



Federal Communications Commission
Washington, D.C. 20554

October 13, 2023

Estrella Television License, LLC
1845 Empire Avenue
Burbank, CA 91504
bkei@EstrellaMedia.com
(via electronic mail)

Re: Request for Reinstatement and
Extension of License and Silent Authority
Under Section 312(g)
W12DI-D, Key West, FL
Facility ID No. 168058
LMS File No. 0000222040

Dear Licensee:

This concerns the above-referenced request to reinstate and extend license and silent authority, as amended (Request), filed by Estrella Television License, LLC (Estrella), licensee of television translator (TV translator) station W12DI-D, Key West, Florida (W12DI-D or Station).¹ For reasons set forth below, we grant the request, waive all applicable rules, and reinstate and extend the Station's license and silent authority to November 1, 2023.

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 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 furtherance of public safety;⁵ where reinstatement of the station's license was necessitated by

¹ LMS File No. 0000222040 (Request).

² 47 U.S.C. § 312(g).

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.*, 21 FCC Rcd 14259, 14262, para. 8 (2006) (reinstating license where silence due to destruction of towers in hurricanes).

⁵ *Community Bible Church*, Letter Order, 23 FCC Rcd 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).

court order;⁶ or where station silence was the result of governmental closure.⁷ 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.⁸

Request. W12DI-D is an TV translator station that rebroadcasts Estrella's co-owned low power television station WGEN-LD, Miami, Florida. Estrella explains that as a result of Hurricane Ian in October 2022, the Station's transmitter was damaged when it experienced a catastrophic electrical surge following the hurricane-related power fluctuations. Estrella includes a statement from the Station's chief engineer attesting to the damage.⁹ As a result, the Station went silent on October 1, 2022.¹⁰

Since the Station went silent, Estrella explains that it removed the transmitter and attempted to repair it; however, the electrical issues proved too significant to warrant repair and proceeded to procure a new transmitter.¹¹ The Station's new transmitter shipped from the manufacturer, which is located in Italy, on September 25, 2023, using express international shipping which Estrella contends should have resulted in delivery of the transmitter on September 27, 2023 and installation by October 1, 2023.¹² Unfortunately, as Estrella explains, processing of the transmitter was delayed in customs and it was not delivered until October 5, 2023.¹³ Estrella expects to be able to install the transmitter and resume operations in a matter of days of grant of its Request.¹⁴ Estrella includes documentation to support its claims that delivery of the transmitter was delayed. To allow for the Station to complete installation of the replacement transmitter

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

⁷ *Universal Broadcasting of New York, Inc.*, 34 FCC Rcd 10319, (MB 2019) (finding that station's inability to file an STA to resume service due to a federal government shutdown was a compelling circumstance under section 312(g)).

⁸ *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).

⁹ Request at 3-4 (Declaration of Chris Buchanan) and Exhibit A-1.

¹⁰ LMS File No. 0000201938. The Station's request for silent STA was granted on November 3, 2022, and subsequently renewed for an additional six months on April 12, 2023. LMS File No. 0000213438.

¹¹ Request at 1.

¹² *Id.* at 1. According to FedEx tracking information provided by Estrella and confirmed by Division staff, upon shipping the transmitter was scheduled to arrive on September 27, 2023. *See* <https://www.fedex.com/en-us/tracking.html>, insert tracking number 773522399496 (last visited Oct. 12, 2023).

¹³ According to FedEx tracking information, the package was released from customs on October 4, 2023 and was delivered on October 5, 2023. *Id.*

¹⁴ Request at 1.

and resume operations, Estrella requests that the Commission reinstate and extend the Station's license under the equity and fairness provision of section 312(g).

Discussion. Upon review of the facts and circumstances presented, we find that Estrella's request for reinstatement and extension of license and silent authority pursuant to section 312(g) to November 1, 2023, satisfies the requirements of section 312(g) and is in the public interest. The Station was forced to remain silent as a result of damage to the Station's transmitter from Ian Hurricane-related power surges. Estrella worked diligently to attempt to repair its transmitter and once it was determined that repair was not possible, it procured a new transmitter. Delivery of the transmitter was delayed during processing in customs, resulting in delivery several days after the Station's 312(g) deadline. Had the transmitter been delivered on time, we find Estrella would have been able to complete construction and resume operations prior to the Station's one year silent anniversary. Grant of Estrella's Request will permit the Station to once again serve its viewers.

Accordingly, we find that in order to promote fairness and equity the Request filed by Estrella Television License, LLC **IS HEREBY GRANTED**, the applicable Commission rules **ARE WAIVED**,¹⁵ and the license and silent authority for W12DI-D, Key West, Florida, **IS REINSTATED/EXTENDED through November 1, 2023**. In addition, Estrella's request for an extension of silent authority **IS GRANTED through November 1, 2023**.¹⁶ We remind Estrella 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. Estrella 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): Ari Meltzer, Esq.

¹⁵ 47 CFR §§ 74.15(f) and 74.763(c).

¹⁶ LMS File No. 0000222040.