

WRCX-LP, Dayton, OH (Facility ID 69535)
Ross Communications, Ltd.
Request for Extension of Silent STA and Waiver of 47 U.S.C. §312(g)

REQUEST FOR EXTENSION OF SILENT STA AND WAIVER OF 47 U.S.C. §312(G)

Ross Communications, Ltd. ("RCL") is the licensee of WRCX-LD, Dayton, OH (Facility ID 69535)(the "Station"). By this request, RCL requests a further extension of silent STA (original FCC File No. LMS 0000063411) and pending extension request LMS 0000072325) and seeks waiver of the 12-month off air provision of 47 U.S.C. §312(g).

WRCX-LD went silent on August 1, 2018, as a result of notification by T-Mobile in April 2018 that it intended to commence operations on its 600 MHz spectrum in PEA #25, where the Station is located, on August 17, 2018. The Station's displacement application was granted on August 17, 2018 – after the Station went silent (FCC File No. LMS 0000054778). RCL thus had to take the station silent. RCL has continued to work to implement its displacement CP with the intention to file a license application and returning the station to on-air operations in due course. However, while working toward the deadline and attempting to build out the Station's CP facilities, the Station, tower, its principal and its staff suffered serious damages from an E4 tornado.

The Dayton Ohio area and surrounding areas suffered an E4 tornado, a devastating event, at 10:30 pm May 27, 2019. The Station was heavily damaged from the tornado. Power lines and massive amounts of trees were uprooted and tossed across blocks. The Station sustained roof damage, and the air conditioning compressors and satellites were all damaged. The Station's tower also sustained wind damage and has been undergoing repairs. Additionally, the principal of RCL sustained heavy damage to his personal residence sustaining roof and structural damage. Electrical and gas services were denied until the residence could be repaired.

RCL has made substantial progress in its build out under the CP. It has purchased and has on hand 2 Maris high definition play out automation systems, Black Magic multiplex display viewer system, Black Magic head-end fiber optic video conversion router, and a Teranex. It has ordered a new VHF transmitter featured modulator, power antenna system PALL-SDP, Technalogix TXD-2000, digital mask filter, OMB MOT 4000 multicast compact, and a 4 channel encoder 2 HD 2SD. The ordered equipment is being built for delivery.

While RCL has made substantial progress in its build out, since May 27, 2019, when the devastating tornado struck, both the Station and the staff have been attempting to repair the Station and their personal residences. This has caused significant delay of the build out of the Station permitted facilities. Additionally, the tower manufacturer has indicated that they must have at least 60 days from the date of order to allow for delivery and installation of the transmitter and antenna. The equipment delivery and implementation delays are beyond RCL's control.

Section 312(g) provides that "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 U.S.C. § 312(g).

In the *Incentive Auction Report and Order*, the Commission explained that it would be receptive to requests for waivers of Section 312(g) as a result of the repacking process, “tak[ing] into account the extent to which a station has been involuntarily forced to remain dark as a result of the repacking process and whether, in light of the facts presented, equity and fairness dictate a license extension or reinstatement and a waiver.”^{1 2} The Media Bureau expanded upon this position in the *Post-Incentive Auction Procedures Public Notice*, explaining that in considering requests for waiver of Section 312(g), it “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.”³ Similarly, in a public notice reminding repacked stations of their post-auction deadlines, the Media Bureau and the Incentive Auction Task Force stated “In 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.”⁴

WRCX’s silence is due to the notification of displacement by T-Mobile and the delayed delivery of new equipment hindering implementation of the CP facilities due before the 312(g) deadline – circumstances beyond its control, relating to the post-incentive auction transition. This is all exacerbated by the act of God in the form of the E4 tornado strike and the resulting damage to the Station, the Station’s tower and the principal’s and staff’s damage to their own residences.⁵

In light of the foregoing, RCL respectfully requests a waiver of Section 312(g) and grant of an extension of STA to allow it to remain off the air for an additional sixty (60) days to allow the Station to build out its CP facilities.

¹ *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order,

² FCC Rcd 6567 ¶ 585 (2014), *aff’d*, *Nat’l Assoc. of Broadcasters, et al v. FCC*, 789 F.3d 165 (D.C. Cir. 2015)

³ *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition*, Public Notice, 32 FCC Rcd. 858 ¶ 49 (IATF/MB 2017).

⁴ *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 (MB/IATF Aug. 27, 2018) (citing *Christian Broadcasting of East Point, Inc.*, 30 FCC Rcd. 13975, 13976-77, para. 4 (2015)).

⁵ Even without the displacement aspect of this case, the Station would also be entitled to consideration under *V.I. Stereo Communications Corp.*, Memorandum and Order, 21 FCC Rcd 14259 (2006), in which the Commission reinstated a broadcast station license where extended silence was due to destruction of towers by hurricanes.