

REQUEST FOR SILENT AUTHORITY, REINSTATEMENT, AND WAIVER OF SECTION 312(g)

Word of God Fellowship, Inc. (“Licensee”), licensee of KAUI-LP, Wailuku, HI (Fac ID 52915) (the “Station”), hereby notifies the Commission that the station is silent and requests authority to remain silent, reinstatement of the Station’s license, and an extension of the deadline by which the station must return to the air or forfeit its license pursuant to Section 312(g) of the Communications Act of 1934, as amended.

KAUI-LP is licensed to operate on Channel 51. On June 5, 2018, Licensee received a letter from T-Mobile of intent to begin 600 MHz operations by October 23, 2018. See Attached. T-Mobile provided additional time for KAUI-LP to remain on the air, but KAUI-LP went silent in early 2019. Due to an administrative oversight, Licensee failed to request special temporary authority to remain silent at that time.

Licensee faced numerous challenges constructing its digital facility for the Station. The Commission has long acknowledged the “unique distance and terrain features in the Hawaiian Islands”¹ and the difficulty of maintaining a stand-alone station on Maui.² The challenge of converting the Station to digital has been further complicated by Covid-related travel restrictions in Hawaii, which have been some of the most drastic in the country and have only recently been relaxed.³ Accordingly, Licensee determined that

¹ See Letter from Barbara A. Kreisman, DA 05-3219 (rel. Dec. 20, 2005).

² See *Providence Journal Co.*, Memorandum Opinion and Order, 12 FCC Rcd, 2883, para. 17 (1997).

³ See e.g., Press Release, Hawaii Governor David Y. Ige, *Gov. Ige Announces State Actions to Slow the Spread of COVID-19* (Mar. 17, 2020), available at <https://governor.hawaii.gov/newsroom/latest-news/proper-use-of-covid-19-testsimperative-there-is-a-current-shortage-of-hand-sanitizers-and-toilet-paper-in-hawaii-in-part-because-of-the-publics-over-reaction-to-covid-19-the-hawaii/>; Press Release, Hawaii Governor David Y. Ige, *Gov. Ige Orders Mandatory 14-Day Quarantine for All Individuals Arriving or Returning to the State of Hawai’i* (Mar. 21, 2020), available at <https://governor.hawaii.gov/newsroom/latest-news/governors-office-news-release-gov-ige-orders-mandatory-14-day-quarantine-for-all-individuals-arriving-or-returning-to-the-state-of-hawaii%ca%bbi/>; Press Release, *Governor Ige Outlines Re-Opening Recovery Plan – Extends 14-Day Quarantine for Travelers to Hawaii, Inter-Island Travelers* (May 18, 2020), available at <https://governor.hawaii.gov/newsroom/latestnews/office-of-the-governor-news-release-governor-ige-outlines-re-opening-recovery-plan-extends-14-dayquarantine-for-travelers-to-hawaii-inter-island-travelers/>; Press Release, Hawaii Governor David Y. Ige, *Governor Ige Issues Statewide Order to Stay at Home, Work from Home to Fight COVID-19* (Mar. 23, 2020), available at <https://governor.hawaii.gov/newsroom/latest-news/officeof-the-governor-news-release-governor-ige-issues-statewide-order-to-stay-at-home-work-from-home-to-fightcovid-19/>; Press Release, Hawaii Governor David Y. Ige, *Governor Ige Issues Emergency Order Requiring Self-Quarantine for Inter-Island Travelers* (Mar. 31, 2020), available at <https://governor.hawaii.gov/newsroom/latest-news/officeof-the-governor-news-release-governor-ige-issues-emergency-order-requiring-self-quarantine-for-inter-islandtravelers/>; Hannah Sampson, *Hawaii Isn’t Messing Around When It Comes to Enforcing Tourist Quarantines*, Washington Post (May 20, 2020), available at

the most effective way for the Station to transition to digital is through channel sharing, for which an application is currently pending. See File No. 0000150884.

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 regularly reinstated licenses that have been off the air for more than one year where there is a reasonable explanation for the station’s extended silence.⁴

In the *Incentive Auction Report and Order*, the Commission explained that it would be receptive to requests for waivers of Section 312(g) as a result of the repacking process, “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.”⁵ The Media Bureau expanded upon this position in the *Post-Incentive Auction Procedures Public Notice*, explaining that in considering requests for waiver of Section 312(g), it “will examine whether the station has demonstrated that its silence is the result of compelling reasons beyond the station’s control, including facts that relate to the post-auction transition process.”⁶ Finally, in the *Special Displacement Window Public Notice*, the Media Bureau explained that if an LPTV or TV translator station needed to remain silent for a consecutive 12-month period, 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.”⁷

The Commission should grant the instant request for waiver because KAUJ-LP’s silence was fully attributable to circumstances beyond its control relating to the post-Incentive Auction transition and a

<https://www.washingtonpost.com/travel/2020/05/20/hawaii-isnt-messingaround-when-it-comes-enforcing-tourist-quarantines/>; News Release, *College Student Arrested for Quarantine Violation*, Hawai’i State Department of Health (June 1, 2020), available at <https://hawaiiicovid19.com/collegestudent-arrested-for-quarantine-violation/>.

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); *Community Bible Church*, Letter, 23 FCC Rcd. 15012, 15014 (MB 2008) (reinstating license of station unable to obtain building permit and ASR discrepancies); *Sumiton Broadcasting Company, Inc.*, Letter, 22 FCC Rcd. 6578 (MB 2007) (reinstating license of station where silence was to effectuate court order).

⁵ *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567 ¶ 585 (2014), *aff’d*, *Nat’l Assoc. of Broadcasters, et al v. FCC*, 789 F.3d 165 (D.C. Cir. 2015)

⁶ *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition*, Public Notice, 32 FCC Rcd. 858 ¶ 49 (IATF/MB 2017).

⁷ 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 Red. 1234 ¶ 7 & n.25 (IATF/MB 2017).

grant of the requested relief will promote equity and fairness. Specifically, although LPTV stations operating on channels 38-51 had until July 13, 2020 to discontinue operations, KAUI-LP had to vacate its prior channel more than a year earlier due to a notice from T-Mobile. Due to the unique circumstances affecting stations on Maui, Licensee was unable to transition to digital within one year of the date it went silent. Nevertheless, Licensee has developed a plan to convert to digital and anticipates commencing channel sharing by July 13, 2021 (subject to obtaining FCC approval).

The Commission has granted waivers of Section 312(g) under similar circumstances, and Licensee respectfully requests the same consideration here.⁸

⁸ See *e.g.*, Letter from Barbara A. Kreisman, Chief, Video Division, Media Bureau to Community Television Educators, Inc., LMS File No. 0000117345 (June 7, 2021); Letter from Barbara A. Kreisman, Chief, Video Division, Media Bureau to KRCA License LLC, LMS File No. 0000059940 (Mar. 15, 2019).



VIA CERTIFIED MAIL & EMAIL

June 04, 2018
Arnold Torres
WORD OF GOD FELLOWSHIP, INC.
3901 HIGHWAY 121 SOUTH
BEDFORD, TX 76021

RE: Notification of Intent to Begin 600MHz Operations

Dear KAUI-LP Contact/ Facility ID: 52915

T-Mobile USA, Inc. (T-Mobile) is notifying you that T-Mobile is preparing to commence operations on its 600MHz spectrum in the Partial Economic Area (PEA) #42 by 10/23/2018 and your station is likely to cause harmful interference to T-Mobiles operations.

To determine if your station(s) is likely to cause interference, an interference analysis has been performed, as specified by the Federal Communications Commissions (FCC) Inter-service Interference procedures¹, using publicly available information in the FCCs Licensing and Management System (LMS) for your facility. This analysis predicts field strength at T-Mobiles base station and user equipment locations in the PEA #42 market from your facility. The FCC has set the thresholds at which the predicted field strength from low power TV and translator stations creates a sufficient interference risk to wireless facilities. T-Mobile has determined that your facility exceeds those thresholds and is an interference risk to its wireless operations.

T-Mobile will commence its operations in the PEA #42 market on 10/23/2018. This letter provides the 120 days advance notification required by FCC regulations, 47 CFR §73.3700(g)(4). The FCC regulations also require you to cease operations or eliminate the potential for harmful interference to T-Mobiles wireless facilities in the PEA #42 market.

The FCC will work with you to attempt find a new television channel outside of the new 600 MHz mobile band that will not interfere with T-Mobiles network. You should review the FCCs Tools Available to LPTV/Translator Station Public Notice (enclosed) released on June 14, 2017 and contact Hossein Hashemzadeh, Melvin Collins, or Barbara Kreisman at the FCC for more information about the options available in your area.²

Please email SpectrumClearing@T-Mobile.com once you have determined when you will eliminate the interference. If you would like additional information regarding our findings or if it might be possible to coordinate our operations, please submit a request to Dan Wilson, Sr. Manager, Spectrum Engineering, at SpectrumClearing@T-Mobile.com.

Sincerely,
/s/ Mark Bishop
Sr Manager, Engineering Development, T-Mobile USA, Inc.

¹See 30 FCC Rcd 12049, 12071, para. 49 (2015)

²See www.fcc.gov/document/iatf-mb-set-forth-tools-available-lptvtranslator-stations