



Federal Communications Commission  
Washington, D.C. 20554

February 7, 2019

*In reply refer to: 1800B3-VM*

Christopher D. Imlay, Esq.  
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14356 Cape May Road  
Silver Spring, MD 20904

**In re: DKBRN(AM), Boerne, TX**  
Facility ID No. 51961  
Petition for Reconsideration

Dear Mr. Imlay:

This letter concerns a Petition for Reconsideration (Petition) you filed on August 15, 2018, on behalf of Claro Communications, Ltd. (CCL), former licensee of AM Station DKBRN, Boerne, Texas (Station), of the July 31, 2018 Letter Order<sup>1</sup> cancelling the Station's license pursuant to Section 312(g) of the Communications Act of 1934, as amended (Act).<sup>2</sup> The Petition is granted, subject to conditions delineated below.

On May 14, 2018, the Bureau sent CCL a letter requesting clarification of the operating status of Station KBRN(AM), Boerne, Texas (Station) since March 22, 2017.<sup>3</sup> Pursuant to Section 73.1740 of the Commission's Rules,<sup>4</sup> CCL was required to clarify this matter in writing within thirty days of the date of that letter. CCL did not respond, and the Bureau then sent CCL the Letter Order, after determining that CCL's failure to respond and an on-site FCC inspection indicated CCL had failed to operate the Station with authorized facilities in violation of our rules and the Act. The Bureau thus canceled the Station's license and deleted the call letters.<sup>5</sup>

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<sup>1</sup> Letter from Albert Shuldiner, Chief, Audio Division, Media Bureau, to Claro Communications, Ltd., July 31, 2018 (Ref. 1800B3-VM) (Letter Order).

<sup>2</sup> 47 U.S.C. §312(g).

<sup>3</sup> Letter from Albert Shuldiner, Chief, Audio Division, Media Bureau, to Claro Communications, Ltd., May 14, 2018, (Ref. 1800B3-VM (Inquiry Letter). That letter requested the following:

Please provide evidence documenting the Station's operational status since March 22, 2017. This evidence must indicate the location, effective radiated power and antenna height above ground level for **all periods of operation** from March 22, 2017, to the present. Also include copies of all leases, personnel records (including payroll records appropriately redacted to protect the privacy of individual employees), engineering records, and station logs, including issues/programs lists, for that period of time. In addition, you must provide copies of all invoices, bills, checks written or received, credit card charges, wire transfers or deposits of funds relating to the Station's operation.<sup>3</sup> You **must also include pictures** of the Station's studio facilities and transmission facilities during this timeframe and provide exact Station coordinates. Inquiry Letter pp.1-2.

<sup>4</sup> 47 CFR § 73.1740.

<sup>5</sup> 47 U.S.C. § 312 (g): "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

CCL argues in the Petition that it never received the Inquiry Letter, but that it did receive the Letter Order. It states that the Station had not been off the air between March 17, 2017 and the date of the Petition. In support of this statement, it includes 1) photographs of the transmitter location and the Station, taken in August 2018, 2) electric bills for the Station's transmitter site "during most of that period of time;" and 3) a copy of current transmitter site lease covering July 17, 2017 to the present. It states that from March 22, 2017 to July 1, 2018, the Station was simulcasting Station KEDA(AM), San Antonio, Texas via telephone line. It further states that the Station operated with its licensed parameters (250 watts, daytime only) at all times since prior to May 2017. It requests that cancellation be rescinded, and the Station returned to active status.

CCL later supplemented this showing with copies of the Station's license, renewal grant postcard, and station logs for the month of March 2018.

We will grant reconsideration.<sup>6</sup> The submissions show that the Station was operating throughout the period of time in question, and therefore the Station's license did not expire pursuant to Section 312(g). However, we note that the documents submitted do not fully comply with the documentation required by the Inquiry Letter,<sup>7</sup> in particular the complete station logs and engineering records to show that the Station has been and remains in compliance with Emergency Alert System (EAS) requirements. In addition, our records show that the Station is not in compliance with its Online Public Inspection File (OPIF) requirements.<sup>8</sup> This grant of reconsideration will become effective only when we provide a written acknowledgement that CCL has provided us with a showing that the Station is complying with 1) its EAS obligations, and 2) its OPIF requirements.

If you have any questions concerning the content of this letter, please contact Victoria McCauley, Attorney, by phone (202-418-2136), or e-mail (Victoria.McCauley@fcc.gov).

Sincerely,



Albert Shuldiner  
Chief, Audio Division  
Media Bureau

cc: Claro Communications, Ltd.  
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and fairness." *See also Kingdom of God, Inc.*, Memorandum Opinion and Order, 32 FCC Rcd 3654 (2017), *aff'd*, *Kingdom of God, Inc. v. FCC*, No. 17-1132, 719 Fed. Appx. 19 (Mem), (D.C. Cir. Apr. 10, 2018); *Eagle Broad. Group, Ltd.*, Memorandum Opinion and Order, 23 FCC Rcd 588, 592, para. 9 (2008), *aff'd sub nom. Eagle Broad. Group, Ltd. v. FCC*, 563 F.3d 543, 553 (D.C. Cir. 2009) (unauthorized, unlicensed broadcasts cannot constitute transmission of broadcast signals to avoid termination under Section 312(g)).

<sup>6</sup> On February 1, 2019, we granted the Station special temporary authority to resume operation with licensed facilities. *See* File No. BLSTA-20181205AAG.

<sup>7</sup> *See* note 3, *supra*.

<sup>8</sup> *Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees*, Report and Order, 31 FCC Rcd 526, 539 (2016) (requiring all radio stations previously exempted from the OPIF file to transition to the OPIF by March 1, 2018).