



Federal Communications Commission  
Washington, D.C. 20554

July 13, 2021

Magnum Radio, Inc.  
David R. Magnum, President  
P.O. Box 118  
West Bend, WI 53095  
[magcom@chorus.net](mailto:magcom@chorus.net)  
(via electronic mail)

Re: Request for Extension of License  
and Silent Authority Under Section  
312(g)  
WBOO-LP, Elk Mound, WI  
LMS File No. 0000150133  
Facility ID No. 130843

Dear Licensee:

This concerns the above-referenced request to extend license and silent authority (Request) filed by Magnum Radio, Inc. (MRI), licensee of low power television station WBOO-LP, Elk Mound, Wisconsin (WBOO-LP or Station). For reasons set forth below, we grant the request, waive all applicable rules, and extend the Station's license and silent authority for a period of 180 days from the date of this letter.

*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.”<sup>1</sup> 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.”<sup>2</sup> 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 promote fairness and equity, it “will examine whether the station has demonstrated that its silence is the

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<sup>1</sup> 47 U.S.C. § 312(g).

<sup>2</sup> *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.*, Memorandum Opinion and Order, 23 FCC Rcd 603, 617, para. 27 (“This 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.*, Memorandum Opinion and Order, 21 FCC Rcd 14259 (2006); *Community Bible Church*, Letter, 23 FCC Rcd 15012, 15014 (MB 2008); *Mark Chapman, Court-Appointed Agent*, Letter, 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.*, Letter, 25 FCC Rcd 10686 (MB 2010); *Kirby Young, Letter*, 23 FCC Rcd 35 (MB 2008).

result of compelling reasons beyond the stations' control, including facts that relate to the post-auction transition process.”<sup>3</sup> 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.<sup>4</sup> 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.”<sup>5</sup>

*Request.* As part of the Incentive Auction repacking process, WBOO-LP's analog channel 45 was displaced. As a result, WBOO-LP was required to go silent on July 13, 2020.<sup>6</sup> MRI has a digital displacement construction permit for channel 18.<sup>7</sup> MRI states that WBOO-LP intends to use its existing broadband antenna and transmission line to operate on channel 18 and has been working to ascertain the necessary operating power to permit it to file for a temporary engineering STA to resume operations at reduced power on Channel 18 while it works towards construction of the permanent facility. MRI states that WBOO-LP had, as a result of COVID-19, been unable to coordinate engineering personnel and vendors needed in order to facilitate the temporary engineering STA to operate at reduced power on channel 18 or construct the new permanent facilities on channel 18. However, COVID-19 circumstances relented sufficiently to permit some of the travel necessary to facilitate the implementation of the engineering STA for reduced power operations on channel 18 as well as facilitate the construction of the new permanent facilities on channel 18. MRI states that it is in the process of acquiring the necessary low power digital transmitter needed to submit an engineering STA to commence temporary operations. MRI goes on to represent that it is working on a slight modification of its final channel 18 digital facilities to specify new operating parameters, but the recent resurgence of COVID-19 variant infections both in Wisconsin and in neighboring jurisdictions such as Illinois and Michigan where some of the engineering professionals reside continues to cause unexpected delays.

MRI maintains that, once the necessary professionals are on site it will take a few weeks to perform the necessary work to complete and file the engineering STA and commence digital operations. From that point MRI estimates that it will take approximately 120 days to complete construction of its permanent digital facility. Magnum Radio, Inc., therefore requests relief under section 312(g) and extension of silent authority and license for an additional 180 days in order to undertake the remaining tasks to rebuild and resume temporary operations, and ultimately file a license to cover for the permanent

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<sup>3</sup> *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)).

<sup>4</sup> 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*).

<sup>5</sup> *Id.* at 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).

<sup>6</sup> See LMS File No. 0000117794.

<sup>7</sup> See LMS File No. 0000143670. The Stations digital construction permit expires January 10, 2022. See LMS File No. 0000144096.

facility on channel 18.

*Discussion.* Upon review of the facts and circumstances presented, we find that MRI's request for extension of license and silent authority pursuant to section 312(g) for a period of 180 days from the date of this letter satisfies the requirements of section 312(g) as described in the *Incentive Auction R&O*, the *Post-Incentive Auction Procedures PN*, and the *Special Displacement Window PN*, and is in the public interest. Consistent with the public interest, we will provide section 312(g) relief to displaced LPTV and TV translator stations that are forced off the air by circumstances beyond their control. WBOO-LP was displaced by the incentive auction and diligently pursued its digital displacement facilities. Due to construction delays WBOO-LP has been unable to return to the air. Grant of relief will enable the Station to return to the air, complete its transition to digital and once again serve its viewers.

Accordingly, we find that in order to promote fairness and equity the request filed Magnum Radio, Inc. **IS HEREBY GRANTED**, the applicable Commission rules **ARE WAIVED**,<sup>8</sup> and the license and silent authority for WBOO-LP, Elk Mound, Wisconsin **IS EXTENDED** for 180 days from the date of this letter. We note that another request for extension of WBOO-LP's license under section 312(g) will not be favorably viewed unless accompanied by a showing and written support that completion of the station's permanent displacement facilities was prevented by additional compelling circumstances and further extension is warranted under the equity and fairness provision of section 312(g). MRI must also include with any such request a description of actions taken prior to the request to attempt to meet its deadline, specific causes for delay with supporting evidence, and a detailed plan for completing construction and returning the Station to operation.<sup>9</sup>

Sincerely,

/s/

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

cc (via electronic mail): John Trent, Esq.

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<sup>8</sup> 47 CFR §§ 74.15(f) and 74.763(c).

<sup>9</sup> We also remind MRI that any requests for tolling of its construction permit deadline will be subject to the Commission's tolling provisions. See 47 CFR § 73.3598(b).