



Federal Communications Commission
Washington, D.C. 20554

January 13, 2020

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

Re: Request for Further Extension of
License and Silent Authority Under
Section 312(g)
WRCX-LD, Dayton, OH
LMS File No. 0000094198
Facility ID No. 69535

Dear Licensee:

This concerns the above-referenced request to extend silent authority and license (Request) filed on December 27, 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 75 days to April 9, 2020.

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

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)).

result of the incentive auction and repacking process.⁴ The Bureau 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 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. Ross has been working to rebuild the Station, however, its previous tower site was sold to a new owner and Ross has been unable to secure a lease with the new owner. In addition, Ross has been seeking alternative tower locations but has not yet secured one. Ross has all of the replacement equipment ready for delivery and installation as soon as it can secure a new tower location.

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 its inability to secure a new tower location. Based on similar facts, the Media Bureau granted WRCX a request for extension of license and silent authority under Section 312(g) and extended the station’s license to January 25, 2020.⁷ Ross requests a further extension of its silent authority and license for an additional 75 days to April 9, 2020.

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 75 days to April 9, 2020 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 and the loss of its tower site. Therefore, due to circumstances outside its control, WRCX has been unable to return to the air prior to its current deadline.

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*)

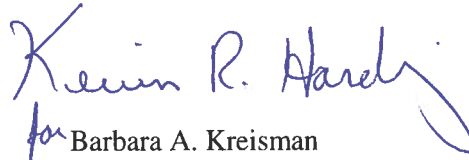
⁵ *Id.* at n.25 citing 47 U.S.C. § 312(g); *The Incentive Auction Task Force and Media Bureau Announce Procedures for Low Power Television, Television Translator and Replacement Translator Stations During the Post-Incentive Auction Transition*, Public Notice, 32 FCC Rcd 3860, 3865-66, para. 12 (IATF/MB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

⁶ See LMS File No. 0000054778.

⁷ See LMS File No. 0000078353.

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,⁸ and the license for WRCX-LD, Dayton, Ohio **IS EXTENDED** for 75 days to April 9, 2020.

Sincerely,

A handwritten signature in blue ink that reads "Kevin R. Hardy". The signature is fluid and cursive, with a large loop at the end.

for Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc: Kathleen Victory, Esq. – Counsel for Ross

⁸ 47 CFR §§ 74.15(f) and 74.763(c)