

**REQUEST FOR SPECIAL TEMPORARY AUTHORITY TO REMAIN SILENT  
AND REQUEST FOR WAIVER OF 47 U.S.C. §312(g)**

Our Veterans Voice, LLC (“Veterans”), licensee of silent Low Power Television Station **W45DT-D**, Wabasso, FL (Facility ID 181224) (the “Station”), respectfully requests (i) special temporary authority (“STA”) for the station to remain silent, and (ii) waiver of the 12-month off-air provision of 47 U.S.C. §312(g). In support for these requests, the following is shown:

By way of background, on August 19, 2019, the Station’s license and a displacement construction permit (“CP”) for operation on Channel 6 were assigned by V One Broadcasting, LLC (“V One”) to Veterans, pursuant to the consent of the Video Division granted on August 15, 2019. See File No. BAL-20190626AAB.

The Station was silent when Veterans and V One consummated the above referenced assignment of authorizations. According to a request for STA to remain silent that V One filed on April 5, 2019 (LMS File No. 0000069788), the Station was taken off the air on March 26, 2019, because the Station’s operating channel (45) was no longer allotted for television, and V One planned to apply to displace the Station to a new channel and a new tower site during the special filing window for post-incentive auction LPTV displacement applications. (It later did so and obtained the CP for Channel 6 at Wabasso, Florida.)

When Veterans acquired the Station’s authorizations, it was aware that the Station had to resume operations by the first anniversary of the date it went silent, i.e., by March 26, 2020, in order to avoid expiration of the Station’s authorizations pursuant to 47 U.S.C §312(g). Thus, immediately after consummating the assignment of the Station’s authorizations from V One, Veterans requested cancellation of the Channel 6 CP, and filed a new displacement application for operation on a preferred channel (30) with service to a new community of license, Vero Beach, Florida. Veterans’ application was granted on August 27, 2019, and a CP was issued for operation on Channel 30 with callsign W30EP-D. See LMS File No. 0000080511. Veterans’ principal, Larry Wapnick, then began the planning process to resume Station operations, with the goal of doing so by March 1, 2020.

To that end, Mr. Wapnick remodeled an existing studio, and purchased all needed transmitting equipment from reseller R&L Media Systems (“R&L”), Hendersonville, TN, with a purchase order completed and deposit paid on January 13, 2020. Veterans subsequently completed paying the full amount of R&L’s invoice, with every expectation, based on promises from R&L, that the transmitting equipment would be delivered for installation in time for the Station to be operational before March 26, 2020. As recently as March 14, a representative of R&L assured Veterans communications counsel by email that all equipment should arrive “with plenty of time to get it on the air”. As of the date hereof (March 18, 2020), however, the only item of equipment that has been delivered to Veterans is a modulator. In response to his inquiries with the manufacturers of the antenna and transmitter, Mr. Wapnick has been informed that each should be delivered by Friday, March 20, 2020.

In view of the growing upheaval in normal commerce resulting from the novel coronavirus (COVID-19) pandemic, Mr. Wapnick is reasonably concerned that the delivery of antenna and transmitter, and other remaining equipment, including cables, may be delayed beyond March 20, 2020, in which case Veterans likely will not be able to meet the March 26, 2020 deadline to operate the Station. In addition to significant concern about equipment delivery delays, Mr. Wapnick is justifiably concerned about maintaining the health and welfare of personnel he has engaged to work on the installation of equipment and the start-up operations of the Station.

Indeed, Mr. Wapnick, who is overseeing the entire construction project and will be managing the operation of the Station, is over 70 years of age. The engineer retained to oversee the installation of the transmitting equipment is not only 70+ years old, but is also a cancer survivor with a compromised immune system. In addition, the Station's Programming Director and Sales Director who have been hired by Mr. Wapnick are both over the age of 70. Thus, Veterans has a cluster of key personnel who are most vulnerable with respect to the potential severity of COVID-19. The technician who Mr. Wapnick engaged to climb the antenna structure and install the Station's antenna is not in the same high-risk age bracket, but with the rapid spread of COVID-19, there certainly is no guarantee that he will be willing or able to take on the task.

In view of the circumstances detailed above, Veterans respectfully requests a waiver of requirement under 47 U.S.C. §312(g) that the Station's operations resume within 12 months after the Station went silent on March 26, 2019. Veterans also requests STA for the Station to remain silent for a period of 180 days from the date hereof, to and including September 18, 2020.

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 stated 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 statement 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

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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, 6806-07, para. 585 (2014) (Incentive Auction R&O).

reasons **beyond the station's control**, including facts that relate to the post-auction transition process.”<sup>2</sup> (Emphasis added).

Just yesterday (March 17, 2020), in another, but largely similar context, the Commission released *Guidance for Stations in Phase 9 of the Post-Incentive Auction Transition as a Result of the Novel Coronavirus (Covid-19) Pandemic*, DA-20-282 (“Guidance PN”). Therein, it was acknowledged that some television stations may not be able to meet their construction deadline under the post-incentive auction transition schedule due to delays in equipment delivery and other disruptions resulting from the COVID-19 pandemic. Specifically, the Guidance PN stated: **“We recognize that the construction and delivery delays that are occurring as a result of the COVID-19 pandemic, as well as efforts undertaken by the stations themselves to protect the health of their employees and their families, result from circumstances outside of a station's control.”** Accordingly, the Guidance PN announced that any station that believes it may not meet its Phase 9 transition deadline (May 1, 2020) will be granted a waiver of that deadline and be reassigned to Phase 10, the transition deadline of which is July 3, 2020.

Veterans' circumstances are no different from those of a television station that has diligently attempted to meet its Phase 9 transition deadline, but may not be able to do so because of equipment delivery delays or unavailability of construction crews due to the COVID-19 pandemic. These circumstances, which are beyond anyone's control, clearly support, in the interest of fairness and equity, the grant of a waiver of the requirement under Section 312(g) that W30EP-D be operating by March 26, 2020. Moreover, these circumstances require Veterans, out of an abundance of caution, to hereby request STA for the Station to remain silent for a period of 180 days from the date hereof.

Should the Commission require any additional information from Veterans regarding this request, Veterans will provide it as soon as possible.

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<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, 873-74, para. 49 (IATF/MB 2017).