



Federal Communications Commission
Washington, D.C. 20554

July 29, 2019

Ross Communications, Ltd.
708 West Hillcrest Avenue
Dayton, OH 45406

Re: Request for Extension of License and
Silent Authority Under Section 312(g)
WRCX-LD, Dayton, OH
LMS File No. 0000078353
Facility ID No. 69535

Dear Licensee:

This concerns the above-referenced request to extend silent authority and license (Request) filed on July 19, 2019, as amended, by Ross Communications, Ltd. (Ross), licensee of low power television station WRCX-LD, Dayton, Ohio (WRCX or Station). For reasons set forth below, we grant the request, and extend the Station's silent authority, waive all applicable rules, and extend the Station's license for a period of 180 days from the date of this letter.

Background. Section 312(g) 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 In the *Incentive Auction R&O*, the Commission explained that it would be receptive to requests for reinstatement or extension of a station's license under Section 312(g), "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."² Further, in the *Post-Incentive Auction Procedures PN* the Media Bureau stated that, in considering requests to extend or reinstate a stations license under Section 312(g) in order to promote fairness and equity, it "will examine whether the station has demonstrated that its silence is the result of compelling reasons beyond the stations' control, including facts that relate to the post-auction transition process."³ Finally, in the *Special Displacement Window PN*, the Bureau permitted stations to file a displacement application on a contingent basis for channels in the repacked television band (channels 2-36) that full power and Class A stations would be relinquishing as a result of the incentive auction and repacking process.⁴ The Bureau stated that, if a conditional grant

¹ 47 U.S.C. § 312(g).

² *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567, 6806-07, para. 585 (2014) (*Incentive Auction R&O*).

³ *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition*, Public Notice, 32 FCC Rcd 858, 873-74, para. 49 (IATF/MB 2017) (*Post-Incentive Auction Procedures PN*); see also *Incentive Auction Task Force and Media Bureau Remind Repacked Stations of Certain Post-Auction Transition Requirements and Deadlines*, Public Notice, 33 FCC Rcd 8240, 88243, n.25 (MB/IATF 2018) (citing *Christian Broadcasting of East Point, Inc.*, 30 FCC Rcd. 13975, 13976-77, para. 4 (2015)).

⁴ See *Incentive Auction Task Force and Media Bureau Announce Post Incentive Auction Special Displacement Window April 10, 2018, Through May 15, 2018, and Make Location and Channel Data Available*, Public Notice, 33 FCC Rcd 1234, 1237, para. 7 (IATF/MB 2018) (*Special Displacement Window PN*).

would require an LPTV or TV translator station to be silent for a consecutive 12-month period prior to discontinuation of operation by the full power or Class A station, the Bureau would “consider a request for extension or reinstatement pursuant to Section 312(g) of the Communications Act and a request for waiver of the Commission rule.”⁵

Request. As part of the incentive auction and repacking process, WRCX’s channel 40 was reallocated for use by wireless operator T-Mobile USA (T-Mobile). WRCX subsequently went silent on August 1, 2018, as a result of notification by T-Mobile that it intended to commence operations on its 600 MHz spectrum that included WRCX’s channel 40. WRCX’s displacement application⁶ was granted on August 17, 2018 and Ross began construction of the displacement facilities. On May 27, 2019, the Station’s displacement facilities were seriously damaged by a tornado.

In its Request, Ross asks that the Commission grant its continued silent authority and extend WRCX’s license pursuant to the provisions of Section 312(g) of the Communications Act of 1934 (Section 312(g)) finding that equity and fairness support such a decision. Ross argues that WRCX’s continued silence is a result of circumstances beyond its control and that Commission precedent supports extension of the Station’s license pursuant to Section 312(g). Ross has been unable to complete construction of its displacement facilities by the one-year anniversary of it going silent because of damage experienced by a tornado. Ross states that it is working to complete construction of its displacement facilities including purchasing new equipment that is being built. Ross reports that its 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. Therefore, due to circumstances beyond its control, Ross maintains that it will not be able to resume operations until after the August 1, 2019 one-year anniversary of WRCX going silent.

Discussion. Upon review of the facts and circumstances presented, we find that Ross’ request for waiver of Section 312(g) and to extend the WRCX’s license for a period of 180 days from the date of this letter satisfies the requirements of Section 312(g) as described in the *Incentive Auction R&O*, the *Post-Incentive Auction Procedures PN*, and the *Special Displacement Window PN*, and is in the public interest. Consistent with the public interest, we will provide Section 312(g) relief to displaced LPTV and TV translator stations that are forced off the air by circumstances beyond their control. WRCX was displaced by the incentive auction and took steps to build its displacement facilities in a timely manner. However, those efforts were delayed as a result of damage from a tornado. Therefore, due to circumstances outside its control, WRCX has been unable to return to the air prior to the one-year anniversary of going silent.

Accordingly, we find that in order to promote fairness and equity the request filed by Ross Communications, Ltd. **IS HEREBY GRANTED**, the applicable Commission rules ARE WAIVED,⁷ and

⁵ *Id.* at n.25 citing 47 U.S.C. § 312(g); *The Incentive Auction Task Force and Media Bureau Announce Procedures for Low Power Television, Television Translator and Replacement Translator Stations During the Post-Incentive Auction Transition*, Public Notice, 32 FCC Rcd 3860, 3865-66, para. 12 (IATF/MB 2017).

⁶ LMS File No. 0000054778.

⁷ 47 CFR §§ 74.15(f) and 74.763(c)

the license for WRCX-LD, Dayton, Ohio **IS EXTENDED** for 180 days from the date of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. A. Kreisman', with a long horizontal flourish extending to the right.

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc: Kathleen Victory, Esq. – Counsel for Ross