



Federal Communications Commission  
Washington, D.C. 20554

October 29, 2019

Ministerio Oscar Aguero, Inc.  
9590 NW 25th St.  
Doral, FL 33172

Re: Request for Extension of  
License and Silent Authority Under  
Section 312(g)  
W43CB-D, Matecumbe, FL  
LMS File No. 0000080206  
Facility ID No. 6044

Dear Licensee:

This concerns the above-referenced request to extend license and silent authority (Request), as amended, filed by Ministerio Oscar Aguero, Inc. (MOA), licensee of low power television station W43CB-D, Matecumbe, Florida (W43CB or Station). For reasons set forth below, we grant the request, waive all applicable rules, and extend the Station's license and silent authority for a period of 180 days from the date of this letter.

*Background.* Section 312(g) provides that "[i]f 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, except that the Commission may extend or reinstate such station license...for any reason to promote equity and fairness."<sup>1</sup> In the *Incentive Auction R&O*, the Commission explained that it would be receptive to requests for reinstatement or extension of a station's license under Section 312(g), "tak[ing] into account the extent to which a station has been involuntarily forced to remain dark as a result of the repacking process and whether, in light of the facts presented, equity and fairness dictate a license extension or reinstatement and a waiver."<sup>2</sup> Further, in the *Post-Incentive Auction Procedures PN* the Media Bureau stated that, in considering requests to extend or reinstate a stations license under Section 312(g) in order to promote fairness and equity, it "will examine whether the station has demonstrated that its silence is the result of compelling reasons beyond the stations' control, including facts that relate to the post-auction transition process."<sup>3</sup> Finally, in the *Special Displacement Window PN*, the Bureau permitted stations to file a displacement application on a contingent basis for channels in the repacked television band (channels 2-36) that full power and Class A stations would be relinquishing as a

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<sup>1</sup> 47 U.S.C. § 312(g).

<sup>2</sup> *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567, 6806-07, para. 585 (2014) (*Incentive Auction R&O*).

<sup>3</sup> *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition*, Public Notice, 32 FCC Rcd 858, 873-74, para. 49 (IATF/MB 2017) (*Post-Incentive Auction Procedures PN*); see also *Incentive Auction Task Force and Media Bureau Remind Repacked Stations of Certain Post-Auction Transition Requirements and Deadlines*, Public Notice, 33 FCC Rcd 8240, 88243, n.25 (MB/IATF 2018) (citing *Christian Broadcasting of East Point, Inc.*, 30 FCC Rcd. 13975, 13976-77, para. 4 (2015)).

result of the incentive auction and repacking process.<sup>4</sup> The Bureau stated that, if a conditional grant would require an LPTV or TV translator station to be silent for a consecutive 12-month period prior to discontinuation of operation by the full power or Class A station, the Bureau would “consider a request for extension or reinstatement pursuant to Section 312(g) of the Communications Act and a request for waiver of the Commission rule.”<sup>5</sup>

*Request.* As part of the incentive auction and repacking process, W43CB’s channel 43 was reallocated for use by wireless operator T-Mobile USA (T-Mobile). W43CB subsequently went silent on August 24, 2018, as a result of notification by T-Mobile that it intended to commence operations on its 600 MHz spectrum that included W43CB’s channel 43.<sup>6</sup> W43CB’s displacement application for channel 3 was granted on June 25, 2018.<sup>7</sup> MOA maintains that it has been unable to construction its displacement facilities to “severe financial setbacks.” MOA is hopeful that it will be able to obtain financial support through the Commission’s reimbursement program for stations displaced by the incentive auction. MOA expects to be able to receive reimbursement funds “sometime in the first quarter of 2020” and then to place orders for equipment and schedule installation. On that schedule, MOA expects to be able to complete construction of its displacement facilities by June 2020. Therefore, MOA requests a waiver of Section 312(g) and extension of its license and silent authority.

*Discussion.* Upon review of the facts and circumstances presented, we find that MOA’s request for waiver of Section 312(g) and to reinstate and extend the W43CB’s license for a period of 180 days from the date of this letter satisfies the requirements of Section 312(g) as described in the *Incentive Auction R&O*, the *Post-Incentive Auction Procedures PN*, and the *Special Displacement Window PN*, and is in the public interest. Consistent with the public interest, we will provide Section 312(g) relief, including reinstatement of a station’s license, to displaced LPTV and TV translator stations that are forced off the air by circumstances beyond their control.<sup>8</sup> W43CB was forced off the air as a result of being displaced by the incentive auction and repacking process and MOA took steps to build its displacement facilities in a timely manner. Therefore, due to circumstances outside its control, W43CB has been unable to return to the air prior to the one-year anniversary of going silent. MOA pledges to resume operations on the Station’s new channel by June 2020. Grant of a waiver of Section 312(g) will allow W43CB to return to the air and once again serve its viewers.

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<sup>4</sup> See *Incentive Auction Task Force and Media Bureau Announce Post Incentive Auction Special Displacement Window April 10, 2018, Through May 15, 2018, and Make Location and Channel Data Available*, Public Notice, 33 FCC Rcd 1234, 1237, para. 7 (IATF/MB 2018) (*Special Displacement Window PN*).

<sup>5</sup> *Id.* at n.25 citing 47 U.S.C. § 312(g); *The Incentive Auction Task Force and Media Bureau Announce Procedures for Low Power Television, Television Translator and Replacement Translator Stations During the Post-Incentive Auction Transition*, Public Notice, 32 FCC Rcd 3860, 3865-66, para. 12 (IATF/MB 2017).

<sup>6</sup> See LMS File No. 0000059143.

<sup>7</sup> See LMS File No. 0000042705.

<sup>8</sup> See *V.I. Stereo Communications Corp.*, 21 FCC Rcd. 14259 (2006) (granting a request to reinstate a station's license when the station's tower had been destroyed by a hurricane and after it was rebuilt, again sustained substantial damage from three more hurricanes); *Community Bible Church, Letter*, 23 FCC Red 15012, 15014 (MB 2008) (reinstatement warranted where licensee took all steps needed to return to air, but remained off air to promote air safety after discovering and reporting that FCC and FAA records contained incorrect tower information); *Mark Chapman, Court-Appointed Agent, Letter*, 22 FCC Red 6578 (MB 2007) (reinstatement warranted where extended silence resulted from licensee's compliance with a court order).

Accordingly, we find that in order to promote fairness and equity the request filed by Ministerio Oscar Agucro, Inc. **IS HEREBY GRANTED**, the applicable Commission rules ARE WAIVED,<sup>9</sup> and the license for W43CB-D, Matecumbe, Florida **IS REINSTATED AND EXTENDED** for 180 days from the date of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'B A Kreisman', with a long horizontal flourish extending to the right.

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

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<sup>9</sup> 47 CFR §§ 74.15(f) and 74.763(c).