



Federal Communications Commission
Washington, D.C. 20554

September 2, 2021

Word of God Fellowship, Inc.
Arnold Torres
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Bedford, TX 76021
Arnold.Torres@daystar.com
(via electronic mail)

Re: Request for Reinstatement of
License Under Section 312(g)
W48DW-D, Baton Rouge, LA
LMS File No. 0000150558
Facility ID No. 67896

Dear Licensee:

This concerns the above-referenced request to reinstate and extend license (Request) filed by Word of God Fellowship, Inc. (WOGF), licensee of low power television station W48DW-D, Baton Rouge, Louisiana (W48DW-D or Station).¹ For reasons set forth below, we grant the request, waive all applicable rules, and reinstate the Station's license.

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."² 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."³ Further, in the *Post-Incentive Auction Procedures PN* the Media Bureau

¹ The station now goes by the call sign W31EL. For purposes of this letter, we refer to the station by its former call sign W48DW.

² 47 U.S.C. § 312(g).

³ *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).

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.”⁴ 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.⁵ 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.”⁶

Request. As part of the Incentive Auction and repacking process, W48DW-D’s channel 48 was reallocated for use by wireless operator T-Mobile USA (T-Mobile). After receiving a notice from T-Mobile of intent to begin operating, W48DW-D went silent on December 18, 2018.⁷ W48DW-D was granted a displacement application for channel 31 on August 20, 2018, with a construction permit expiration date of August 20, 2021.⁸ The Station resumed operations prior to its one-year silent anniversary in December 2019 pursuant to an agreement with T-Mobile but once again had to go silent on December 30, 2019.⁹

Since the grant of its displacement application for channel 31, WOGF states that it worked diligently to complete construction of the facilities. WOGF states that it initially obtained its displacement construction permit for channel 31 at the Station’s prior transmission site. However, when WOGF was not able to come to terms with the landlord, and in December 2020, it applied to modify its construction permit to specify a new site.¹⁰ WOGF states that it received a quote and specifications for the antenna for the new site on November 4, 2020. WOGF states that the equipment manufacturer would typically place the order, ship, and install the antenna within 30 to 45 days of receiving a quote, which would have allowed the Station to resume operations within one year of going silent. However, WOGF notes that the new site is owned by the United States Postal Service and subject to the Postal Service’s strict requirement for attachments, including the use of specific antenna mounts. WOGF hired a consulting firm that is the manager of the site to help navigate the Postal Service requirements. WOGF maintains that the design of the antenna mounts was not finalized until March 31, 2021. WOGF states

⁴ *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)).

⁵ 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*).

⁶ *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).

⁷ See LMS File No. 0000067427.

⁸ See LMS File No. 0000054431.

⁹ See LMS File No. 0000096367.

¹⁰ See LMS File No. 0000129698.

that all of the materials were ordered in June 2021 and construction was completed in August 2021 prior to expiration of the Station's construction permit.¹¹ Based on these facts, which were a result of circumstances beyond its control, WOGF argues that grant of its Request would promote equity and fairness.

Discussion. Upon review of the facts and circumstances presented, we find that WOGF's request for reinstatement of W48DW-D's license 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 to displaced LPTV and TV translator stations that are forced off the air by circumstances beyond their control, which we have previously found to include displacement as a result of incentive auction and repack.¹² W48DW-D was displaced by the incentive auction, diligently pursued a new digital displacement channel, and completed construction prior to its construction permit expiration date. W48DW-D was unable to return to the air prior to the one-year anniversary of going silent due to circumstances outside its control that were directly related to the Station being displaced by the incentive auction.

We remind WOGF that, pursuant to the Reimbursement Expansion Act, the Station is eligible for reimbursement from the TV Broadcast Relocation Fund (Fund) of costs reasonably incurred as a result of the reorganization of broadcast television spectrum.¹³ Please note, however, that additional expenses incurred, such as those resulting from changes in a Stations' plans to construct their displacement facilities that are unrelated to the displacement, may not be eligible for reimbursement from the Fund.

¹¹ See LMS File No. 0000157740.

¹² 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); see Letter from Barbara A. Kreisman, Chief, Video Division, Media Bureau, Federal Communications Commission to Renee Ilhardt, DTV America Corporation and HC2 Broadcasting Holdings, Inc., LMS File Nos. 0000072656, et al., (Mar. 23, 2020) (reinstatement and extension is appropriate where the stations' silence was a result of being displaced by the Incentive Auction and repacking process).

¹³ See *Consolidated Appropriations Act, 2018*, Pub.L. 115-141, at Division E, Title V, § 511, 132 Stat. 348 (2018) (codified at 47 U.S.C. § 1452(j)-(n)). See also 47 CFR § 73.3701 (Reimbursement Under the Reimbursement Expansion Act); *LPTV, TV Translator, and FM Broadcast Station Reimbursement; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 34 FCC Rcd 1690 (2019); and *LPTV, TV Translator, and FM Broadcast Station Reimbursement; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Notice of Proposed Rulemaking and Order, 33 FCC Rcd 7855 (2018).

We further remind WOGF that the deadline for submitting final expense documentation for reimbursement for the Station is September 5, 2022.¹⁴ Thus, we strongly encourage the WOGF to diligently to submit eligible invoices as soon as practicable to improve the likelihood that there will be sufficient funds available to reimburse the Station for its legitimate expenses.

Accordingly, we find that in order to promote fairness and equity the request filed Word of God Fellowship, Inc. **IS HEREBY GRANTED**, the applicable Commission rules **ARE WAIVED**,¹⁵ the license for W48DW-D, Baton Rouge, Louisiana **IS REINSTATED**, and the Station's application for license to cover (File No. 0000157740) **IS GRANTED**.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Ari Meltzer, Esq.

¹⁴ See *Invoice Filing Deadlines for TV Broadcaster Relocation Fund*, Public Notice, 35 FCC Rcd 11273, 11277, paras. 10-11 (IATF/MB Oct. 7, 2020) (setting three filing deadlines for the submission of all outstanding repack invoices, notably: 1) October 8, 2021 for eligible entities assigned repack transition completion dates in the first half of the 39-month post-auction transition period ; 2) March 22, 2022 for entities assigned completion dates in the second half of the transition period; and 3) September 5, 2022 for all other participants in the reimbursement program).

¹⁵ 47 CFR §§ 74.15(f) and 74.763(c).