

WFFC-LD, Midland, MI (Fac. Id. No. 184493)
DTV America Corporation

Silent STA Extension Request and Request for Waiver of 47 U.S.C. § 312(g)

DTV America Corporation, licensee of WFFC-LD, Midland, Michigan (Fac. Id. No. 184493) (the “Station”), hereby amends its pending request for an extension of silent special temporary authority (LMS File No. 0000063997)¹ and respectfully requests that the FCC grant a waiver extending the twelve-month off-air period of 47 U.S.C. § 312(g) for sufficient time to overcome the obstacles to finalizing construction described herein.

The licensee is co-locating the Station with co-owned station WFKB-LD, Midland, Michigan (Fac. Id. No. 184495) on a tower in Saginaw, Michigan (ASR No. 1266818), and both stations have a Section 312(g) deadline of June 11, 2019,² the date of this filing. *The licensee has done everything within its control to resume operations by the date of this filing*, and all of the engineering, equipment and deliveries necessary to resume operation of the Station have been received and/or completed. All that remains is the installation of the Station’s antenna, but weather conditions (rain) prevented the riggers from installing the antenna yesterday. When the riggers returned today to install the antenna, they experienced considerable movement of the tower when they began the rigging. Upon inspection, they discovered loose guy wires and loose guy anchors, which were submerged in water. The rigging company’s Safety Officer deemed the tower unsafe to climb and prohibited the riggers from installing the antenna. We must now wait for the tower owner, Crown Castle (“CCI”) to make the necessary repairs for the riggers to climb it safely, and we are not in a position to predict how long that will take, and then when we will be able to send a rigging crew back to install the antenna once it has been deemed safe to climb.

Other factors outside of the licensee’s control have contributed to this Station missing its build deadline. Originally, the Station was relocating to a different tower, but that tower unexpectedly failed its structural analysis. This required the licensee to identify a new tower, for which the licensee recently filed a minor modification to its previously granted displacement application.³ This belated change resulted in construction delays because the licensee had to find

¹ The FCC has a history of granting such requests, particularly where, as here, the request is supported by good cause and granting it would further the public interest. *See, e.g.*, Application 0000034182, KZSD-LP, Facility ID 57054 (granting an LPTV station an STA extension on October 26, 2017, to allow the station to address “the fact that the Station’s existing STA frequency will no longer be available in the reduced post-auction broadcast spectrum”); Application 0000030510, KDUG-LD, Facility ID 128855 (granting an LPTV station an STA extension on October 2, 2017, to accommodate its filing of a minor change application); Application 0000033847, KLFA-LD, Facility ID 13999 (granting an LPTV station an STA extension on October 17, 2017, to accommodate the station’s concern “over whether [it] will be able to have a broadcast channel to operate on following repacking”).

² The licensee is concurrently filing a separate “Silent STA Extension Request and Request for Waiver of 47 U.S.C. § 312(g)” for WFKB-LD in LMS.

³ The Commission granted a displacement application for the Station on November 5, 2018 (LMS File No. 0000052621) to relocate from Channel 25 to Channel 17. The station recently filed a minor modification of its

a suitable new tower that could accommodate both the Station and co-owned station WFKB-LD, obtain reasonable assurances of site availability, enter into lease negotiations with the new tower owner, and to modify its construction and delivery plans accordingly.

Another contributing factor has been delays in scheduling certified riggers. The Station's antenna is to be installed on a CCI tower. CCI requires that all riggers undergo CCI-specific certification prior to climbing CCI towers. The Station's antenna vendor hired the riggers to install the Station's antenna. This antenna vendor will typically only hire riggers who have the required certifications for the assigned tower. In this case, however, the Station was assigned riggers that did not have the necessary CCI certification. These riggers only became CCI-certified last week, thus pushing the rigging into this week.

These circumstances are outside of the control of the licensee, and the licensee is therefore requesting a modest extension of time for the Station to resume operations. Given the irretrievable investments that the licensee has already made in constructing the displaced Station in a timely manner, and that the Station could have been operational today were it not for the unexpected unsafe tower conditions, the licensee respectfully submits that the Media Bureau is fully justified in granting this brief extension. Section 312(g) provides that "If a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then...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."⁴ Thus, the Media Bureau has the authority to extend the Station's license "for any...reason to promote equity and fairness" and, the facts and circumstances faced by the Station justify the Media Bureau to use such discretion in this case.

The Incentive Auction Task Force and the Media Bureau have stated that "[I]n considering requests to extend or reinstate a license, we will examine whether the station has demonstrated that its silence is the result of compelling reasons beyond the station's control, including facts that relate to the post-auction transition process."⁵ As noted above, the Station was displaced, has experienced construction delays by having to find and relocate to a new tower, was further delayed due to rigger certification, and is now foreclosed from final antenna installation due to weather and unsafe tower conditions.

Exercise of the Media Bureau's discretion in this case will also further advance the public interest by preserving service to viewers in the Station's community, ensuring that the community enjoys a diversity of free, over-the-air viewing options, including the free specialty Spanish-language Azteca programming that will be aired by the Station. It is extremely unlikely

displacement application on June 3, 2019, to relocate to a new tower because the tower on the originally granted construction permit failed a structural analysis (LMS File No. 0000074359).

⁴ 47 U.S.C. § 312(g).

⁵ *Incentive Auction Task Force and Media Bureau Remind Repacked Stations of Certain Post-Auction Transition Requirements and Deadlines*, MB Docket No. 16-306, GN Docket No. 12-268, DA 18-884, n. 25 (Aug. 27, 2018).

that the Commission intends to open a window for new low power television licenses and allotments in the foreseeable future. Consequently, a failure to extend the Station's 312(g) deadline would result in an unused television allotment for the communities served by the Station, and a loss of valuable service to viewers, contrary to the public interest. For these reasons and those described above, granting the instant request is in the public interest.