



Federal Communications Commission
Washington, D.C. 20554

March 11, 2022

Sent via electronic mail

In reply refer to: 1800B3-VM

Sally A. Buckman, Esq.
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RE: W263CD, Boyne City, MI
Facility ID No. 140609
Silent since March 1, 2021
Notice of license expiration

WFDX(FM), Atlanta, MI
Facility ID No. 49573
Silent since March 1, 2021
Operational status inquiry

Dear Ms. Buckman:

We have before us a request for Special Temporary Authority (STA) and extension of license for Station W263CD, Boyne City, Michigan (Station), licensed to William Gleich (Gleich) requesting authority to remain silent for more than 12 months.¹ Upon review of the record before us, we find that the Station's license expired as a matter of law under Section 312(g) of the Communications Act of 1934, as amended (Act).² Accordingly, we cancel the Station's license, delete the Station's call sign and dismiss the STA request as moot. In addition, Gleich is ordered to file proof within 10 days that Station WFDX(FM), Atlanta, Michigan, resumed operation prior to 12:01 a.m. on March 2, 2022.³

Background. Gleich purchased the Station and its primary station, WFDX, on July 27, 2021.⁴ At that time, both WFDX and the Station were silent due to the financial circumstances of the previous licensee.⁵

¹ See File No. BLSTA-20220301AAD.

² Section 312(g) of the Act provides that "if 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...." 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).

³ This evidence must indicate the location, effective radiated power and antenna height above ground level for **all periods of operation** from March 1, 2021 to the present. 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, and all correspondence (including emails and text messages) relating to the Station for that period of time. Finally, Gleich **must also include pictures** of the Station's facilities during this timeframe, provide exact coordinates for the Station's transmitter site, and provide a copy of any resumption notice filed with the Commission.

⁴ See Notice of Consummation, FCC File No. 0000154099.

⁵ See File No. BLSTA - 20210315AAI. Gleich claims that WFDX resumed operation on February 24, 2022, and refers to a Notice of Resumption of Operation, filed Feb. 28, 2022, but we have no record of this filing and our

In support of the requests, Gleich states that the previous owner of the Station sold the tower from which the Station broadcasts to a third party, Crown Castle, and did not enter into a lease with the tower owner for the translator transmitter site. The tower owner removed the Station's equipment from service, including taking the antenna off the tower. Upon his acquisition of the Station in July 2021, Gleich attempted to secure a tower crew to reinstall the equipment before the onset of winter in northern Michigan, but these efforts were thwarted by the unavailability of tower crews due to the COVID-19 pandemic. During winter, the tower is entirely inaccessible; therefore, Gleich has been unable to restore the Station to service. Gleich states that he is prepared to return the Station to operation as soon as weather permits this spring, which he claims will require a 120 day extension of the Station's license.

Gleich claims that a license extension under Section 312(g) would be consistent with the public interest because the Station has been unable to resume operation through no fault of Gleich. Gleich bases this claim on the facts that the combination of the COVID-19 pandemic and the onset of winter in northern Michigan have made resumption of operations impossible in the short time it has owned the Station. Gleich argues that the fact that he returned WFDX to service demonstrates his commitment to the restoration of full operations.

Discussion. Based on the forgoing discussion, we decline to grant the STA or the request for license extension pursuant to section 312(g) of the Act. Accordingly, the Station's license expired at 12:01 a.m., March 2, 2022.

Gleich's request, filed on the last date of the license prior to expiration, does not provide a basis for license extension under the fairness and equity provision of section 312(g) because it has not shown that his inability to resume operation at the Station was due to circumstances beyond his control. Gleich states that he purchased the Station in July 2021, knowing it was silent, that the tower had been sold and the antenna removed, that COVID-19 could affect hiring a crew, and that the onset of winter in Northern Michigan would be an impediment to constructing the Station.

The request is lacking specific details or documentation to support the claim that Gleich could not construct the station prior to license expiration, and does not mention any attempt to resume Station operations with temporary facilities pursuant to special temporary authority (STA) when weather conditions would have allowed such work. If tower crews were unavailable prior to the onset of winter due to COVID-19, there is no evidence presented of efforts to hire crews and their being unavailable, or the amount of time expended in this effort. Regarding the winter conditions, the request also does not state what is the date of the onset of the winter period, or how long is its expected duration. It also fails to state what those conditions entail specifically at the site that makes it inaccessible. It also fails to claim that the winter conditions this year were unusual or unforeseeable.

Finally, Gleich's claim that he resumed operation at the primary station does not provide a basis for extension because, first, we do not have a record of that resumption, but if we did, it would present a question concerning his argument that resumption was not possible in Northern Michigan during the winter months. Based on the request, we conclude that the failure to resume Station operations, particularly with potential temporary facilities pursuant to STA, involved bad planning or business decisions within Gleich's control.

Conclusion/Actions. For the reasons set forth above, we find that the license of W263CD, Boyne City, Michigan (Facility ID No. 140609), EXPIRED by operation of 47 U.S.C. § 312(g) on or

records show that the station is still silent.

about 12:01 a.m. March 2, 2022. In addition, File No. BLSTA-20220301AAD IS DISMISSED. Accordingly, the Commission's public and internal databases will be modified to reflect that expiration, and we HEREBY DELETE the Station's call sign, W263CD. All authority to operate this facility IS TERMINATED.

We also note that it is imperative to the safety of air navigation that any prescribed painting and illumination of the Station's tower shall be maintained.⁶

In addition, Gleich is ordered to file proof (as set forth above) within 10 days that Station WFDX(FM), Atlanta, Michigan, resumed operation prior to 12:01 a.m. on March 2, 2022.

If you have any questions concerning the content of this letter, please contact Victoria McCauley, Attorney, by e-mail at (Victoria.McCauley@fcc.gov).

Sincerely,

Albert Shuldiner

Albert Shuldiner
Chief, Audio Division
Media Bureau

⁶ See 47 CFR §§ 17.6 and 73.1740(a)(4).