

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of )
Albany Bible Institute ) File No. BLFT-19980421TA
For Reinstatement of License of ) Facility ID No. 827
DW255AJ, Albany, New York )

MEMORANDUM OPINION AND ORDER

Adopted: August 5, 2013

Released: August 6, 2013

By the Commission:

1. The Commission has before it an Application for Review ("AFR") filed July 2, 2007, by Albany Bible Institute ("ABI"), the licensee of former FM translator station W255AJ, Albany, New York (the "Station"). In an initial determination, the Media Bureau ("Bureau") found, pursuant to Section 312(g) of the Communications Act of 1934, as amended (the "Act"),<sup>1</sup> that the Station's license had expired as a matter of law for failure to broadcast for 12 consecutive months and deleted the Station's call sign.<sup>2</sup> ABI seeks review of a May 31, 2007, Bureau decision,<sup>3</sup> which dismissed ABI's Petition for Reconsideration of the Cancellation Letter,<sup>4</sup> affirmed the initial determination, and rejected ABI's request to reinstate the Station's license.

2. Upon review of the AFR and the entire record, we conclude that ABI has failed to demonstrate that the Bureau erred. The Bureau afforded ABI numerous opportunities to explain the Station's extended silence and provide adequate justification for reinstatement of the license. ABI failed to avail itself of these opportunities.<sup>5</sup> Accordingly, we find that the Bureau properly decided the matters raised, and we uphold its decision for the reasons stated in its May 2007 Letter.

<sup>1</sup> 47 U.S.C. § 312(g). Section 312(g) of the Act states that the license of a broadcasting station that fails to transmit broadcast signals for any consecutive 12-month period expires as a matter of law at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary. However, the Commission has the discretion, following the automatic forfeiture, to reinstate the license upon an appropriate showing. 47 U.S.C. § 312(g)(1996), amended by Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, 118 Stat. 2809, 3431 (2004) (Commission may extend or reinstate 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>2</sup> See Reverend Christopher R. Gerardi, Letter, Ref. 1800B3-ALM (MB June 13, 2005) ("Cancellation Letter") (citing 47 U.S.C. § 312(g) and Implementation of Section 403(l) of the Telecommunications Act of 1996 (Silent Station Authorizations), Order, 11 FCC Rcd 16599 (1996)). See also 47 C.F.R. § 73.1740(c) (implementing Section 312(g) with respect to AM, FM, and television stations).

<sup>3</sup> See Reverend Christopher R. Gerardi, Letter, Ref. 1800B3-BSH (MB May 31, 2007) ("May 2007 Letter"); FCC Broadcast Applications Public Notice, Report No. 26500 (rel. June 5, 2007).

<sup>4</sup> On July 18, 2005, ABI filed a Petition for Reconsideration of the action taken in the Cancellation Letter.

<sup>5</sup> ABI failed to answer the staff's specific query on at least three occasions, instead responding to each request by claiming that the station was taken off the air by "other parties" and asking the Commission to reinstate the license

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3. ACCORDINGLY, IT IS ORDERED that, pursuant to Section 5(c)(5) of the Communications Act of 1934, as amended,<sup>6</sup> and Section 1.115(g) of the Commission's Rules,<sup>7</sup> the Application for Review IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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under the discretion afforded in Section 312(g) of the Act. The Commission has exercised its discretion under Section 312(g) of the Act where a natural disaster or other compelling circumstances forced the cessation of a Station's operations. *See, e.g., V.I. Stereo Communications Corp.*, Memorandum Opinion and Order, 21 FCC Rcd 14259 (2006) (license reinstated when station's extended silence was attributable to the station's towers being destroyed by a hurricane, and after being rebuilt, substantially damaged during three additional hurricanes). *See also Mark Chapman, Court-Appointed Agent*, Letter, 22 FCC Rcd 6578 (MB 2007) (license reinstated to accommodate licensee's compliance with court order). ABI made no such claim.

<sup>6</sup> 47 U.S.C. § 155(c)(5).

<sup>7</sup> 47 C.F.R. § 1.115(g).