



Federal Communications Commission
Washington, D.C. 20554
July 16, 2018

In Reply Refer To:
1800B3-TSN

Mr. Luis A. Mejia
President
Bestov Broadcasting, Inc.
P.O. Box 9023916
San Juan, PR 00902-3916

In re: W12XAC(AM), Ponce, Puerto Rico
Facility ID No. 132564
File No. BR-20151112XJM
Petition for Reconsideration

Dear Mr. Mejia:

We have before us an Urgent Petition (Petition), filed with the Secretary on December 5, 2016. We consider the Petition to be a timely filed petition for reconsideration of the staff's *Letter Order* dated November 29, 2016.¹ For the reasons set forth below, we deny the Petition.

In the *Letter Order*, we informed you that current Commission rules limited the operation of a Broadcast Experimental Licensed station to one year, which may be renewed for an additional term not exceeding five years, upon an adequate showing of need.² Because your AM synchronous booster station W12XAC(AM), Ponce, Puerto Rico (Station) had been licensed since November 24, 2009, it exceeded the five-year period determined by the Commission to be sufficient for conducting tests with a Broadcast Experimental Licensed station.³

You state in the Petition that you "were never advised that the permit for this booster would only be extended for 5 years."⁴ This is true, insofar as the rules in effect when the Station license was initially issued in 2009 did not contain the five-year limitation. The rule limiting renewal of a Broadcast Experimental License was introduced when the Commission adopted Section 5.71(c) of the rules,⁵ which

¹ *Francisco R. Montero, Esq.*, Letter Order, Ref. No. 1800B3-TSN (MB Nov. 29, 2016) (*Letter Order*).

² *Letter Order* at 1. See 47 CFR § 5.71(c).

³ *Letter Order* at 1.

⁴ Petition at 1.

⁵ See *Promoting Expanded Opportunities for Radio Experimentation and Market Trials under Part 5 of the Commission's Rules and Streamlining Other Related Rules*, Report and Order, 28 FCC Rcd 758 (2013) (*Experimental Streamlining Order*). The Stations were originally permitted and licensed under Part 74 of the rules; the Commission in the *Experimental Streamlining Order* moved those rules into Part 5 with the other experimental station rules, and amended some of the rules pertaining to Broadcast Experimental Licenses.

became effective May 29, 2013.⁶ However, the Station license did state, in Special Operating Condition 2, that experimental licenses were granted for a one-year period only, and that renewal applications would have to be filed to continue operating as a Broadcast Experimental License station. Moreover, the Station license contained language, as do all Commission licenses, advising that it was “[s]ubject to the provisions of the Communications Act of 1934, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission.”⁷ Thus, the Station was subject to the rule change that became effective in May 2013.

Although you state that the Station has “served its communities,” a station authorized under a Broadcast Experimental License does not have community service obligations. In fact, such stations are prohibited from transmitting a regular programming service unless specifically authorized to do so.⁸ The Station was not so authorized. Finally, at all times while the Station was licensed, the Commission was prohibited from licensing new program services without subjecting such applications to competing applications and competitive bidding procedures.⁹ Broadcast Experimental Licensed stations thus cannot operate as full-time broadcast stations.

For the foregoing reasons, the Petition IS DENIED.

Sincerely,



Albert Shuldiner
Chief, Audio Division
Media Bureau

⁶ 78 Fed. Reg. 25137 (Apr. 29, 2013).

⁷ See W12XXAC license, File No. BLEX-20030801DEP.

⁸ 47 CFR § 5.215. See also former 47 CFR § 74.182.

⁹ See 47 U.S.C. § 309(j); 47 CFR §§ 1.2101-1.2114, 73.5000-73.5009. See also *Wifredo G. Blanco-Pi*, Memorandum Opinion and Order, 31 FCC Rcd 4291, 4293, para. 6 (2016) (“[E]stablishment of a new AM booster station merely to extend the service of an existing AM station impermissibly circumvents our commercial AM filing window and competitive bidding processes.”).