



Federal Communications Commission
Washington, D.C. 20554

October 20, 2021

TV Red de Puerto Rico, Inc.
P.O. Box 903
Saint Just, PR 00978
IBS-PR@USA.NET
(via electronic mail)

Re: Requests for Reinstatement of
License Under Section 312(g)
W18DZ-D, Ceiba, PR
W32FB-D, Ceiba, PR
W19EP-D, Culebra, PR
W17EA-D, Arroyo, PR
W22FA-D, Mayaguez, PR
Facility ID Nos. 183415,
181818, 183412, 182687 and
183054

Dear Licensee:

This concerns the requests (Requests) filed by TV Red de Puerto Rico, Inc. (TVR), seeking the reinstatement of the licenses of low power television stations W18DZ-D, Ceiba, Puerto Rico; W32FB-D, Ceiba, Puerto Rico; W19EP-D, Culebra, Puerto Rico; W17EA-D, Arroyo, Puerto Rico; and W22FA-D, Mayaguez, Puerto Rico (collectively, "Stations").¹ For reasons set forth below, we grant TVR's Requests; waive all applicable rules and reinstate the Stations' licenses.

Background. Section 312(g) of the Act 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 As discussed in greater detail below, the Commission has exercised its discretion under section 312(g) to extend or reinstate a station's expired license "to promote equity and fairness" only in limited circumstances where a station's failure to transmit a broadcast signals for 12 consecutive months is due to "compelling circumstances" that were beyond the licensee's control.³ For example, the Commission has granted section 312(g) relief to stations whose facilities were destroyed by natural disasters such as hurricanes;⁴ where silence was necessary in

¹ Each of the Stations has a pending request to reinstate license pursuant to section 312(g) of the Communications Act of 1934, as amended (Requests). See LMS File Nos. 0000164065, 0000163811, 0000164076, 0000164073 and 0000164069.

² 47 U.S.C. § 312(g). See also 47 CFR § 74.15(f).

³ See *A-O Broadcasting Corp.*, Memorandum Opinion and Order, 23 FCC Rcd 603, 617, para. 27 (2008) (*A-O Broadcasting*) ("This limited, discretionary provision is phrased as an exception to the general rule that most affected licenses will be forfeited").

⁴ *V.I. Stereo Communications Corp.*, Memorandum Opinion and Order, 21 FCC Rcd 14259, 14262, para. 8 (2006) (reinstating license where silence due to destruction of towers in hurricanes).

furtherance of public safety,⁵ where reinstatement of the station's license was necessitated by court order;⁶ where stations were actually displaced by the Incentive Auction and repacking process;⁷ or where station silence was the result of governmental closure.⁸ The Commission has declined to exercise its section 312(g) discretion when a station's silence is the result of a licensee's own action or inaction, finances, and/or business judgment.⁹

Requests. TVR states that the Stations' went silent on or about September 20, 2017 as a result of damage incurred from Hurricanes Maria and Irma. TVR states that the hurricanes had a catastrophic impact on Puerto Rico's economy and infrastructure. Beginning in 2017, the Stations were granted authority to remain silent and their licenses were extended through December 31, 2019, while TVR continued to pursue construction of replacement transmission facilities.¹⁰ During the time since the

⁵ *Community Bible Church*, Letter Order, 23 FCC Rcd 15012, 15014 (MB 2008) (*Community Bible*) (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).

⁶ *Mark Chapman, Court-Appointed Agent*, Letter Order, 22 FCC Rcd 6578, 6580 (MB 2007) (*Mark Chapman*) (reinstating license where silence necessitated by licensee's compliance with court order).

⁷ See, e.g., *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) (displaced LPTV station that remains silent for more than one year may request an extension or reinstatement of license where station can demonstrate that its silence is the result of compelling reasons beyond the station's control including facts that relate to the post-auction transition process); *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) (displaced LPTV station receiving conditional grant of its displacement construction permit that results in station remaining silent for more than one year may request extension or reinstatement of license pursuant to section 312(g)).

⁸ *Universal Broadcasting*, 34 FCC Rcd at 10319 (station unable to file STA to resume service due to a federal government shutdown).

⁹ See, e.g., *New Visalia Broadcasting, Inc.*, Memorandum Opinion and Order, 29 FCC Rcd 9744 (2014) (record did not show that health problems prevented the principals from resuming operations); *A-O Broadcasting*, 23 FCC Rcd 603 (transmission from unauthorized location not sufficient to avoid the consequences of section 312(g)); *Eagle Broadcasting Group, Ltd.*, Memorandum Opinion and Order, 23 FCC Rcd 588, 592, 589-90 (2008) (operation from unauthorized site insufficient to avoid the consequences of section 312(g)); *Mt. Rushmore Broadcasting, Inc.*, Letter Order, 32 FCC Rcd 3924, 3927 (MB 2017) (discretion unwarranted when station was either silent or engaging in brief periods of unauthorized operation for six years); *Zacarias Serrato*, Letter Order, 20 FCC Rcd 17232 (MB 2005) (station taken off the air due to a business decision); *Kingdom of God*, Letter Order, 29 FCC Rcd 11589 (MB 2014) (station's numerous periods of extended silence were a direct result of licensee's own business decisions); *Christian Broadcasting*, 30 FCC Rcd at 13976 (2015) (licensee provided no evidence that station's silence was beyond its control).

¹⁰ See *Media Bureau Provides Guidance for Broadcast Licensees Still Rebuilding in the Aftermath of Hurricanes Irma and Maria*, Public Notice, 33 FCC Rcd 8368 (MB 2018) (the Media Bureau will withhold cancelling broadcast licenses in Puerto Rico and the Virgin Islands pursuant to section 312(g) for a period of six months from September 6, 2018, until March 6, 2019). In order to receive the benefit of this Public Notice, TVR was required to and did file requests for Special Temporary Authority for the Stations prior to the end of the period to remain silent. Subsequent extensions were provided by the Media Bureau on a case by case basis through December 31, 2019. See e.g., 0000068308, 0000059712, 0000053371 and 0000030202 (W19EP-D); 0000140065, 0000123882, 0000068313, 0000059721, 0000053369 and 0000030194 (W17EA-D); 0000127091, 0000068309, 0000059706, (continued) 0000053370 and 0000030200 (W22FA-D); 0000127089, 0000068305, 0000059711, 0000053373 and 0000030199 (W18DZ-D); 0000068307, 0000059714, 0000053358 and 0000030175 (W32FB-D).

Stations were forced to go silent, TVR attempted to construct new facilities through which the Stations could resume operations.¹¹ However, TVR states that the disruption caused by the hurricanes, followed by earthquakes in 2020, and delays caused by labor and supply chain disruptions due to the COVID-19 pandemic prevented the Stations from resuming operations until August 2021.¹²

Throughout 2020 TVR's efforts to construct the Stations' permanent replacement facilities were hampered by natural disaster and the COVID-19 pandemic. TVR cites to a series of earthquakes in 2020 on the island of Puerto Rico that TVR characterizes as "non-stop" and that severely damaged the electrical grid of Puerto Rico making it unstable, unreliable, and difficult to conduct the necessary work to bring the stations back to air. Also occurring throughout 2020 and into 2021 have been the effects of the COVID-19 pandemic which TVR states have had devastating effects on the island. Notably, TVR states that as a result of the COVID-19 pandemic obtaining qualified labor was a major impediment to its efforts to construct the Stations' facilities, as were unexpected delays delivering the necessary replacement transmission equipment.

Despite circumstances beyond its control, TVR argues that it diligently endeavored to restore the Stations to resume on-air operations through the use of temporary facilities, channel sharing arrangements, and finally by construction of new station facilities. As noted above, since this past Summer, the Stations have resumed on-air operations with permanent facilities and have provided uninterrupted service to their viewers. TVR requests, pursuant to section 312(g) of the Act, reinstatement of the Stations' licenses.

Discussion. Upon review of the facts and circumstances presented, we find that TVR's Requests for reinstatement of the Stations' licenses satisfy the requirements of section 312(g) and are, therefore, in the public interest. Consistent with the public interest and prior Bureau actions, we will provide section 312(g) relief to stations that remained silent due to compelling circumstances beyond the licensee's control and where reinstatement is warranted under the "equity and fairness" provision of section 312(g). We find that the combination of the destruction of the Stations' facilities by two hurricanes and then the after effects of those disasters coupled with further earthquakes and the COVID-19 pandemic, combined to prevent TVR from completing construction of the Station's permanent facilities. TVR endeavored to continue to serve its viewers by engaging in temporary channel sharing arrangements. Grant of TVR's requests will permit the Stations to continue serving their viewers on their own channels with permanent facilities.

Accordingly, the requests to reinstate licenses filed by TV Red de Puerto Rico, Inc. for W18DZ-D, Ceiba, Puerto Rico; W32FB-D, Ceiba, Puerto Rico; W19EP-D, Culebra, Puerto Rico; W17EA-D,

¹¹ TVR notes that W17EA-D resumed operations on March 5, 2019 with temporary reduced power facilities and continued to operate until September 4, 2019, when it was forced to once again go silent due to an equipment failure. See LMS File No. 0000068313. In addition, W19EP-D's channel 24 was displaced by the Incentive Auction and repacking process and TVR was forced to file a displacement application for channel 19. See LMS File No. 0000054919. In May 2020, TVR made arrangements with its co-owned low power television stations for the Stations to air their programming on the other stations' digital multicast channels. Although these "temporary channel sharing arrangements" did not constitute resumption of service on the Stations' own authorized channels, they once again allowed the Stations to provide service to their viewers. See LMS File Nos. 0000156038, 0000156352, 0000156190, 0000156040 and 0000148546.

¹² See LMS File Nos. 0000156038, 0000156352, 0000156190, 0000156040 and 0000148546.

Arroyo, Puerto Rico; and W22FA-D, Mayaguez, Puerto Rico **ARE HEREBY GRANTED**, the applicable Commission rules **ARE WAIVED**,¹³ and the licenses **ARE REINSTATED**.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Grafton Oliver

¹³ 47 CFR §§ 74.15(f) and 74.763(c).