



Federal Communications Commission
Washington, D.C. 20554

October 11, 2022

Iglesia Pentecostal Vispera del Fin
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(via electronic mail)

Re: Request for Reinstatement and
Extension of License and Silent
Authority Under Section 312(g) and
Waiver of Tolling Rules
KNIK-LP, Anchorage, AK
LMS File Nos. 0000194892 and
0000195305
Facility ID No. 21492

Dear Licensee:

This letter concerns the requests to reinstate and extend license and silent authority and waiver of the tolling rules, as amended (Requests), filed by Iglesia Pentecostal Vispera del Fin (IPVF), licensee of low power television (LPTV) station KNIK-LP, Anchorage, Alaska (KNIK-LP or Station). For reasons set forth below, we grant IPVF's Requests, waive all applicable rules, reinstate and extend the Station's license and silent authority, and toll the Station's digital construction permit to November 30, 2022.

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.*, 23 FCC Rcd 603, 617, para. 27 (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.*, 21 FCC Rcd 14259 (2006); *Community Bible Church*, 23 FCC Rcd 15012, 15014 (MB 2008); *Mark Chapman, Court-Appointed Agent*, 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.*, 25 FCC Rcd 10686 (MB 2010); *Kirby Young*, 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

Requests for additional time to construct LPTV facilities are subject to the Commission’s tolling provisions of section 73.3598(b) of the Rules.⁶ The Commission’s tolling provisions provide that a construction permit deadline may be tolled under specific circumstances such as acts of God, delays due to administrative or judicial review, or construction that is delayed by any cause of action pending before a court of competent jurisdiction relating to any necessary local, state, or federal requirement for the construction or operation of the station, including any zoning or environmental requirement.⁷ If a station does not qualify for tolling under these criteria, good cause may exist to waive the Commission’s tolling provisions and tolling may still be warranted where the licensee can demonstrate that “rare and exceptional circumstances” prevented construction by the station’s construction permit expiration date.⁸

Request. KNIK-LP is an LPTV station that previously operated on analog channel 6. On July 13, 2021, in conjunction with the LPTV digital transition, the Station discontinued analog operations and went silent.⁹ On July 12, 2021, the Station was granted a construction permit to convert to digital on-

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 1237, 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 47 CFR § 73.3598(b).

⁷ *Id.*

⁸ See *1998 Biennial Regulatory Review -- Streamlining of Mass Media Applications, Rules, and Processes*, Memorandum Opinion and Order, 14 FCC Rcd 17525, 17542, para. 42 (1999) (*Streamlining MO&O*) (recognizing that there may be “rare and exceptional circumstances” beyond the control of the licensee that do not fall under the tolling provisions, but “which would warrant the tolling of construction time.” The Commission concluded that in such “limited circumstances,” it would entertain requests for waiver of its “strict tolling provisions”); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1072 (1972); 47 CFR § 1.3 (waiver for good cause shown).

⁹ See LMS File No. 0000194895.

channel (Flash Cut CP).¹⁰ The Flash Cut CP's expiration date (July 12, 2021) was subsequently extended to January 10, 2022.¹¹ IPVF acquired the Station from its previous owner on July 30, 2021.¹²

In its Requests, IPVF provides a well-documented showing of the steps it took to complete the Station's digital facilities, return the Station to service, and the delays outside of its control that prevented it from doing so. In August and September 2021, IPVF states that it conducted operational and logistics planning and by the end of October 2021 had ordered its transmitter. While shipment of the transmitter Station's equipment arrived in early 2022, it could not be sent to Alaska until winter weather conditions in Alaska had subsided sufficiently to permit construction. IPVF states that, in anticipation of completing installation of the Station's digital facilities, its personnel travelled from Seattle, Washington to the Station's rural Alaska transmitter site in March 2022 but were unable to reach the site because of extreme Winter conditions including excessive snow fall. Since that time, IPVF states that it waited for the weather conditions to clear and over the Summer of 2022 it resumed its efforts to install the Station's digital equipment. IPVF maintains that it has been in constant communications with its install company and that it predicts it will be able to finish installation of the Station's digital facilities prior to the end of November 2022.

IPVF argues that grant of its Requests would serve the public interest and promote equity and fairness. IPVF maintains that the Station was required to suspend analog operations in July 2021 to comply with the Commission's LPTV digital transition and that IPVF was unable to complete construction and resume operations due to inability to access the Station's site due to the limited construction window in Alaska caused by winter weather. IPVF argues that grant of its Requests will permit the Station to resume operations and provide digital service to its viewers for the first time.

Discussion. Upon review of the unique facts and circumstances presented, we find that IPVF's request for reinstatement and extension of license and silent authority pursuant to section 312(g) satisfies the requirements of section 312(g) and is in the public interest. IPVF diligently pursued construction of the Station's digital facilities and to resume operations but encountered compelling weather and transmitter site access circumstances unique to its location in Alaska. The Commission has recently recognized the uniqueness of such conditions in granting relief to other Alaska LPTV stations.¹³ IPVF has demonstrated its diligence and commitment to working around such adverse environmental conditions and completing construction of the Station's digital facilities by its extended license deadline. For similar reasons, we find that IPVF has met the standard for waiver of the tolling rules and tolling of its Flash Cut CP, as well as extension of the Station's silent authority. Grant of IPVF's Requests will permit the Station to once again serve its viewers in digital for the first time.¹⁴

¹⁰ See LMS File No. 0000152141.

¹¹ See LMS File No. 0000152327.

¹² See LMS File No. 0000155666.

¹³ See, e.g., *State of Alaska - Request for Waiver of Section 74.731(m) of the Commission's Rules*, 36 FCC Rcd 10765 (2021); see also Letter to State of Alaska from Barbara A. Kreisman, Chief, Video Division (Jan. 26, 2022) (on file at LMS File No. 0000179529); Letter to Unalaska Community Broadcasters, Inc. from Barbara A. Kreisman, Chief, Video Division (Feb. 13, 2022) (on file at LMS File No. 0000177657).

¹⁴ In an amendment to its Requests filed September 27, 2022, IPVF acknowledged that its "ability to operate in analog on TV channel 6 to provide an FM radio service is subject to an open rulemaking." See Amendment to LMS File Nos. 0000194892 and 0000195305 citing *See Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations*, Fifth Notice of Proposed

Accordingly, we find that in order to promote fairness and equity the request filed Iglesia Pentecostal Vispera del Fin **IS HEREBY GRANTED**, the applicable Commission rules **ARE WAIVED**,¹⁵ and the license and silent authority for KNIK-LP, Anchorage, Alaska, **IS REINSTATED AND EXTENDED to November 30, 2022**. We remind IPVF that another request for extension of the Station's license under the equity and fairness provision of section 312(g) will not be favorably viewed unless accompanied by a showing that completion of the Station's displacement facilities was prevented by additional compelling circumstances. IPVF must also include with any such request(s) a detailed plan for completing construction and returning the Station to operation.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Jessica T. Nyman, Esq.

Rulemaking, FCC 22-40 (rel. June 7, 2022). IPVF stated further that "any action on the instant request by the Commission will have no bearing on the outcome of that proceeding or the Station's ability to operate in analog on TV channel 6." *Id.* Finally, IPVF states that the "Station fully intends to provide a digital TV service and will comply with all applicable rules for doing so." *Id.* Once construction is completed the Station's license will be conditioned as follows: "Analog operations, including those utilizing an analog FM audio carrier, are not permitted on the station's frequency. The station is only permitted to provide digital operations."

¹⁵ 47 CFR §§ 74.15(f) and 74.763(c).