



Federal Communications Commission
Washington, D.C. 20554

May 23, 2024

Guam Educational Telecommunications Corp.
P.O. Box 21449
Barrigada, GU 96921
lhernandez@pbsguam.org
(via electronic mail)

Re: Request for Extension of License and
Silent Authority Under Section 312(g)
KGTF(TV), Agana, GU
Facility ID No. 25511
LMS File No. 0000244578

Dear Licensee:

This concerns the above-referenced request to extend license and silent authority, as amended (Request), filed by Guam Educational Telecommunications Corp. (GETC), licensee of noncommercial educational (NCE) television station KGTF(TV), Agana, Guam (KGTF or Station). For reasons set forth below, we grant the request, waive all applicable rules, and extend the Station's license and silent authority to November 23, 2024.

Background. Section 312(g) of the Communications Act of 1934 (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.”¹ The Commission has exercised its discretion under section 312(g) to extend or reinstate a station's expired license “to promote equity and fairness” only in limited circumstances where a station's failure to transmit a broadcast signals for 12 consecutive months is due to “compelling circumstances” that were beyond the licensee's control.² For example, the Commission has granted section 312(g) relief to stations whose facilities were destroyed by natural disasters such as hurricanes;³ where silence was necessary in furtherance of public safety,⁴ where reinstatement of the station's license was necessitated by

¹ 47 U.S.C. § 312(g).

² See *A-O Broadcasting Corp.*, Memorandum Opinion and Order, 23 FCC Rcd 603, 617, para. 27 (2008) (*A-O Broadcasting*) (“This limited, discretionary provision is phrased as an exception to the general rule that most affected licenses will be forfeited”).

³ *V.I. Stereo Communications Corp.*, 21 FCC Rcd 14259, 14262, para. 8 (2006) (*V.I. Stereo*) (reinstating license where silence due to destruction of towers in hurricanes).

⁴ *Community Bible Church*, Letter Order, 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).

court order;⁵ or where station silence was the result of governmental closure.⁶ The Commission has declined to exercise its section 312(g) discretion when a station's silence is the result of a licensee's own action or inaction, finances, and/or business judgment.⁷

Request. KGTF is an NCE full power television station on channel 12 serving the island of Guam with PBS programming since 1970.⁸ In its Request, GETC explains that on May 23, 2023, the Station went off-air as Typhoon Mawar swept through the North Pacific, passing over Guam and causing power outages, downed trees, flooding, and extensive property damage across much of the island.⁹ President Biden subsequently declared a state of emergency on the island and the Commission relaxed its procedures for requesting special temporary authority (STA).¹⁰

In the aftermath of Typhoon Mawar, GETC states that its personnel faced widespread power outages and had no vehicle access to the Station's transmitter site, which was blocked by fallen brush and trees, forcing the engineering team to access the site by foot.¹¹ Upon examination, GETC reports that its personnel learned that much of the Station's equipment was severely damaged, including a flooded studio, a toppled and damaged satellite dish, loose and hazardously low lines running up to the transmitter tower that were blocking access to the parking lot, and a mangled perimeter fence.¹² GETC states that it subsequently met with government officials and relayed its needs to the Federal Emergency Management

⁵ *Mark Chapman, Court-Appointed Agent*, Letter Order, 22 FCC Rcd 6578, 6580 (MB 2007) (reinstating license where silence necessitated by licensee's compliance with court order).

⁶ *Universal Broadcasting of New York, Inc.*, 34 FCC Rcd 10319, (MB 2019) (finding that station's inability to file an STA to resume service due to a federal government shutdown was a compelling circumstance under section 312(g)).

⁷ *See, e.g., New Visalia Broadcasting, Inc.*, Memorandum Opinion and Order, 29 FCC Rcd 9744 (2014) (record did not show that health problems prevented the principals from resuming operations); *A-O Broadcasting*, 23 FCC Rcd 603 (transmission from unauthorized location not sufficient to avoid the consequences of section 312(g)); *Eagle Broadcasting Group, Ltd.*, Memorandum Opinion and Order, 23 FCC Rcd 588, 592, 589-90 (2008) (operation from unauthorized site insufficient to avoid the consequences of section 312(g)); *Mt. Rushmore Broadcasting, Inc.*, Letter Order, 32 FCC Rcd 3924, 3927 (MB 2017) (discretion unwarranted when station was either silent or engaging in brief periods of unauthorized operation for six years); *Zacarias Serrato*, Letter Order, 20 FCC Rcd 17232 (MB 2005) (station taken off the air due to a business decision); *Kingdom of God*, Letter Order, 29 FCC Rcd 11589 (MB 2014) (station's numerous periods of extended silence were a direct result of licensee's own business decisions); *Christian Broadcasting*, 30 FCC Rcd at 13976 (2015) (licensee provided no evidence that station's silence was beyond its control).

⁸ In 1998, the island of Guam changed the name of the village of Agana to its Chamorro-language form of Hagatna. However, Commission records continue to show the station's community of license as Agana and therefore we will refer to the former village name in our decision.

⁹ Request at 2 citing Josie Moyer & Jacey Fortin, Many in Guam Lack Power and Water a Week After Typhoon Mawar, N.Y. TIMES (June 2, 2023), <https://www.nytimes.com/2023/06/02/us/guam-typhoon-mawar.html>.

¹⁰ *See The Public Safety and Homeland Security Bureau, in Coordination with Multiple Other Bureaus, Issues Procedures for Providing Emergency Communications in Areas Impacted by Super Typhoon Mawar*, Public Notice, 38 FCC Rcd 4868 (PSHSB/MB/OIA/SB/WCB/WTB 2023).

¹¹ Request at 2.

¹² *Id.*

Agency (FEMA), including the need for emergency generators, and sought and received STA from the Commission to remain silent¹³ while personnel continued to assess damage and begin repairs.¹⁴

Throughout the remainder of 2023, GETC states that it continued to diligently pursue reconstruction of the Station's facilities.¹⁵ In June 2023, GETC reports that it learned that the critical microwave link between the Station's studio and its transmitter site was inoperable.¹⁶ An unstable power grid also delayed work at the Station's transmitter site, and GETC states that Station equipment could not be powered up to access damage.¹⁷ Later, GETC states, it was able to get power and internet access to its studios and began providing programming to its community of license via local cable systems and free streaming on the PBS app.¹⁸

In July 2023, GETC states that it attempted to install a fiber connection between the Station's studios and transmitter site, as an alternative to the microwave link, however, work was delayed because the island's local internet service provider was overwhelmed with work repairing damage to its own facilities and to multiple impacted customers, including several U.S. military facilities.¹⁹ The fiber optic link was completed in February 2024, however, GETC reports that installation revealed a second problem – the Station's encoder was damaged beyond repair.²⁰ GETC states that, as the official telecommunications commission of the island of the Guam, it was required to use time consuming government mandated procurement processes to replace the encoder. Despite difficulties finding bidders, in April 2024 it was able to accept the bid from a supplier for its new encoder.²¹ GETC reports that it expects the encoder to be delivered in the middle of June 2024 and expects to be able to finish the work of installing it and resuming operations by June 17, 2024.²²

Based on the foregoing, GETC requests that the Commission find that equity and fairness exist to extend the Station's license and silent authority.²³ GETC argues that the Commission has previously granted similar relief to stations rebuilding after catastrophic natural disasters such as hurricanes.²⁴ GETC argues that it has been working diligently toward restoring its services for the past eleven months; however, given the remote location of the station and its distant proximity to the U.S. mainland, progress has been slow and difficult, and the Station has at times discovered additional damage as it completes

¹³ LMS File No. 0000215763 granted May 31, 2023.

¹⁴ Request 2-3.

¹⁵ *Id.*

¹⁶ Request at 3.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 3-4.

²² Request – Amendment filed May 20, 2024 at 1. While GETC believes that the replacement encoder is the last step in its repair process to resume operations, replacement of the encoder may lead to the discovery of further equipment damage because GETC cannot currently assess whether the transmitter can function properly until the new encoder is installed. Request at 4.

²³ *Id.* citing 47 U.S.C. § 312(g).

²⁴ *Id.* citing , *V.I. Stereo*, *supra* n. 3; and *Media Bureau Provides Guidance for Broadcast Licensees Still Rebuilding in the Aftermath of Hurricanes Irma and Maria*, Public Notice, 33 FCC Rcd 8368, 8368–69 (2018).

repairs.²⁵ Despite these setbacks, GETC states that it has provided its programming to the public since June 2023 through the island's two cable systems and by streaming the programming directly to viewers free of charge through the PBS app.²⁶ GETC concludes that granting its Request will permit the Station to continue to provide the island of Guam with the PBS programming that it has been providing for nearly 50 years.²⁷

Discussion. Upon review of the facts and circumstances presented, we find that GETC's request for extension of license and silent authority pursuant to section 312(g) satisfies the requirements of section 312(g) and is in the public interest. The Station was forced to remain silent due to compelling circumstances resulting from damage from Typhoon Mawar. GETC has worked diligently to repair and replace the Station's facilities; however, construction has been delayed due to circumstances beyond its control, namely obtaining fiber internet access from its studios to the Station's transmitter site to replace a damaged microwave link and a last minute issue with the Station's transmitter encoder. Grant of GETC's Request will permit the Station to once again serve its viewers with PBS programming.

Accordingly, we find that in order to promote fairness and equity the Request filed by Guam Educational Telecommunications Corp. **IS HEREBY GRANTED**, the applicable Commission rules **ARE WAIVED**,²⁸ and the license for KGTF(TV), Agana, Guam, **IS EXTENDED through November 23, 2024**. In addition, GETC's request for an extension of silent authority **IS GRANTED through November 23, 2024**.²⁹ We remind GETC that another request for extension of the Station's license under the equity and fairness provision of section 312(g) will not be favorably viewed unless accompanied by a showing that completion of the Station's facilities was prevented by additional compelling circumstances. GETC 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): Howard M. Liberman, Esq.

²⁵ Request at 5.

²⁶ *Id.*

²⁷ *Id.* at 6.

²⁸ 47 CFR §§ 74.15(f) and 74.763(c).

²⁹ LMS File No. 0000244578.