

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

In the Matter of	)	
	)	
Forsythe Broadcasting, LLC	)	Application File No. 0000191848
	)	
License Renewal Application and Request for	)	Facility ID No. 22058
Waiver of Section 312(g) for WNJC(AM),	)	
Washington Township, New Jersey	)	
	)	
	)	

MEMORANDUM OPINION AND ORDER

Adopted: November 25, 2025

Released: November 25, 2025

By the Commission:

I. INTRODUCTION

1. We have before us an Application for Review (AFR) filed by Forsythe Broadcasting, LLC (Forsythe)¹ seeking Commission review of a Media Bureau (Bureau) decision² that denied its Petition for Reconsideration (Petition). In the *Reconsideration Order*, the Bureau affirmed the cancellation of the license of Station WNJC(AM), Washington Township, New Jersey (Station), deletion of the Station's call sign, and dismissal of the above-referenced renewal application (Renewal Application) as moot. For the reasons set forth below, we affirm the Bureau's denial of Forsythe's Petition and deny the AFR.

II. BACKGROUND

2. Forsythe filed its application for renewal of the Station's license on May 27, 2022.³ On March 26, 2024, the Bureau issued an Operational Status Inquiry letter (*OSI Letter*) in which it informed Forsythe that the Station's license may have expired pursuant to section 312(g) of the Communications Act of 1934, as amended (Act),⁴ because the Station had apparently been off the air for more than a year.⁵ Under section 312(g), if a broadcast station "fails to transmit broadcast signals for any consecutive 12-month period," its license expires automatically at the end of the period, except that the Commission may extend or reinstate such station license in order to, *inter alia*, "promote equity and fairness."⁶ As noted in

¹ Forsythe Broadcasting, LLC, Application for Review, Pleading File No. 0000266905 (filed Feb. 3, 2025) (AFR).

² *Forsythe Broadcasting, LLC*, Letter Order, Ref. No. 1800B3-JCB, Application File No. 0000191848 (MB Jan. 2, 2025) (*Reconsideration Letter*).

³ Application File No. 0000191848 (filed May 27, 2022) (Renewal Application).

⁴ 47 U.S.C. § 312(g).

⁵ See Letter from Albert Shuldiner, Chief, Audio Division, FCC Media Bureau to Antonio Muniz, Forsythe Broadcasting, LLC (Mar. 26, 2024) (*OSI Letter*).

⁶ 47 U.S.C. § 312(g).

the *OSI Letter*, Forsythe did not file a request for Special Temporary Authority for the Station to go silent, and Bureau staff learned about the Station's silence through Internet postings.⁷

3. On May 10, 2024, Forsythe filed a response (Response) to the Bureau's *OSI Letter* in which it admitted that the Station had been silent since March 2023, and requested a waiver of section 312(g). Forsythe argued in its Response that the expiration of its lease agreement for its transmitter site, its inability to secure an alternate site, and disruptions caused by the COVID-19 pandemic justified the Bureau's exercise of its discretion pursuant to section 312(g) to reinstate the Station's license.⁸ Forsythe also cited various unrelated Commission proceedings in support of its request.⁹ For example, briefly referencing a statement from a 2017 filing window focused on facilitating AM radio service revitalization, as well as the Radio Duplication, the Revitalization of AM Radio Service, and the Rural Radio proceedings,¹⁰ Forsythe claimed that "[t]he Commission has long noted the unique technical challenges that confront AM broadcasters."¹¹ Specifically focusing on the Radio Duplication proceeding, Forsythe next contended that "[t]he Commission has further noted the economic challenges faced by AM stations, and how those hardships were exacerbated by the COVID pandemic."¹² In accordance with all of these proceedings, Forsythe concluded that the Commission should exercise its authority to extend its license "in the interests of equity and fairness" and grant its requested relief under section 312(g).¹³

4. On May 16, 2024, the Bureau concluded in its *Letter Decision* that the license for the Station had automatically expired in March 2024 pursuant to section 312(g) and rejected Forsythe's request for a waiver of that provision.¹⁴ The Bureau explained that under section 312(g), the Commission has generally exercised its authority to reinstate an expired license to "promote equity and fairness" only where the station failed to provide service for 12 consecutive months due to compelling reasons beyond the licensee's control.¹⁵ Applying this test, the Bureau found that Forsythe did not demonstrate compelling circumstances beyond its control warranting an exercise of discretion to reinstate its license.¹⁶ The Bureau explained its longstanding policy of not exercising discretion where silence was due to a licensee's business decision, such as in the case of Forsythe's choice to not promptly find an alternate

⁷ *OSI Letter* at 1-2.

⁸ Letter from Christine McLaughlin, Esq., Marashlian & Donahue, PLLC, to Marlene H. Dortch, Secretary, FCC (May 10, 2024) (Response).

⁹ *Id.* at 2.

¹⁰ *Id.* (citing *In the Matter of Amendment of Section 73.3556 of the Commission's Rules Regarding Duplication of Programming on Commonly Owned Radio Stations; Modernization of Media Regulation Initiative*, Report and Order, FCC 20-199, para. 10 (rel. Aug. 7, 2020); *In the Matter of Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures*, First Report and Order and Further Notice of Proposed Rulemaking, FCC 10-24, para. 31 (rel. Feb. 3, 2010) and cases cited therein; *Chairman Pai Statement on the Close of the FM Translator Filing Window for AM Radio Stations*, DOC-346050A1 (rel. Aug. 3, 2017)).

¹¹ *Id.* at 2.

¹² *Id.*

¹³ *Id.*

¹⁴ *Forsythe Broadcasting, LLC*, Letter Order, Ref. No. 1800B3-ATS (MB May 16, 2024) (*Letter Decision*).

¹⁵ *Id.* at 3 (citing *Kingdom of God, Inc.*, Memorandum Opinion and Order, 31 FCC Rcd 7522, 7527, para. 11 (2016), *aff'd sub nom Kingdom of God, Inc. v. FCC*, 719 F. App'x 19, 20 (D.C. Cir. 2018) (*Kingdom of God*) (Commission properly refrained from exercising its "equity and fairness" discretion under section 312(g) where licensee "did not fail to satisfy its licensing requirements due to 'compelling reasons beyond [its] control' but rather because of its own voluntary actions.")).

¹⁶ *Id.* at 3.

site.¹⁷ The Bureau rejected Forsythe’s argument in support of a waiver that it had “diligently attempted to find replacement locations” and that it would seek to resume service.¹⁸ Instead, the Bureau concluded, “Licensee provides no documentation or evidence to support its assertions that it has looked for a new site, nor does it present evidence that it plans to actually resume service . . .”¹⁹ The Bureau expressed concern that Forsythe’s waiver request amounted to, “[a] request to effectively keep its license in effect indefinitely until it is able to resume service.”²⁰ In addition, the Bureau rejected Forsythe’s attempt to rely on the various unrelated Commission proceedings to justify the Bureau exercising its discretion.²¹ The Bureau responded to each item cited by Forsythe, emphasizing how the Commission previously held that the Revitalization of AM Radio Service proceeding does not provide a reason to exercise discretion under section 312(g)²² and likewise concluding that neither the Radio Duplication proceeding nor the Rural Radio proceeding serves as a basis for such relief.²³ Separately, the Bureau declined to exercise discretion on the basis of disruptions caused by the COVID-19 pandemic, or on the grounds of financial hardship.²⁴ In conclusion, the Bureau dismissed Forsythe’s Renewal Application as moot.²⁵

5. In its Petition for Reconsideration of the Bureau’s *Letter Decision*,²⁶ Forsythe repeated the same arguments from its Response. Forsythe again cited the expiration of its lease agreement for its transmitter site, its inability to secure an alternate site, and disruptions caused by the COVID-19 pandemic, as reasons for the Bureau to exercise its discretion under section 312(g) and reinstate Forsythe’s license.²⁷ To support its argument that “[t]he Commission has previously reinstated licenses expired under Section 312(g)” and should likewise grant its petition, Forsythe cited for the first time on reconsideration two Commission decisions in which the Commission exercised its discretion under the provision.²⁸ In its *Reconsideration Letter*, the Bureau concluded these arguments were improperly presented for the first time on reconsideration, and the Bureau dismissed the Petition.²⁹ The Bureau also determined that even if they had been procedurally acceptable, these decisions were not controlling because they were distinguishable from Forsythe’s situation.³⁰ For example, *Community Bible Church* considered unique antenna structure registration issues and advance air safety goals not present in

¹⁷ *Id.* (citing *Zacarias Serrato*, Letter Order, 20 FCC Rcd 17232 (2005)).

¹⁸ *Id.* at 3-4 (citing Response at 1-2).

¹⁹ *Id.*

²⁰ *Id.* at 4.

²¹ *Id.*

²² *See id.* (citing *WJBW, LLC*, Memorandum Opinion and Order, 32 FCC Rcd 2301, 2304, para. 8 (2017) (AM Revitalization does not provide reason to exercise discretion under section 312(g) of the Act); *Pillar of Fire*, Memorandum Opinion and Order, 32 FCC Rcd 9633, 9637, n.24 (2017) (same)).

²³ *Id.* at 4.

²⁴ *Id.*

²⁵ *Id.*

²⁶ Petition for Reconsideration of Forsythe Broadcasting, LLC (Pleading File No. 0000256069, filed on June 17, 2024) (Petition).

²⁷ *Id.* at 2.

²⁸ *See id.* at 1-2 (citing *Community Bible Church*, Letter Order, 23 FCC Rcd 15012 (MB 2008) (*Community Bible Church*); *V.I. Stereo Communications Corp.*, Memorandum Opinion and Order, 21 FCC Rcd 14259 (2006) (*V.I. Stereo*)).

²⁹ *Reconsideration Letter* at 3-4.

³⁰ *Id.* at 3.

Forsythe's case,³¹ and the other decision, *V.I. Stereo*, dealt with the separate and distinct issue of natural weather disasters.³²

6. Once more, the Bureau addressed Forsythe's recycled arguments—expiration of its lease agreement for the transmitter site, inability to secure an alternate site, and disruptions caused by the pandemic—and dismissed each on a procedural basis for being repetitive.³³ The Bureau concluded that even if these arguments were procedurally sound, they would also lack merit due to Forsythe's failure to submit evidence to the Commission illustrating how it lost its transmitter site, or how it worked "consistently" and "diligently," as it claimed, to find an alternate site.³⁴ Accordingly, the Bureau affirmed its previous decision to not exercise its discretion under section 312(g).

7. In the AFR, Forsythe restates arguments indistinguishable from those it presented in its Response and Petition. It also raises again the precedent from the Petition that the Bureau found to be untimely.³⁵ Forsythe asserts that the Bureau erred by not waiving the automatic termination provision under section 312(g), and that the equities support Forsythe's waiver request.³⁶ Further, Forsythe avers that the Bureau's "hard look" should have resulted in a finding that a grant of waiver would promote "equity and fairness" and support the public interest.³⁷

III. DISCUSSION

8. We deny the Application for Review. An application for review of a final action taken on delegated authority will be granted when, *inter alia*, such action: conflicts with statute, regulation, precedent or established Commission policy; involves a question of law or policy which has not previously been resolved by the Commission; involves application of a precedent or policy that should be overturned; or makes an erroneous finding as to an important or material factual question.³⁸ Upon review of the AFR and the entire record, we find that Forsythe has failed to demonstrate the Bureau erred.

9. We uphold the Bureau's *Reconsideration Letter*, including its dismissal on procedural grounds of arguments that were either untimely and not required in the public interest, or rather were purely repetitive in nature. The Bureau's dismissal of Forsythe's arguments based on *Community Bible Church* and *V.I. Stereo* was proper under section 1.106(c)(2) of the Commission's rules (the "Rules"), because Forsythe previously had failed to present such arguments to the Bureau.³⁹ Consideration of these arguments is not required in the public interest because they were based on clearly distinguishable facts from Forsythe's situation and hold no bearing on our decision.⁴⁰ The staff also properly dismissed

³¹ *Community Bible Church*, 23 FCC Rcd at 15014.

³² *V.I. Stereo*, 21 FCC Rcd at 14260.

³³ *Reconsideration Letter* at 2-3.

³⁴ *Id.* at 3.

³⁵ See AFR at 2 (citing *Community Bible Church* and *V.I. Stereo*).

³⁶ See *id.* at 1.

³⁷ See *id.* at 1-2.

³⁸ 47 CFR § 1.115(b)(2).

³⁹ 47 CFR § 1.106(c)(2) (a petition for reconsideration may not rely on facts or arguments not previously presented to the Commission unless consideration of such facts or arguments is in the public interest).

⁴⁰ See *Reconsideration Letter* at 3 (explaining how *Community Bible Church*, which turned on the issue of an antenna structure registration system and advanced air safety goals, and *V.I. Stereo*, which dealt with the question of storms and natural disasters, were separate and distinct from Forsythe's proceeding before the Bureau).

Forsythe's recycled arguments on procedural grounds for their repetitiveness.⁴¹ We agree with the Bureau's reasoning that a petition for reconsideration that simply reiterates arguments previously considered and rejected will be denied.⁴² Besides its arguments relying on *Community Bible Church* and *V.I. Stereo*, it is clear that Forsythe merely repeated the same arguments it had asserted previously in its Response, which the Bureau subsequently rejected.⁴³ To the extent that the Bureau addressed substantively Forsythe's arguments in the *Reconsideration Letter* in the interest of developing a complete record, we also uphold that aspect of the Bureau's decision.⁴⁴

10. Contrary to Forsythe's assertions,⁴⁵ the Bureau considered each factor raised in what Forsythe characterized as a waiver request and explained its reasoning for its decision. Although Forsythe characterized its request as a waiver, the Commission cannot waive the statutory provisions of section 312(g).⁴⁶ It is more accurate to characterize the Petition as a request for the Commission to exercise its discretion under section 312(g) to reinstate the expired license. We affirm the Bureau's decision that there were no compelling circumstances beyond the station's control warranting an exercise of discretion to overturn the automatic termination provision of section 312(g).⁴⁷

11. We deny the AFR because Forsythe has failed again to demonstrate the Station's silence is the result of circumstances beyond its control. Therefore, we decline to exercise our discretion in this situation to reinstate the Station's license. As noted in the *Letter Decision*, the Commission's long-standing policy has been to exercise its authority to reinstate an expired license to "promote equity and fairness" only where the station failed to provide service for 12 consecutive months due to compelling reasons beyond the licensee's control.⁴⁸ The Commission consistently has declined to reinstate licenses where the licensee failed to transmit a broadcast signal due to the licensee's own action or inaction,

⁴¹ See 47 CFR § 1.106(p)(3). The *Reconsideration Letter* included a typographical error contained in a single footnote. There, the Bureau's citation should have read "47 CFR § 1.106(p)(3)" instead of "47 CFR § 1.106(a)(3)". Such misprint, however, did not disturb the validity of the Bureau's reasoning and response to the arguments from the Petition. *Reconsideration Letter* at 2, n.13.

⁴² *Reconsideration Letter* at 2, n.13. While section 1.106(p)(3) of the Rules refers to "arguments that have been fully considered and rejected by the *Commission*" (italics added), we note that this rule also applies equally to Bureau-level actions based on delegated authority. See, e.g., *Amendment of Certain of the Commissions Part 1 Rules*, Report and Order, 26 FCC Rcd 1594, 1606, para. 27 (2011) (to allow for a more efficient and expeditious resolution of petitions for reconsideration, delegating to the bureaus the authority to dismiss or deny petitions for reconsideration directed to the Commission that merely repeat arguments the Commission previously rejected and "[f]or a similarly . . . repetitive petition directed to a bureau or office (rather than the full Commission) seeking reconsideration of a staff-level decision, [delegating] authority to the relevant bureau or office to dismiss or deny the petition.").

⁴³ See Petition at 2-3 (asserting the same arguments previously included in the Response).

⁴⁴ *Letter Decision* at 3 (noting the lack of evidence supporting its recycled arguments about its lost transmitter site, the site leaseholder's responsibility, as well as any efforts to procure a new site).

⁴⁵ See AFR at 2 (suggesting that the Bureau failed to fully consider through a "hard look" review of Forsythe's request).

⁴⁶ *Rural Health Care Support Mechanism*, Order, 22 FCC Rcd 20360, 20415, para. 106 (2007) ("although the Commission has authority to waive regulatory requirements, it does not have authority to waive a requirement imposed by statute"); *Federal-State Joint Board on Universal Service*, Memorandum Opinion and Order, 15 FCC Rcd 7170, 7178, para. 13 (1999) (rejecting request to waive statute).

⁴⁷ See *Kingdom of God*, 719 F. App'x at 20. See also *Zacarias Serrato*, Letter Order, 20 FCC Rcd 17232 (MB 2005) (finding reinstatement unwarranted where licensee made business decision not to obtain an alternate site promptly).

⁴⁸ See *Letter Decision* at 3 (quoting *Kingdom of God*, 719 F. App'x at 20).

finances, or business judgments.⁴⁹ At every stage of this proceeding, Forsythe has failed to show compelling evidence that the varying circumstances, which it contends caused the Station's prolonged silence (e.g., the site owner's refusal to renegotiate the lease of property for Forsythe's AM array), were out of its control. Also absent is any compelling evidence of Forsythe's attempts to procure a substitute location for the transmitter site, and separately, any compelling evidence of a direct connection between the COVID-19 pandemic and the Station's ability to continue operating.⁵⁰ Based on the lack of evidence presented and for the reasons discussed above, we affirm the Bureau's denial of the Petition and deny Forsythe's Application for Review.

IV. ORDERING CLAUSE

12. **ACCORDINGLY, IT IS ORDERED** that, pursuant to section 5(c)(5) of the Communications Act of 1934 as amended,⁵¹ and section 1.115 of the Commission's Rules,⁵² the Application for Review filed by Forsythe Broadcasting, LLC on February 3, 2025, **IS DENIED**.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁴⁹ *Kingdom of God*, 31 FCC Rcd at 7527, para. 11. See also *New Visalia Broadcasting, Inc.*, Memorandum Opinion and Order, 29 FCC Rcd 9744, 9745, para. 3 (2014) (record did not show that health problems prevented the principals from resuming operations); *A-O Broadcasting Corp.*, Memorandum Opinion and Order, 23 FCC Rcd 603, 617, para. 27 (2008) (reinstatement not warranted when site loss was a result of the licensee's rule violations and continued silence was a result of licensee's failure to complete construction at an alternate site). The Bureau has also adhered to this policy. See *ETC Communications, Inc.*, Letter Order, 25 FCC Rcd 10686 (MB 2010) (reinstatement not warranted where the licensee chose not to operate financially struggling station while offering it for sale); *Kirby Young*, Letter Order, 23 FCC Rcd 35 (MB 2008) (reinstatement not warranted where the licensee was not financially able to restore operations after transmitter failed); *Kingdom of God*, Letter Order, 29 FCC Rcd 11589 (MB 2014) (affirming Bureau's rejection of KOG's request for reinstatement of its permit for LPTV Station WKGK-LP, Kokomo, Indiana, expired pursuant to section 312(g) because KOG's silence was not the result of compelling reasons beyond the licensee's control but "due to the licensee's own actions, finances and/or business judgments.").

⁵⁰ See *International Aerospace Solutions, Inc.*, Memorandum Opinion and Order, 38 FCC Rcd 1759, 1763, para. 11 (2023) (declining to exercise discretion under equity and fairness exception to section 312(g) where licensee "did not establish any direct connection between COVID and the automatic cancellation of its licenses.").

⁵¹ 47 U.S.C. § 155(c)(5).

⁵² 47 CFR § 1.115.