

Request for Silent STA Nunc Pro Tunc, Waiver of Section 312(g), and Reinstatement of License

Estrella Television License LLC (“Estrella”), the licensee of W12DI-D, Key West, Florida (FID 168058) (the “Station”), hereby requests authority *nunc pro tunc* to remain silent as of October 1, 2023, waiver of the deadline by which the Station was required to return to the air or forfeit its license pursuant to Section 312(g) of the Communications Act of 1934, as amended, and reinstatement of the Station’s license. As shown below, the requested relief is fully warranted, as the Station was forced off the air due to circumstances beyond its control after Hurricane Ian ripped through Southwest Florida in September 2022, and has been unable to restore service due to unexpected delays.

On September 28, 2022, Hurricane Ian, “one of the most powerful storms ever to hit the US,” made landfall on Florida’s Gulf Coast.¹ Key West experienced a storm surge of about 4.7 feet, with peak wind gusts at 75 to 85 miles per hour, causing significant flooding in the area.²

Although the Station was not impacted by the flooding itself, the Station’s transmitter experienced catastrophic electrical damage following the hurricane-related power fluctuations. As a result, the Station had to go silent on October 1, 2022.³ Attached hereto as Exhibit A is a Declaration of Estrella’s Chief Engineer, Chris Buchanan, which includes contemporaneous correspondence documenting the transmitter failure.

Estrella initially removed the transmitter to be repaired. However, the electrical issues proved too significant to warrant repair, and Estrella instead worked to procure a new transmitter. Estrella was able to locate a transmitter manufactured by GatesAir in Brescia, Italy. GatesAir shipped the transmitter on September 25, 2023, using FedEx International Priority Express, which should have resulted in delivery of the transmitter on September 27, 2023, and installation in the following days. However, processing of the transmitter was delayed in customs, and it was not delivered until October 4, 2023. Estrella expects to be able to install the transmitter and resume operations in a matter of days.

Under the instant circumstances, a waiver of the automatic cancellation provisions of Section 312(g) is appropriate. Section 312(g) provides that “If 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 if the holder of the station license prevails in an administrative or judicial appeal, the applicable law changes, or for any other reason to promote equity and fairness.*” 47 U.S.C. § 312(g) (emphasis added). The Commission has granted Section 312(g) relief to stations whose facilities were destroyed as a result of natural disasters such as hurricanes.⁴

¹ See Jennifer Borresen and Carlie Procell, *Ian’s Deadly Path: A Visual Look at How the Hurricane Devastated Florida Region By Region*, USA Today (Jan. 10, 2023), <https://www.usatoday.com/in-depth/graphics/2023/01/09/hurricane-ian-destruction-in-florida/10938513002/>.

² *Id.*

³ File No. 0000201938.

⁴ See *V.I. Stereo Commc’ns Corp.*, Memorandum Opinion and Order, 21 FCC Rcd. 14259 ¶ 8 (2006) (reinstating license of station that was off air due to hurricane damage); *Media Bureau Provides Guidance For Broadcast Licensees Still Rebuilding in the Aftermath of Hurricanes Irma and Maria*, Public Notice, 33 FCC Rcd 8368, 8368-69 (MB 2018) (PR and USVI Hurricane Guidance) (granting relief and extending the license of stations damaged or destroyed by Hurricanes Irma and Maria).

The Commission should grant the instant request for waiver because the Station's silence was fully attributable to circumstances beyond its control. The Station initially went silent on October 1, 2022, as a direct result of Hurricane Ian. Despite Estrella's efforts to restore service as soon as possible, a shipping delay prevented Estrella from resuming service within one year. Nevertheless, the transmitter arrived only days after the one-year mark, and Estrella is prepared to resume service within days.

As demonstrated herein, Estrella's inability to resume operations within one year was due to rare and exceptional circumstances beyond its control. Estrella took all reasonable actions within its control to complete construction by the current deadline, but a shipping delay prevented it from resuming service before the one-year deadline.

Grant of the requested relief will serve the public interest. The Station has the transmitter on hand and can resume service in a matter of days. It would work a substantial hardship on Estrella, and upon those communities and viewers the Station serves, were the Bureau to decline to grant the relief requested hereby. Accordingly, the Commission should authorize the Station's silence *nunc pro tunc* and reinstate the Station's license.

EXHIBIT A

DECLARATION OF CHRIS BUCHANAN

1. My name is Chris Buchanan. I am the Vice President of Engineering for Estrella Media, Inc., parent company of Estrella Television License LLC (“Estrella”), the licensee of W12DI-D, Key West, Florida (FID 168058) (the “Station”). I make this declaration in support of Estrella’s Request for Silent STA Nunc Pro Tunc, Waiver of Section 312(g), and Reinstatement of License based on my personal knowledge and information known to me in my position with Estrella.
2. Hurricane Ian made landfall in Florida on or around September 28, 2022.
3. Shortly after the storm passed, our local engineer, Javier Olave, visited Key West to check on the status of the Station and our other station in the area, WGEN-TV.
4. Attached hereto as Exhibit A-1 is an email that Mr. Olave sent to me on October 3, 2022, indicating that the Station was off and would not turn on. Mr. Olave stated that he would remove the transmitter, take it to Miami, and send it to the factory.
5. The Station’s transmitter appears to have experienced catastrophic electrical damage following the hurricane-related power fluctuations.
6. Ultimately, it was determined that the electrical issues proved too significant to warrant repair, and Estrella instead worked to procure a new transmitter.
7. Estrella was able to locate a transmitter manufactured by GatesAir in Brescia, Italy.
8. GatesAir shipped the transmitter on September 25, 2023, using FedEx International Priority Express, which should have resulted in delivery of the transmitter on September 27, 2023, before 10:30 am, which would have allowed Estrella to install the transmitter in the following days.
9. However, processing of the transmitter was delayed in customs. Attached hereto as Exhibit A-2 is a printout from the FedEx tracking website showing a “Clearance Delay” on September 27, 2023.

10. The transmitter was finally delivered on October 4, 2023, and is now in Estrella's possession.

11. Estrella expects to be able to install the transmitter and resume operations in a matter of days.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



Chris Buchanan

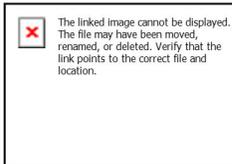
October 4, 2023

EXHIBIT A-1

From: Javier Olave <jolave@capstudiosmiami.com>
Sent: Monday, October 3, 2022 9:38 AM
To: Chris Buchanan <chrisb@EstrellaMedia.com>
Cc: KMPX Master Control <kmpxmastercontrol@EstrellaMedia.com>; Noe A. Herrera <nherrera@EstrellaMedia.com>; Mike Todd <mtodd@EstrellaMedia.com>
Subject: Re: FL Hurricane

CAUTION - EXTERNAL EMAIL - Please verify sender before opening attachments or links and never share your password.

Hello Chris, I'm in Key West the channel 8 (WGEN TV) was off I turned on and it's working properly now but the channel 12 (W12DI-D) it's off I try to turned on but is not turning in I will remove it take to Miami and send to Factory if you agree with this please let me know thanks



Javier Olave
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Miami, FL 33172

On Sep 27, 2022, at 2:34 PM, Chris Buchanan <chrisb@estrellamedia.com> wrote:

All

If any orf our stations, go off the air I need to report it to the fcc

Please email and call me on any outages

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EXHIBIT A-2



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SCHEDULED DELIVERY DATE

Pending

DELIVERY STATUS

In transit

ON TIME

TRACKING ID

773522399496

FROM

BRESCIA, IT

Label Created

9/25/23 8:47 AM

WE HAVE YOUR PACKAGE

BRESCIA IT

9/25/23 5:50 PM

IN TRANSIT

Departed FedEx location

MEMPHIS, TN

9/27/23 10:26 AM

OUT FOR DELIVERY

TO

DORAL, FL US

Scheduled Delivery Date

Pending

[View travel history](#)

Want updates on this shipment? Enter your email and we will do the rest!

YOUR EMAIL

SUBMIT

Your email is a required field.

[MORE OPTIONS](#)



No scheduled delivery date available at this time.

Manage Delivery



At this time, there are no delivery options available online for this shipment.

Shipment facts



Shipment overview

TRACKING NUMBER	773522399496
SHIP DATE	9/25/23
STANDARD TRANSIT	9/27/23 before 10:30 AM
SCHEDULED DELIVERY	Pending



Services

SERVICE	FedEx International Priority Express
TERMS	Recipient
SPECIAL HANDLING SECTION	Deliver Weekday



Package details

WEIGHT	44.09 lbs / 20 kgs
DIMENSIONS	80x60x50 cms
CLEARANCE DETAIL LINK	CLEARANCE DETAIL
TOTAL PIECES	1
TOTAL SHIPMENT WEIGHT	44.09 lbs / 20 kgs
PACKAGING	Your Packaging



op

Ascending

Local Scan Time

Monday, 9/25/23

8:47 AM

Shipment information sent to FedEx

5:10 PM

International shipment release - Export
LONATE POZZOLO IT

5:50 PM

Picked up
BRESCIA IT

7:25 PM

Left FedEx origin facility
BRESCIA IT

9:53 PM

Arrived at FedEx hub
LONATE POZZOLO IT

Tuesday, 9/26/23

7:57 AM

International shipment release - Export
LONATE POZZOLO IT

8:18 PM

In transit
LONATE POZZOLO IT

9:43 PM

In transit
LONATE POZZOLO IT

10:02 PM

In transit
LONATE POZZOLO IT

11:32 PM

Arrived at FedEx hub
MEMPHIS, TN



In transit
MEMPHIS, TN

8:47 AM

In transit
Package available for clearance
MEMPHIS, TN

10:26 AM

Clearance delay - Import
Shipment requires importer's registration/identification number for clearance. (Examples include EIN, SSN, VAT, GST, RFC, etc.)
MEMPHIS, TN

Thursday, 9/28/23

4:06 AM

Departed FedEx hub
MEMPHIS, TN



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