

**REQUEST FOR WAIVER OF SECTION 312(g)**

Word of God Fellowship, Inc. ("WOGF"), licensee of WDRN-LD, Fayetteville, NC (Fac ID 68079), hereby requests an extension of the deadline by which the station must return to the air or forfeit its license pursuant to Section 312(g) of the Communications Act of 1934, as amended.

On October 1, 2018, WDRN-LD went silent on Channel 40 pursuant to a notice from T-Mobile of intent to begin 600 MHz operations. See LMS File No. 0000060018. Although WOGF had a construction permit to move to channel 32 at the time, see LMS File No. 0000035523, it was unable to do so because full power television stations WUNL-TV and WITN-TV were still broadcasting on Channel 32 as their pre-auction channels and were not scheduled to vacate those channels until September 2019. WDRN-LD's transition to its displacement channel was further stalled by delays in receiving its new transmitter and antenna due to the short processing time and the volume of orders for displacement facilities. WOGF has been working diligently to restore service on WDRN-LD and recently resumed operations at reduced power. See LMS File No. 0000095954.

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) (emphasis added).

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."<sup>1</sup> 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."<sup>2</sup> Finally, in the *Special Displacement Window Public Notice*, the Media 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 and stated that, if a conditional grant 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

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<sup>1</sup> *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567 ¶ 585 (2014), *aff'd*, *Nat'l Assoc. of Broadcasters, et al v. FCC*, 789 F.3d 165 (D.C. Cir. 2015)

<sup>2</sup> *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).

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.”<sup>3</sup>

The Commission should grant the instant request for waiver because WDRN-LD’s silence is fully attributable to circumstances beyond its control relating to the post-Incentive Auction transition. Specifically, WDRN-LD had to vacate its prior channel before its displacement channel was available due to a notice from T-Mobile. That channel did not become available until September and equipment delays have prevented WDRN-LD from resuming operations for several additional months.

WOGF has now commenced operations on its displacement channel and hopes to be operating at full power shortly.

The Commission has granted waivers of Section 312(g) under similar circumstances, and WOGF respectfully requests the same consideration here.<sup>4</sup>

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<sup>3</sup> 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 Red. 1234 ¶ 7 & n.25 (IATF/MB 2017).

<sup>4</sup> See *e.g.*, Letter from Barbara A. Kreisman, Chief, Video Division, Media Bureau to KRCA License LLC, LMS File No. 0000059940 (Mar. 15 2019).