNF(AM) during this same time period.
- e. State the dates between April 5, 2022,¹⁷ and the present, on which W279BC has operated. For each period of operation, Licensee must specify the effective radiated power, antenna

¹⁰ Response, at Decl. of Alan Alsobrook. We note that the coordinates of this site are different from those set forth in a different declaration submitted with the Response. Response, at Decl. of Bill Shanks. That declaration states that WSNF(AM) resumed operations from 148 Arnold Estates Drive, Brunswick, Georgia 31523, which appears to be located at 31° 08' 29.889" North, 81° 37' 42.899" (NAD83).

¹¹ Application File No. BL-11446 (authorizing operation of WSNF(AM) from a site located at 31° 08' 40.00" North, 81° 34' 56.00" West).

¹² Application File Nos. BSTA-20221108AAA; 221086 (both authorizing operation of WSNF(AM) at 0.1 kilowatt operating power during daytime hours only from a site located at 31° 08' 19" North, 81° 37' 26" West (NAD 1927), and with an Isotron 160C antenna with a vertical height of 38 feet).

¹³ The copy submitted with the Response does not include Exhibit A, which purportedly describes the property that is the subject of the lease.

¹⁴ Response, at Decl. of William J. Dorminy ("From my understanding, WSNF has been on the air most of 2023."), and Decl. of Bill Shanks (WSNF(AM) is "on the air and has been for most of 2023").

¹⁵ See 47 CFR § 73.1820. If Licensee records EAS test and activation data in separate EAS logs, Licensee must provide copies of the EAS logs for WSNF(AM) for the same time period (*i.e.*, January 1, 2023, to the present).

¹⁶ The STAs authorize temporary operation of WSNF(AM) from a site located at 31° 08' 19" North, 81° 37' 26" West (NAD 1927). We acknowledge that the Response did include copies of certain utility bills. However, the geographic coordinates of the service addresses listed on these bills—7515 Blythe Island Hwy, Tower and 436 Mall Blvd, Unit D18—do not match the geographic coordinates of the site specified in the STAs.

¹⁷ The LOI erroneously focused on W279BC's operational history from April 25, 2022, to the present, based on a mistaken belief that the Enforcement Bureau investigated W279BC's operations on April 25, 2023. The

height above ground level, and geographic coordinates and address of the transmitter site. Licensee must explain why, on April 5, 2023, the FCC's Enforcement Bureau found no tower or broadcasting equipment at the site specified in W279BC's license and discovered W279BC to be operating from a tower 3.3 miles north of its licensed site.

- f. State the name, official mailing address, email address, and telephone number of all property owners, tower owners, and/or tower managers of all sites W279BC operated from between April 5, 2022, and the present, as well as all Documents related to W279BC's use of any tower or transmitter site between April 5, 2022, and the present, including but not limited to purchase or rental contracts, invoices, receipts of payment, tax receipts, and utility bills.¹⁸
 - g. Provide dated photographs of all transmission facilities utilized by W279BC between April 5, 2022, and the present.
 - h. Provide a narrative statement that describes any involvement that Bill Shanks and/or Shanks Broadcasting has in the operations and programming of WFSN(AM) and W279BC. Licensee must indicate whether there are any oral agreements or written agreements—such as an asset purchase agreement, a joint sales agreement, or a time brokerage or local marketing agreement—between itself and Bill Shanks and/or Shanks Broadcasting. If any such agreements exist, Licensee must provide a complete summary of the terms of any oral agreements, and provide complete copies of any written agreements, including all exhibits and attachments thereto.
2. Provide the full legal name of each Person employed or relied upon to respond to or answer this Second Operational Status Inquiry. Provide the mailing address, email address, and telephone number for all such Persons.
 3. Provide any additional information that Licensee believes may be helpful in our consideration and resolution of this matter.
 4. 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.
 5. Licensee is expected to provide a complete response by the deadline. If Licensee cannot provide all requested information or Documents by the deadline, it must submit all information that 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.

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**

investigation actually occurred on April 5 and 6, 2022. Accordingly, this second operational status inquiry focuses on the time period from April 5, 2022, to the present.

¹⁸ See Application File No. BLFT-20121212ACI (authorizing W279BC to operate from a site at 31° 08' 48.8" North, 81° 29' 44.4" West (NAD 83)). We acknowledge that the Response did include copies of certain utility bills. However, the service addresses listed on these bills—see *supra* note 13—do not match the geographic coordinates of W279BC's licensed site.

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.

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 Heather Dixon (c/o Keith Coburn), Attorney Advisor, Audio 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 Heather Dixon (c/o Keith Coburn), Attorney Advisor, Audio Division, Media Bureau, Federal Communications Commission, 45 L Street, NE, Washington, DC 20554.

Electronic Copy. Licensee shall also transmit a copy of the response and any attachments or exhibits via email to Heather.Dixon@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.

Public File. Because this is a preliminary investigative matter, neither this letter of inquiry nor the response is required to be included in the WSFN(AM) online public inspection file unless and until a representative of the Audio Division, Media Bureau, Federal Communications Commission states otherwise in writing.

Instructions

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

Prior Responses. If a document responsive to any inquiry made herein has already been provided to the Media Bureau during this or any other investigation, identify each such document, and when and how it was produced to the Bureau.

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.

Continuing Nature of Inquiries. The specific Inquiries made herein are continuing in nature. Licensee is required to produce in the future any and all Documents and information that are responsive to the Inquiries made herein but not initially produced at the time, date, and place specified herein. In this regard, Licensee must supplement its responses (a) if Licensee learns that, in some material respect, the Documents and information initially disclosed were incomplete or incorrect or (b) if additional responsive Documents or information are acquired by or become known to Licensee after the initial production. The requirement to update the record will continue for 60 months from the date of this letter unless: (a) Licensee is required by another Commission order or rule to retain documents for a period longer than 60 months; (b) Licensee is directed or informed by the Bureau in writing that Licensee's obligation to update the record will continue 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 the obligation to update the record will continue until the matter has been finally concluded by payment of any such 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.

If the Media Bureau determines that Licensee has continued to act/acted in violation of the Act and/or the Commission's rules, any continued noncompliant conduct after the receipt of this Second LOI may subject Licensee to additional penalties.

Construction. The terms "any" and "all," "and" and "or," and "each" and "every" shall be construed inclusively to bring within the scope of the requests for information and Documents all information and documents that might otherwise arguably be construed as outside the scope of the requests. Likewise, the singular of any word or defined term shall include the plural and the plural of any such word or defined term shall include the singular. The words "relating to" or "relate to" shall be construed to mean, whether directly or indirectly, in whole or in part constituting, containing, concerning, discussing, describing, analyzing, identifying, supporting, qualifying, confirming, contradicting, or stating.

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,¹⁹ 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.²⁰ 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.²¹

Claims of Privilege. If 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.

Definitions

For purposes of this Second Operational Status Inquiry, 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, emailed, text messaged, filmed, punched, computer-stored, electronically-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated, or made.

“Licensee” shall mean Southern Media Interactive 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, partners or principals, and all directors, officers, employees, time brokers, or agents, including consultants and any other persons working for or on behalf of Southern Media Interactive LLC at any time during the period covered by this Second Operational Status Inquiry, whether in exchange for compensation or on a voluntary or other basis. Although this Second Operational Status Inquiry refers to Southern Media Interactive LLC, 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.

“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

¹⁹ See 47 CFR § 0.459.

²⁰ See 47 CFR § 0.459(b).

²¹ See 47 CFR § 0.459(c). If 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.

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.