



Federal Communications Commission  
Washington, D.C. 20554

March 22, 2016

*In Reply Refer to: 1800B3-VM*

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Albert E. Grady, Esq.  
226 Montello Street  
Brockton, MA 02301

**In re: DWDIS(AM), Norfolk, MA**  
Facility ID No. 16977

File No. BL-19790119AE  
File No. BR-20121202ASQ

**Petition for Reconsideration**

Dear Mr. Grady:

This letter concerns the Petition for Reconsideration (Petition) filed on November 4, 2015, on behalf of Discussion Radio, Inc. ("Licensee"), Licensee of Station WDIS(AM), Norfolk, Massachusetts ("Station"), requesting reconsideration of our action on October 13, 2015, cancelling the Station's license as expired.<sup>1</sup>

**Background.** On August 5, 2015, the staff sent Discussion Radio, Inc. ("Licensee") a letter requesting clarification of the operational status of Station WDIS(AM), Norfolk, Massachusetts ("Station"), because it had received information that the Station had been off the air for over 12 months. On September 8, 2015, the Licensee filed its response (Response). Licensee stated that it took the Station off the air on June 4, 2014 when its building was condemned by the city and it was ordered to have the building demolished. It documented its efforts to demolish the building but did not state what efforts it made to locate an alternative site or a buyer in the year it was silent. Licensee also noted that it had made numerous unsuccessful efforts to fax various documents to the Commission to request authority to remain silent and to request an extension of its license beyond the 1 year period of silence.

Based on the Licensee's response, the staff found that the Station's license expired pursuant to Section 312(g) of the Communications Act, as amended,"<sup>2</sup> based on the record in this case indicating that the Station was off the air from June 2014 through the Response's date. In addition, the staff found that extension or reinstatement of the license was not warranted to "to promote equity and fairness"<sup>3</sup>

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<sup>1</sup> See *Albert E. Grady, Esq.*, Letter Order, Ref. No. 1800B3-VM (MB Oct 13, 3015)(Cancellation Letter). At the same time, the Station's license renewal application (File No. BR-20121202ASQ) was dismissed as moot, and we are treating this as a petition for reconsideration of that action, as well.

<sup>2</sup> 47 U.S.C. § 312(g) ("[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 the such station license if the holder of the station license prevails in an administrative or judicial appeal, the applicable law changes, or for any other reason to promote equity and fairness.)

<sup>3</sup> *Id.*

because the Station was taken off the air and remained silent essentially due to a business decision on the part of the Licensee not to find an alternative site promptly.<sup>4</sup>


The Licensee argues on reconsideration that its request to extend its license was not given proper consideration. It describes counsel's unsuccessful efforts to call and fax the Commission with requests to remain silent and to extend its license period beyond the one year period of silence proscribed by §312(g) of the Act. It argues that its efforts to make these requests and its interest in retaining its license in order to market the Station for sale should outweigh its prolonged period of silence and its inability to maintain the Station financially.

**Decision.** We will deny reconsideration. The Commission will consider a petition for reconsideration only when the petitioner shows either a material error in the Commission's original order or raises changed circumstances or unknown additional facts not known or existing at the time of petitioner's last opportunity to present such matters.<sup>5</sup> The Licensee has failed to meet this burden.

No error of law or fact regarding the staff's handling of the Station's license expiration is alleged in the letter requesting reconsideration. The Licensee only argues that its faxed requests for authority to remain silent or to extend its license period were not accepted for consideration. While it is not Commission practice to accept faxed documents unless specifically requested in that form,<sup>6</sup> whether those documents were acceptable and considered does not alter the fact that the Station was taken silent and remained silent for over a year. Furthermore, Licensee raises no public interest argument that would provide grounds for reinstatement of the license.

Accordingly, the Petition for Reconsideration filed by Discussion Radio Inc., Licensee of Station WDIS(AM), Norfolk, Massachusetts, IS DENIED.

Sincerely,

  
Peter H. Doyle  
Chief, Audio Division  
Media Bureau

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<sup>4</sup> The Commission has held that no equitable relief under § 312(g) is warranted when a station's extended silence is the result of a licensee's own voluntary business decision. See *Silver Fish Broad., Inc.*, Memorandum Opinion and Order, 29 FCC Rcd 15054, 15055, para. 3 (2014). The agency has only found equitable relief to be appropriate when the station's silence is for reasons beyond the licensee's control. See, e.g., *V.I. Stereo Communications Corp.*, Memorandum Opinion and Order, 21 FCC Rcd 14259, 14262, para. 8 (2006) (silence due to destruction of towers in hurricanes); *Community Bible Church*, Letter, 23 FCC Rcd 15012, 15014 (MB 2008) (silence to promote air safety after discovery that FCC and FAA records contained incorrect tower information for which licensee was not responsible); *Mark Chapman, Court-Appointed Agent*, Letter, 22 FCC Rcd 6578 (MB 2007) (silence resulting from licensee's compliance with a court order).

<sup>5</sup> See 47 CFR. § 1.106; *WWIZ, Inc.*, Memorandum Opinion and Order, 37 FCC 685, 686, para. 3 (1964), *aff'd sub nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 387 U.S. 967 (1966); and *National Association of Broadcasters*, Memorandum Opinion and Order, 18 FCC Rcd 24414, 24415, para. 4 (2003).

<sup>6</sup> Our rules and online instructions only provide for mailed paper documents in non-docketed proceedings such as this. See 47 CFR § 1.7, <https://www.fcc.gov/general/electronic-and-hard-copy-filing-address#block-menu-block-4>.