



Federal Communications Commission
Washington, D.C. 20554

May 27, 2015

Guenter Marksteiner
5244 SW Orchid Bay Drive
Palm City, FL 24990

Re: WHDN-CA, Naples, FL
Facility ID No. 25538
File Nos. BLTTA-20001208AEW and
BDCCDTL-20120629ACO

Dear Licensee:

This is with respect to the petition for reconsideration ("Petition") filed on March 12, 2015, by Guenter Marksteiner ("Licensee"), the licensee of WHDN-CA, Naples, Florida ("Station").¹ In a letter dated February 11, 2015,² the Station's license was canceled pursuant to Section 312(g) of the Communications Act of 1934, as amended ("Act"),³ for failing to transmit a broadcast signal for twelve consecutive months. At the time of cancellation Commission records indicated that the Station had been silent since January 6, 2014. For the foregoing reasons, we grant the Petition and reinstate the above captioned license, call sign, and digital construction permit.

The Petition states that the Licensee was not silent for twelve consecutive months and transmitted a broadcast signal from May 31, 2014 to June 1, 2014. The Licensee states that it was unable to maintain operation due to technical issues with its analog transmitter. Attempts to repair the transmitter and keep the Station operating beyond June 1, 2014 were unsuccessful and the Station was again forced to go silent. On April 16, 2015, the Division sent a letter to the Licensee requesting additional information about the Station's purported operation in order to ensure that its operation was consistent with the requirements of Section 312(g).⁴ The Licensee responded in a timely manner to all Commission requests.⁵ Based on the evidence provided, we find that the Licensee has demonstrated that the Station transmitted a broadcast signal consistent with Section 312(g) and was not silent for twelve consecutive months. We remind the Licensee that in order to prevent automatic expiration of its license pursuant to Section 312(g) the Station must transmit a broadcast signal, consistent with Commission precedent,⁶ no later than June 1, 2015.

¹ Petition for Reconsideration filed by Guenter Marksteiner (Mar. 12, 2015)

² Letter from Hossein Hashemzadeh, Deputy Chief, Video Division, Media Bureau to Guenter Marksteiner, licensee of WHDN-CA, Naples, FL (Feb. 11, 2015).

³ 47 U.S.C. § 312(g).

⁴ Letter from Hossein Hashemzadeh, Deputy Chief, Video Division, Media Bureau to Counsel for Guenter Marksteiner (Apr. 16, 2015).

⁵ Letter from Laurie Lynch Flick, Counsel for Guenter Marksteiner to Hossein Hashemzadeh, Deputy Chief, Video Division, Media Bureau (filed May 1, 2015).

⁶ See e.g., *A-O Broadcasting Corp.*, 23 FCC Rcd. 603, 609 (2008)(determining that equipment tests are not transmissions of broadcast signals as required by Section 312(g) of the Act); *Carlos J. Lastra, Trustee*, Memorandum Opinion and Order, 16 FCC Rcd 17268 (2001), *aff'd sub nom. per curiam, Aerco Broadcasting Corp. v. FCC*, 51 Fed. Appx. 23 (DC Cir 2002)(automatic expiration pursuant to Section 312(g) not prevented by transmission of a television test pattern).

Accordingly, in light of the facts and circumstances before us, the Petition **IS HEREBY GRANTED** and the license (File No. BLTTA-20001208AEW), call sign, and digital construction permit (File No. BDCCDTL-20120629ACO) for Station WHDN-CA, Naples, FL, **ARE REINSTATED**.

Sincerely,

Hossein Hashemzadeh
Deputy Chief, Video Division
Media Bureau