

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

In the Matter of)	
)	
SNAKE RIVER RADIO, LLC)	MB Docket No. 22-53
)	
Application for Renewal of License)	File No. 0000151021
Station KPCQ(AM), Chubbuck, ID)	Facility ID No. 24627

ORDER

Adopted: May 19, 2022

Released: May 19, 2022

1. This Order responds to the Motion to Delete Issue filed by Snake River Radio, LLC, on May 2, 2022.¹ The Hearing Designation Order and Notice of Opportunity for Hearing that initiated this proceeding delineated three issues for consideration:

(a) To determine, with respect to station KPCQ(AM), Chubbuck, Idaho, whether, during the preceding license term, (i) the Station has served the public interest, convenience, and necessity, (ii) there have been any serious violations by the licensee of the Communications Act of 1934, as amended, or the rules and regulations of the Commission, and (iii) there have been any other violations of the Communications Act of 1934, as amended, or the rules and regulations of the Commission which, taken together, would constitute a pattern of abuse;

(b) To determine, with respect to station KPCQ(AM), Chubbuck, Idaho, whether the station’s license expired automatically pursuant to section 312(g) of the Communications Act of 1934, as amended because the Station failed to operate with its authorized facilities for more than 12 months;

(c) In light of the evidence adduced pursuant to issues (a) and (b) above, whether the captioned application for renewal of the license for station KPCQ(AM) should be (1) dismissed as moot because the Station’s license expired automatically pursuant to section 312(g) of the Communications Act of 1934, as amended, (2) granted on such terms and conditions as are appropriate, including renewal for a term less than the maximum otherwise permitted, or (3) denied due to failure to satisfy the requirements of section 309(k)(1) of the Communications Act of 1934, as amended, 47 U.S.C. § 309(k)(1).²

2. Snake River seeks to delete all issues related to section 312(g) of the Communications Act, specifically issues (b) and (c)(1). It contends that the perception that the station did not operate at its authorized facilities for more than 12 months was due to a misstatement by counsel, and that the station had operated at its authorized facilities during the time in question. As support, it submits several attachments to its motion, including statements from the Managing Member of the licensee and the radio station’s engineer, photos that purport to show the tower on various dates, copies of relevant documentation filed with the FCC, and related emails. Snake River suggests that the remaining issues can be resolved via mutual consent. In

¹ Snake River Radio, LLC, Motion to Delete Issue, MB Docket No. 22-53 (filed May 2, 2022).

² *Snake River Radio, LLC*, Hearing Designation Order and Notice of Opportunity for Hearing, MB Docket No. 22-53, DA 22-115 (MB Feb. 8, 2022) (*Snake River HDO*) at para. 29.

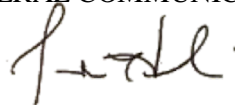
opposition, the Enforcement Bureau argues that it has not been given an opportunity to properly develop a record on the automatic cancellation issue.³ It submits that the documents that Snake River has provided in support of its motion are not dispositive and require further investigation. For instance, the Bureau contends, it should have a chance to speak with the engineer who provided a statement affirming that the station was put back on the air at the same location within 12 months.

3. Pursuant to section 312(g) of the Communications Act, 47 U.S.C. § 312(g), a broadcast license automatically expires when a station has been silent for more than 12 consecutive months. The Commission may extend or reinstate the 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.” The basis for the section 312(g) questions designated for hearing by the *Snake River HDO* was an apparent contradiction in the information provided by the licensee. Snake River reported that KPCQ(AM) initially went silent on June 20, 2018, because the site owner required the station to remove its tower. The licensee later reported, however, that it had resumed operations at the same location, ostensibly using that same tower, on June 15, 2019. The Media Bureau questioned how Snake River was able to resume operations on its licensed facilities after it had dismantled its tower.⁴

4. Snake River may have a plausible explanation for this discrepancy, but its request to delete the section 312(g) issue is premature. Rather, the evidence it seeks to present on this issue is more appropriately part of its Affirmative Case in this proceeding. Section 309(e) of the Communications Act, 47 U.S.C. § 309(e), indicates that when an application is designated for hearing, that process “shall be a full hearing in which the applicant and all other parties in interest shall be permitted to participate.” Inherent in the notion of a full hearing is providing the Enforcement Bureau an opportunity to examine documentation, interview witnesses, and generally investigate Snake River’s claims. If, after conducting such an investigation, the Enforcement Bureau is willing to settle this matter, that is the Bureau’s prerogative.

5. Accordingly, **IT IS ORDERED** that the Motion to Delete Issue filed pursuant to section 1.229 of the Commission’s rules by Snake River Radio, LLC, on May 2, 2022, **IS DENIED**.

FEDERAL COMMUNICATIONS COMMISSION



Jane Hinckley Halprin
Administrative Law Judge

³ Enforcement Bureau’s Opposition to Snake River Radio, LLC’s Motion to Delete, MB Docket No. 22-53 (filed May 6, 2022).

⁴ *Snake River HDO* at para. 10.