



Federal Communications Commission
Washington, D.C. 20554

March 30, 2022

Word of God Fellowship, Inc.
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Bedford, TX 76021
arnold.torres@daystar.com
(via electronic mail)

Re: Requests for Reinstatement and
Extension of License and Silent
Authority Under Section 312(g)
and Applications for Extension
of Digital Construction Permit
KRJR-LP, Sacramento, CA
KSCD-LP, Hemet, CA
LMS File Nos. 0000179240,
0000179243, 0000179575 and
0000186482
Facility ID Nos. 64982 and
128978

Dear Licensee:

This letter concerns the requests to reinstate and extend license, extend silent authority, and provide waiver of the tolling rules, as amended (Requests), filed by Word of God Fellowship, Inc. (WOGF) licensee of low power television (LPTV) stations KRJR-LP, Sacramento, California and (KRJR-LP) and KSCD-LP, Hemet, California (KSCD-LP) (collectively Stations). For reasons set forth below, we grant WOGF's Requests, waive all applicable rules, reinstate and extend the Stations' licenses and silent authority and toll the Stations' digital construction permits to May 11, 2022 for KRJR-LP and July 11, 2022 for KSCD-LP.¹

Background. Section 312(g) of the Communications Act of 1934 (the Act) 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 In the *Incentive Auction R&O*, the Commission explained that it would be receptive to

¹ Because WOGF requests tolling through Sunday, July 10, 2022, we will extend the construction permits to the next business day, which would be Monday, July 11, 2022. *See* 47 CFR § 1.4.

² 47 U.S.C. § 312(g). 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).

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."³ Further, in the *Post-Incentive Auction Procedures PN* the Media Bureau (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 result of compelling reasons beyond the stations' control, including facts that relate to the post-auction transition process."⁴ 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.⁵ 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, it would "consider a request for extension or reinstatement pursuant to section 312(g) of the Act and a request for waiver of the Commission rule."⁶

Requests for additional time to construct LPTV facilities are subject to the Commission's tolling provisions of section 73.3598(b) of the Rules.⁷ The Commission's tolling provisions provide that a construction permit deadline may be tolled under specific circumstances such as acts of God, delays due to administrative or judicial review, or construction that is delayed by any cause of action pending before a court of competent jurisdiction relating to any necessary local, state, or federal requirement for the construction or operation of the station, including any zoning or environmental requirement.⁸ If a station does not qualify for tolling under these criteria, good cause may exist to waive the Commission's tolling provisions and tolling may still be warranted where the licensee can demonstrate that "rare and

³ *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, GN Docket No. 12-268 et al., 29 FCC Rcd 6567, 6806-07, para. 585 (2014) (*Incentive Auction R&O*).

⁴ *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition*, MB Docket No. 16-306 and GN Docket No. 12-268, 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*, MB Docket No. 16-306 and GN Docket No. 12-268, 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)).

⁵ 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*, MB Docket No. 16-306 and GN Docket No. 12-268, Public Notice, 33 FCC Rcd 1234, 1237, para. 7 (IATF/MB 2018) (*Special Displacement Window PN*).

⁶ *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).

⁷ See 47 CFR § 73.3598(b).

⁸ *Id.*

exceptional circumstances” prevented construction by the station’s construction permit expiration date.⁹

Requests. The Stations are licensed LPTV stations whose analog channels (channel 44 for KRJR-LP and channel 38 for KSCD-LP) were displaced by the Incentive Auction and repacking process and were designated as portion of the new wireless “duplex gap.” As a result, the Stations’ analog operations were required to cease on July 13, 2020 and they have yet to resume operations in digital.¹⁰ The Stations’ applications for digital displacement channels (channel 12 for KRJR-LP and channel 27 for KSCD-LD)¹¹ were granted and, because they were operating in analog at the time, the construction permits (Displacement CPs) were assigned a July 13, 2021 expiration date.¹² In April 2021, the Displacement CPs were extended to January 10, 2022.¹³

In its Requests, WOGF provides well-documented showings of its efforts to complete construction of the Displacement CPs and of the delays outside of its control that it encountered preventing the Stations from resuming operations on their digital displacement channels.

KRJR-LP Request. WOGF states that it has been pursuing locating the antenna for KRJR-LP’s displacement facilities on a 500-foot existing tower structure. This plan required the design of a highly specialized antenna that would produce the directional pattern needed for the station to avoid causing interference. WOGF states that its antenna manufacturer struggled for several months from April 2021 throughout the rest of the year to come up with a suitable design. The manufacturer’s efforts, WOGF claims, were hindered by the death of its director of RF engineering during that period. Finally, WOGF reports, in December 2021, the manufacturer developed the necessary antenna design. In January 2022, WOGF filed an application for minor modification specifying the new antenna that is currently pending.¹⁴ Once granted, WOGF pledges to complete construction of the station’s displacement facilities within 45 days.

KSCD-LP Request. KSCD-LP’s facilities are to be located on an existing tower on Keller Peak in the San Bernardino Forest in California. WOGF maintains that it completed all of the necessary lease modifications, ordered equipment for the Displacement CP facilities and was awaiting the delivery and installation of the Stations’ digital transmission equipment. However, as documented in photos of the Station’s proposed transmitter site, WOGF maintains that, on January 1, 2022, when its engineer attempted to access the site, he found the road leading to the site was covered in snow and closed for the season. WOGF provides a letter from the tower owner verifying that the site is currently inaccessible due to local adverse weather conditions. The tower owner also states that it is unable to provide a timeframe

⁹ See *1998 Biennial Regulatory Review -- Streamlining of Mass Media Applications, Rules, and Processes*, Memorandum Opinion and Order, 14 FCC Rcd 17525, 17542, para. 42 (1999) (*Streamlining MO&O*) (recognizing that there may be “rare and exceptional circumstances” beyond the control of the licensee that do not fall under the tolling provisions, but “which would warrant the tolling of construction time.” The Commission concluded that in such “limited circumstances,” it would entertain requests for waiver of its “strict tolling provisions”); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1072 (1972); 47 CFR § 1.3 (waiver for good cause shown).

¹⁰ See *Incentive Auction R&O*, 29 FCC Rcd at 6841, para. 672.

¹¹ See LMS File Nos. 0000051701 and 0000054282.

¹² See 47 CFR § 74.788(a).

¹³ See LMS File Nos. 0000139778 and 0000139764 (Extension Applications).

¹⁴ See LMS File No. 0000179324.

for when the site will once again be accessible. WOGF predicts that, barring additional weather delays, it will be able to complete construction of the Station's displacement facilities within 180 days and requests a waiver of the rules and tolling until that time.

Discussion. Upon review of the facts and circumstances presented, we find that WOGF's requests for reinstatement and extension of the Stations' licenses 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, therefore, in the public interest. Consistent with the public interest and prior Bureau actions, we will provide section 312(g) relief to displaced LPTV and TV translator stations that were displaced by the Incentive Auction, pursued new displacement channels, and those efforts were delayed for circumstances beyond their control. The Stations were displaced by the Incentive Auction and repacking process. WOGF diligently pursued construction of their displacement facilities, but its efforts were hindered by construction delays including antenna design issues and weather related delays. For similar reasons, we find that WOGF has met the standard for waiver of the tolling rules and tolling of its Displacement CPs, as well as extension of the Stations' silent authority. Grant of WOGF's Requests will permit the Stations to complete their transition to digital and once again serve their viewers on their digital displacement channels.

We remind WOGF that, pursuant to the Reimbursement Expansion Act, the Stations are eligible for reimbursement from the TV Broadcast Relocation Fund (Fund) of costs reasonably incurred as a result of the reorganization of broadcast television spectrum.¹⁵ Please note, however, that additional expenses incurred, such as those resulting from changes in a Station's plans to construct its displacement facilities that are unrelated to the displacement, may not be eligible for reimbursement from the Fund.

We further remind WOGF of the deadline for submitting final expense documentation for reimbursement for the Stations is September 6, 2022.¹⁶ **We caution the Stations that we do not anticipate allowing extensions of the final September 6, 2022 invoice filing deadline. A station's failure to complete any remaining construction in a timely manner and to make final submissions by the assigned invoice filing assignment deadline could preclude that station from receiving full reimbursement.** Unobligated amounts in the Fund must be rescinded to Treasury and the Commission staff (with the support of the Fund Administrator) must have sufficient time to fully process all reimbursement requests and complete close-out procedures prior to July 3, 2023.¹⁷ The Fund Administrator will initiate close out procedures for any entity that has failed to initiate interim close-out procedures by the September 6, 2022 invoice filing deadline. Any unused allocations made to that

¹⁵ See *Consolidated Appropriations Act, 2018*, Pub. L. 115-141, at Division E, Title V, § 511, 132 Stat. 348 (2018) (codified at 47 U.S.C. § 1452(j)-(n)). See also 47 CFR § 73.3701 (Reimbursement Under the Reimbursement Expansion Act); *LPTV, TV Translator, and FM Broadcast Station Reimbursement; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 34 FCC Rcd 1690 (2019); and *LPTV, TV Translator, and FM Broadcast Station Reimbursement; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Notice of Proposed Rulemaking and Order, 33 FCC Rcd 7855 (2018).

¹⁶ See *Invoice Filing Deadlines for TV Broadcaster Relocation Fund*, MB Docket No. 16-306 and GN Docket No. 12-268, Public Notice, 35 FCC Rcd 11273, 11277, paras. 10-11 (IATF/MB 2020) (setting three filing deadlines for submission of all remaining repack invoices: for eligible entities assigned repack transition completion dates in the first half of the 39-month post-auction transition period, the deadline for submitting all remaining invoices is October 8, 2021; the deadline for entities assigned completion dates in the second half of the transition period is March 22, 2022; and the deadline for all other participants in the reimbursement program is September 6, 2022).

¹⁷ See *id.* at 11277-78, para 13.

entity's account will be returned to the Fund and made available for allocation to other program participants or rescinded to Treasury. Thus, we strongly encourage the Stations to diligently pursue satisfaction of the current deadlines and we encourage Chicago Licensees to submit eligible invoices as soon as practicable.

Accordingly, we find that in order to promote fairness and equity the requests filed Word of God Fellowship, Inc. **IS HEREBY GRANTED**, the applicable Commission rules **ARE WAIVED**,¹⁸ and the license and silent authority for KRJR-LP, Sacramento, California and KSCD-LP, Hemet, California, **ARE REINSTATED AND EXTENDED** to May 11, 2022 and July 11, 2022, respectively. In addition, the request for waiver of the tolling rules of Word of God Fellowship, Inc. **ARE GRANTED** and the expiration dates of the construction permits (LMS File No. 0000051701 and 0000054282) for KRJR-LP, Sacramento, California and KSCD-LP, Hemet, California, **ARE TOLLED** to May 11, 2022 and July 11, 2022, respectively. We note that another request for extension of either Station's license under the equity and fairness provision of section 312(g)¹⁹ and/or tolling of a Station's construction permit under section 73.3598(b) of the Commission's rules²⁰ will not be viewed favorably unless accompanied by a showing that completion of the Station's displacement facilities was prevented by additional compelling circumstances. WOGF 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.

¹⁸ 47 CFR §§ 74.15(f) and 74.763(c).

¹⁹ 47 U.S.C. § 312(g)

²⁰ 47 CFR § 73.3598(b). A station may also seek a waiver of the tolling rule to receive a additional time to construct in the case where "rare or exceptional circumstances" prevent construction. *See Streamlining MO&O*, 14 FCC Rcd 17525, 17536, para. 42 (1999).