



Federal Communications Commission
Washington, D.C. 20554

September 25, 2019

Cayo Hueso Networks, LLC
Oscar Ibarra
P.O. Box 1471
29833 Ruby Ranch Road
Evergreen, CO 80437

Re: Request for Reinstatement and
Extension of License and Silent
Authority Under Section 312(g)
WDGT-LD, Miami, FL
LMS File No. 0000078803
Facility ID No. 6046

Dear Licensee:

This concerns the above-referenced request to reinstate and extend license and silent authority (Request), as amended, filed by Cayo Hueso Networks, LLC (CHN), licensee of low power television station WDTG-LD, Miami, Florida (WDTG or Station). For reasons set forth below, we grant the request, waive all applicable rules, reinstate 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) 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."¹ 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."² Further, in the *Post-Incentive Auction Procedures PN* the Media Bureau stated that, in considering requests to extend or reinstate a station's 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 result of compelling reasons beyond the station's control, including facts that relate to the post-auction transition process."³ 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

¹ 47 U.S.C. § 312(g).

² *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567, 6806-07, para. 585 (2014) (*Incentive Auction R&O*).

³ *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)).

result of the incentive auction and repacking process.⁴ 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.”⁵

Request. In its Request, CHN notes WDTG initially suspended operations on channel 9 on March 28, 2018 due to equipment failures. As part of the incentive auction and repacking process, WDTG’s channel 9 was subsequently displaced by WWSN, Miami, Florida. WDTG’s displacement application for channel 5 was granted on June 20, 2018. CHN reports that it has quotes in hand for equipment for its new channel 5 operation and is relying on funding from the Commission’s reimbursement program for low power television stations. Further complicating matters, CHN maintains that tower crews are difficult to schedule due to the heavy workloads in the Miami area. Therefore, CHN is not certain when final repairs can be completed and the Station again on the air once funds are available. Therefore, CHN requests a waiver of Section 312(g), reinstatement and extension of its license and silent authority for an additional 180 days.

Discussion. Upon review of the facts and circumstances presented, we find that CHN’s request for waiver of Section 312(g) and to reinstate and extend the WDTG’s license 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, including reinstatement of a station’s license, to displaced LPTV and TV translator stations that are forced off the air by circumstances beyond their control.⁶ WDTG was initially forced off the air by an equipment failure and then subsequently displaced by the incentive auction and repacking process and took steps to build its displacement facilities in a timely manner. Therefore, due to circumstances outside its control, WDTG has been unable to return to the air prior to the one-year anniversary of going silent. CHN pledges to resume operations on the Station’s new channel as soon as possible. Grant of a waiver of Section 312(g) will allow WDTG to return to the air and once again serve its viewers.

Accordingly, we find that in order to promote fairness and equity the request filed by Cayo Hueso Networks, LLC **IS HEREBY GRANTED**, the applicable Commission rules ARE WAIVED,⁷ and the

⁴ 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*).

⁵ *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).

⁶ See *V.I. Stereo Communications Corp.*, 21 FCC Rcd. 14259 (2006) (granting a request to reinstate a station’s license when the station’s tower had been destroyed by a hurricane and after it was rebuilt, again sustained substantial damage from three more hurricanes); *Community Bible Church, Letter*, 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); *Mark Chapman, Court-Appointed Agent, Letter*, 22 FCC Rcd 6578 (MB 2007) (reinstatement warranted where extended silence resulted from licensee’s compliance with a court order).

⁷ 47 CFR §§ 74.15(f) and 74.763(c).

license for WDTG-LD, Miami, Florida **IS REINSTATED AND EXTENDED** for 180 days from the date of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'B A Kreisman', with a long horizontal flourish extending to the right.

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc: James Talens, Esq.