

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of LPTV Station:

WNIB-LD	)	BRDTL-20160506AEB
Rochester, New York	)	(Facility ID: 67785

To: The Secretary  
Attn.: Chief, Video Division, Media Bureau

**PETITION FOR RECONSIDERATION,  
REQUEST FOR STAY, AND SPECIAL TEMPORARY AUTHORITY**

Tri-State Christian TV, Inc. ("TCT"), licensee of low power television station WNIB-LD, Rochester, New York ("Station"), pursuant to Commission Rule 1.106(f), 47 CFR §1.106(f) (2016), hereby respectfully seeks reconsideration of the Bureau's April 19, 2016, letter cancelling the license of the Station. The basis for the Bureau's action, that TCT had failed to file for renewal of the Station's license in accordance with Rule 73.3539(a), has been corrected. TCT filed the necessary renewal application for the Station on May 9, 2016 (BRDTL-20160506AEB), and has paid the required filing fee.

**THE WNIB-LD RENEWAL HAS BEEN FILED  
AND SHOULD BE REINSTATED**

The Bureau's letter (copy attached as Exhibit 1) advised TCT that "the required renewal application" had not been timely filed and the license was being cancelled. By oversight TCT had missed the February 1, 2015 filing date for the WNIB-LD renewal, and it was not until receipt of the Bureau's letter that the mistake was realized. The renewal has now been filed and accepted for processing. A petition for reconsideration

may rely on changed circumstances or facts not previously presented to the Commission when “consideration of the new information serves the public interest.” *Commission’s Rules Governing Hearing Aid-Compatible Telephones (Order on Reconsideration)*, FCC 12-89 (¶5), released August 14, 2012; Rule 1.106(c)(1) & (b)(2)(i), 47 CFR §1.106(c)(1) & (b)(2)(I). TCT’s now filed renewal for WNIB-LD fully supports reconsideration in the public interest and renewal and reinstatement of the license.

**WNIB-LD SHOULD BE GIVEN SPECIAL TEMPORARY AUTHORITY TO  
CONTINUING BROADCASTING OR THE BUREAU’S LETTER SHOULD BE  
STAYED PENDING ACTION ON THIS RECONSIDERATION**

TCT has now filed the license renewal applications for WNIB-LD, and in accordance with section 307(c)(3) of the Communications Act, automatically continued the license for whatever time it may now take the Commission to complete processing.<sup>1</sup> Nevertheless, out of an abundance of caution, TCT requested special temporary authority, *nunc pro tunc*, to continuing operating the Station pending processing of renewal (copy attached as Exhibit 2), or essentially a stay of license cancellation stated in the Bureau’s letter.

In evaluating whether to grant interim relief such as a stay, the Commission generally considers the four criteria used by federal courts to evaluate a request for a preliminary injunction:<sup>2</sup> (1) the likelihood of success on the merits; (2) the threat of irreparable harm absent the grant of preliminary relief; (3) the degree of injury to other parties if relief is granted; and (4) whether the preliminary relief will further the public

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<sup>1</sup>In pertinent part, section 307(c)(3) of the Act, 47 USC § 307(c)(3), states: “Pending any . . . final decision on such an application [for renewal] . . . the Commission shall continue such license in effect.”

interest.<sup>3</sup> The Commission has also recognized that “a compelling demonstration that the public interest would be irreparably harmed lessens the level of certainty required of a moving party to show that it will prevail on the merits.”<sup>4</sup>

Regarding the first criteria, TCT is likely to prevail on the merits since it has now filed the necessary renewal application and paid the associated filing fee for the Station. Second, both the public and TCT will be irreparably harmed if the unique, religious, and family-oriented service provided by WNIB-LD is forced to go dark while this reconsideration is pending. As the Supreme Court noted in *Turner Broadcasting Systems, Inc. v. FCC*, 512 U.S. 622, 664-68 (1994), the availability of the widest diversity of program offerings enhances the public interest. Third, no other party or interest will be harmed by either staying the effect of the Bureau’s letter or affording the Station special temporary authority, *nunc pro tunc*, to continue broadcasting during the time it takes to process this reconsideration and the WNIB-LD renewal. Finally, as to the last criteria considered in awarding interim relief, the public interest is best served in this case by allowing the Station to continue broadcasting. The uninterrupted continuation of broadcast service by the Station will clearly enhance the diversity of program offerings available. *Id.*; and *Red Lion Broadcasting v. FCC*, 379 U.S. 64, 74-75 (1964) (more voices in the public arena, not fewer, best serves the public interest). Accordingly, permitting the continued broadcast service of WNIB-LD best serves the public interest, and relief should be granted.

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<sup>2</sup> See, *Time Warner Cable*, 39 CR 240, 21 FCC Rcd 8808 (¶ 6) (rel. Aug. 3, 2006).

## CONCLUSION

For the foregoing reasons, TCT respectfully requests it be afforded the relief requested herein, and that the WNIB-LD renewal be processed and granted in due course

Respectfully submitted,

TRI-STATE CHRISTIAN TV, INC.

By 

Colby M. May  
Its Attorney

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May 23, 2016

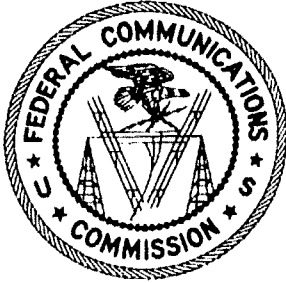
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<sup>3</sup> See, *In re AT&T Corp., et al.*, 13 FCC Rcd 14508, 14515-16 (1998).

<sup>4</sup> *Id.* at 14516.

**EXHIBIT 1**

**FCC'S APRIL 19, 2016 LETTER**



**FEDERAL COMMUNICATIONS COMMISSION**  
**Washington, D.C. 20554**

April 19, 2016

CHANNEL 41, INC.  
P. O. BOX 1010  
MARION, IL 62959

In re: LPTV/ TV translator stations: WNIB-LD Fac. ID: 67785

Dear Licensee:

Your license authorization for the above-referenced station is cancelled, therefore you are required to permanently cease operation of the station.

§ 73.3539 (a) of the Commission's Rules states that:

Unless otherwise directed by the FCC, an application for renewal of license shall be filed not later than the first day of the fourth full calendar month prior to the expiration date of the license sought to be renewed.

Our records indicate that you have not filed the required renewal application within the time period specified by this rule section.

Very truly  
yours,

A handwritten signature in dark ink, appearing to read "Hashemzadeh", is written over a circular stamp that contains the word "Hossein".

Hashemzadeh  
Deputy Chief, Video Division  
Media Bureau

## CERTIFICATE OF SERVICE

I, Colby M. May, hereby certify that on this 23<sup>rd</sup> day of May 2016, I have caused a true and correct copy of the foregoing PETITION FOR RECONSIDERATION to be sent, to:

Hossein Hashemzadeh (via e-mail)  
Federal Communications Commission  
Washington, DC 20054



Colby M. May