



**Federal Communications Commission
Washington, D.C. 20554**

January 13, 2021

In reply refer to: 1800B3-VM

Jose D. Soler, Esq.
P.O. Box 316
Coamo, PR 00769-0316

In re: **WJVP(FM), Culebra, PR**
Facility ID No. 11619
Silent since September 20, 2017

Request for Extension of Special Temporary
Authority to Remain Silent

Dear Mr. Soler:

This letter concerns the request you filed on September 15, 2020, on behalf of Tabernaculo de Santidad, Inc. (TSI) for extension of Special Temporary Authority (STA) to permit FM Station WJVP, Culebra, Puerto Rico (Station), to remain silent. This request requires that we consider whether to extend the Station's license pursuant to section 312(g) of the Communications Act of 1934, as amended (Act).¹ Before we grant this request, TSI must respond to this inquiry letter in writing within thirty days of the date of this letter.²

On March 4, 2020 we granted TSI an extension of STA based on continuing technical problems due to damage caused by Hurricane Maria.³ At that time, we also granted an extension of license pursuant to section 312(g) of the

In support of its extension of silent STA, TSI states that it remains silent due to government ordered closures caused by COVID-19 from March through August 2020, as well as flooding caused by Hurricane Isaias on July 30, 2020. The request includes the appropriate certification regarding Section 5301 of the Anti-Drug Abuse Act of 1988.⁴

Commission records reflect that on August 11, 2020, TSI filed a request for STA to operate at variance from its license, which we granted on August 20, 2020.⁵ TSI has not filed a notice of resumption indicating that it was able to resume operation using that STA, and counsel has indicated that the Station was not able to resume operation using the site specified in the STA.⁶ TSI has filed another STA request for a different site, which we granted on December 14, 2020.⁷ TSI indicates that it has

¹ Section 312(g) states in pertinent part, "if 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 if the holder of the station license prevails in an administrative or judicial appeal, the applicable law changes, or for any other reason to promote equity and fairness." 47 CFR §312(g).

² See 47 CFR § 73.1740.

³ File No. BLSTA-20200219AAC.

⁴ In the event extension of special temporary authority is sought, please renew the certification in this matter.

⁵ File No. BSTA- 20200811AAP.

⁶ Email from Joe D. Soler, Esq., to Victoria McCauley, Attorney, Audio Division, Media Bureau, FCC, Dec.12, 2020 10:50 EST.

⁷ File No. BSTA- 20201209AAC

purchased the equipment necessary for operation but that it needs additional time to receive delivery of a new antenna before it can resume operation.⁸

As noted above, we must determine whether an additional extension of license pursuant to section 312(g) of the Act is appropriate.⁹ TSI's statements regarding government closures and flooding in support of its inability to return to the air are vague and unspecific and do not provide us enough information to make a determination at this time. In order to proceed with an appropriate record, we require additional documentation and proof that TSI has taken tangible steps to get the Station back on the air and a more specific explanation of what prevents it from getting the Station back on the air, given that broadcast stations are deemed essential facilities.

Please outline specifically how the COVID-19 emergency and the Hurricane Isais flooding have prevented the Station from resuming operation. This showing must describe in detail the efforts made to identify and secure a site. It must also include a list of the necessary equipment on hand or on order. If any equipment has been ordered, please include the documentation to show the expected arrival, and indicate if there have been delays in shipment. It must also show the arrangements TSI has made for the equipment to be installed at the new site, including any efforts made to hire installation personnel and details on their availability. Please also give an estimated timeframe when TSI expects to resume operation using the STA granted on December 14, 2020.

If any of the above cannot be provided, please explain the reason.

Your response must be addressed to FCC, Office of the Secretary, 45 L Street NE, Washington, DC 20554, and emailed to Victoria.McCauley@fcc.gov. If you have any questions regarding this matter, address them to Victoria McCauley by email or by telephone at (202) 418-2136.

Sincerely,

Albert Shuldiner
Chief, Audio Division
Media Bureau

⁸ *Email from Joe D. Soler, Esq., to Victoria McCauley, Attorney, Audio Division, Media Bureau, FCC, Dec.16, 2020 13:32 EST.*

⁹ The Commission's discretion under section 312(g) is severely limited. *See A-O Broad. Corp.*, Memorandum Opinion and Order, 23 FCC Rcd 603, 617, para.27 (2008) ("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 Commc'ns Corp.*, Memorandum Opinion and Order, 21 FCC Rcd 14259 (2006)(hurricane destruction); *Community Bible Church*, Letter, 23 FCC Rcd 15012, 15014 (MB 2008) (FCC and FAA records contained incorrect tower information); *Mark Chapman, Court-Appointed Agent*, Letter, 22 FCC Rcd 6578 (MB 2007) (compliance with a court order). Conversely, 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 judgments. *See, e.g., A-O Broad.*, 23 FCC Rcd 608 (failure to complete construction at an alternate site); *ETC Communications, Inc.*, Letter, 25 FCC Rcd 10686 (MB 2010) (chose not to operate station while offering it for sale); *Kirby Young*, Letter, 23 FCC Rcd 35 (MB 2008) (not financially able to restore operations after transmitter failed). *See also Kingdom of God*, Letter, 29 FCC Rcd 11589 (MB 2014) (failure to promptly find a permanent and suitable transmitter site).