

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554
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In Reply Refer To:
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In re: DW237AV, Kingston, NY
Facility ID No. 51924

DW295AB, Kingston, NY
Facility ID No. 46503

Dear Counsel:

This letter concerns the petition, filed December 16, 2002, by Walker Broadcasting Company, Inc. ("Walker"), for reconsideration of the staff's November 8, 2002, deletion from our database of Walker's two translator stations. The deletion was based on a determination that the station's licenses expired as a matter of law for failure to operate for twelve consecutive months.¹

Background. Walker notified us that the referenced translators suspended operations on July 7, 2000, because the lease for their common tower site was terminated. Walker filed applications to modify the translators by moving them to a different site. The staff granted the modifications on August 21, 2000. Walker did not notify the Commission of any resumption of operations within 12 consecutive months, *i.e.*, by July 7, 2001. On August 12, 2002, the staff informed Walker that the Commission's records would be modified to reflect the automatic expiration of the stations' licenses unless the licensee documented that the facilities resumed operations by July 7, 2001. On November 8, 2002, the staff stated that no response had been received and notified Walker that the Commission's database was modified to reflect the licenses' expiration and the deletion of the stations' call signs.

In its petition for reconsideration, Walker documents that it responded to the staff's August letter on September 11, 2002. The response did not indicate that the translators resumed operating. Rather, it claimed that Walker's construction permits, approved August 21, 2000, and expiring August 21, 2003, survived despite the

¹Section 403(l) of the Telecommunications Act of 1996 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. *See Implementation of Section 403(l) of the Telecommunications Act of 1996*, 11 FCC Rcd 16599 (1996) ("*Implementation Order*"); *see also* 47 C.F.R. § 74.1263(e).

acknowledged license expirations and that the stations' call signs W237AV and W295AB should not be deleted. Walker stated that both facilities would be timely constructed.

Discussion. The Commission's Order implementing the silent station provisions of the Telecommunications Act of 1996 is clear that parties seeking to modify the facilities of silent stations must make sure that sufficient time exists before the licenses' automatic expiration to return the stations to on-air status.² The Act affords the Commission no discretion to prevent forfeiture of a station that has failed to operate for 12 consecutive months. Further, the Commission emphasized that, with the expiration of a station's license, all associated authorizations related to that station necessarily become null and void notwithstanding any provision, term, or condition of the authorization to the contrary because there can be no continued authority absent a valid station license.³ Thus, Walker's licenses as well as the associated construction permits to modify the licensed facilities expired concurrently as of 12:01 a.m., July 8, 2001. Deletion of the stations' call signs on November 8, 2002, was a purely ministerial matter, reflecting the automatic expiration of all associated authorizations in July, 2001.

Accordingly, the petition for reconsideration filed by Walker Broadcasting Company, Inc. IS DENIED.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Office of Broadcast License Policy
Media Bureau

²*Implementation Order*, 11 FCC Rcd at 16601.

³*Id.*