



Federal Communications Commission
Washington, D.C. 20554

March 22, 2021

Cayo Hueso Networks, LLC
Oscar Ibarra
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(via electronic mail)

Re: Request for Extension of License
and Silent Authority Under Section
312(g)
WDGT-LD, Miami, FL
LMS File No. 0000140270
Facility ID No. 6046

Dear Licensee:

On March 18, 2021, Cayo Hueso Networks, LLC (CHN), licensee of low power television station WDTG-LD, Miami, Florida (WDTG or Station) filed the above-referenced request to extend license and silent authority (Request). For reasons set forth below, we grant the request, waive all applicable rules, and extend the Station's license and silent authority through June 21, 2021.

Background. Section 312(g) of the Communications Act of 1934 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.”¹ 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.”² 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

¹ 47 U.S.C. § 312(g).

² *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, Report and Order, 29 FCC Rcd 6567, 6806-07, para. 585 (2014) (*Incentive Auction R&O*). The Bureau's discretion under that provision of section 312(g) is severely limited. See e.g. *A-O Broad. Corp.*, Memorandum Opinion and Order, 23 FCC Rcd 603, 617, para. 27 (“This limited, discretionary provision is phrased as an exception to the general rule that most affected licenses will be forfeited”). The Commission has 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. See, e.g., *V.I. Stereo Communications Corp.*, Memorandum Opinion and Order, 21 FCC Rcd 14259 (2006); *Community Bible Church*, Letter, 23 FCC Rcd 15012, 15014 (MB 2008); *Mark Chapman, Court-Appointed Agent*, Letter, 22 FCC Rcd 6578 (MB 2007). The Commission has declined to reinstate licenses where the failure to transmit a broadcast signal was due to the licensee's own actions, finances, and/or business judgment. See, e.g., *A-O Broadcasting*, 23 FCC Rcd at 617, para. 27; *ETC Communications, Inc.*, Letter, 25 FCC Rcd 10686 (MB 2010); *Kirby Young, Letter*, 23 FCC Rcd 35 (MB 2008).

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.”³ 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 result of the incentive auction and repacking process.⁴ 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.”⁵

Request. WDTG initially suspended operations on channel 9 on March 28, 2018 due to equipment failures.⁶ As part of the incentive auction and repacking process, WDTG’s channel 9 was subsequently displaced by WSVN, Miami, Florida. WDTG’s displacement application for channel 5 was granted on June 20, 2018.⁷ WDTG was previously granted extensions of license and silent authority to March 22, 2021.⁸

CHN reports that the Station’s transmitter equipment has finally arrived at the installer’s facility and now needs to be relocated and installed at the Station. CHN states that final installation of the transmitter is expected shortly; however, antenna installation is dependent upon the availability of tower crews, who CHN states are in high demand due to backlogs from the COVID-19 pandemic shutdown. CHN states that the final item delaying construction is the need to finalize an occupancy lease with the owner of the Station’s tower site and some complications with permits from local authorities. CHN is confident that these matters will be resolved and that the Station will resume operations soon.

Discussion. Upon review of the facts and circumstances presented, we find that WDTG’s request for further extension of license and silent authority pursuant to section 312(g) 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

³ *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)).

⁴ 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*).

⁵ *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).

⁶ See LMS File No. 0000049906.

⁷ See LMS File No. 0000052104.

⁸ See LMS File Nos. 0000078803, 0000108546 and 0000121836.

and TV translator stations that are forced off the air by circumstances beyond their control.⁹ WDTG was initially forced off the air by an equipment failure and then subsequently displaced by the incentive auction and repacking process and took steps to build its displacement facilities in a timely manner. Therefore, due to circumstances outside its control, WDTG has been unable to return to the air prior to the one-year anniversary of going silent. CHN pledges to resume operations on the Station's new channel as soon as it is able to complete construction of its displacement channel facilities. Grant of relief will allow WDTG to return to the air and once again serve its viewers.

Accordingly, we find that in order to promote fairness and equity the request filed by Cayo Hueso Networks, LLC **IS HEREBY GRANTED**, the applicable Commission rules **ARE WAIVED**,¹⁰ and the license for WDTG-LD, Miami, Florida **IS EXTENDED through June 21, 2021**.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): James Talens, Esq.

⁹ 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, a gain 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).

¹⁰ 47 CFR §§ 74.15(f) and 74.763(c).