



Federal Communications Commission
Washington, D.C. 20554

March 26, 2020

DTV America Corporation
HC2 LPTV Holding, Inc.
Renee Ilhardt
450 Park Avenue, 30th Floor
New York, NY 10022

Re: Requests for Extension of
License and Silent Authority Under
Section 312(g)

Dear Licensee:

This concerns requests to extend silent authority and license (Requests), as amended, filed by DTV America Corporation (DTV America) and HC2 LPTV Holding, Inc. (referred to collectively as DTV America/HC2) licensees of low power television stations.¹ For reasons set forth below, we grant the Requests, and extend the Stations' silent authority, waive all applicable rules, and extend the Stations' licenses for a period of 180 days to September 24, 2020.

Background. Section 312(g) of the Communications Act of 1934 (the Act) 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."²

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."³ Further, in the *Post-Incentive Auction Procedures PN* the Media Bureau (Bureau) stated that,

¹ A list of the 4 stations covered by this action (referred to herein collectively as "Stations") and the LMS file numbers of the Requests are contained in the Appendix to this letter.

² 47 U.S.C. § 312(g). The Bureau's discretion under that provision of section 312(g) is severely limited. *See e.g. A-O Broad. Corp.*, Memorandum Opinion and Order, 23 FCC Rcd 603, 617, para. 27 ("This limited, discretionary provision is phrased as an exception to the general rule that most affected licenses will be forfeited"). The Commission has exercised its authority to reinstate an expired license to "promote equity and fairness" only where the station failed to provide service for 12 consecutive months due to compelling reasons beyond the licensee's control. *See, e.g., V.I. Stereo Communications Corp.*, Memorandum Opinion and Order, 21 FCC Rcd 14259 (2006); *Community Bible Church*, Letter, 23 FCC Rcd 15012, 15014 (MB 2008); *Mark Chapman, Court-Appointed Agent*, Letter, 22 FCC Rcd 6578 (MB 2007). The Commission has declined to reinstate licenses where the failure to transmit a broadcast signal was due to the licensee's own actions, finances, and/or business judgment *See, e.g., A-O Broadcasting*, 23 FCC Rcd at 617, para. 27; *ETC Communications, Inc.*, Letter, 25 FCC Rcd 10686 (MB 2010); *Kirby Young*, Letter, 23 FCC Rcd 35 (MB 2008).

³ *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*).

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.”⁴ 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.⁵ 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, it would “consider a request for extension or reinstatement pursuant to section 312(g) of the Act and a request for waiver of the Commission rule.”⁶

Requests. As part of the Incentive Auction and repacking process, each of the Stations’ pre-auction operating channels was displaced.⁷ The Stations were or have continued to remain silent for more than a year. Each of the Stations filed a displacement application requesting a new channel in the Commission’s displacement application filing window for low power television stations that were displaced by the Incentive Auction and repacking process.⁸ Three of the four Stations were able to complete construction of their displacement facilities and resume operations after the one-year anniversary of their going silent. Therefore, DTV America/HC2 seek reinstatement and extension of the Stations’ licenses for an additional 180 days. They argue that reinstatement and extension is appropriate as the Stations’ silence was a result of being displaced by the Incentive Auction and repacking process.

Discussion. Upon review of the facts and circumstances presented, we find that DTV America and HC2’s requests for reinstatement and extension of the Stations’ licenses for a period of 180 days satisfy 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 are, therefore, in the public interest. Consistent with the public interest and prior Bureau actions, we will provide section 312(g)

⁴ *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)).

⁵ 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*).

⁶ *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).

⁷ We note that DTV America/HC2 are the licensees of other stations that were displaced by the Incentive Auction and repacking process and were the subject of the Media Bureau’s 2017 order concerning its investigation into potential violations of the Commission’s rules by DTV America. *DTV America Corporation*, Order, 32 FCC Rcd 9129 (MB 2017) (*DTV America Consent Decree*). Some of those stations were listed in Appendix E to the *DTV America Consent Decree* and were subject to a separate 18-month construction deadline with specific terms and conditions governing their construction (Appendix E stations). See *DTV America Consent Decree*, 32 FCC Rcd at 9138-9, para. 24. Our decision today does not include and is not applicable to those Appendix E stations and any requests for section 312(g) relief that has been sought by DTV America/HC2. Resolution of the status of these Appendix E stations will be made in a separate order.

⁸ See *Special Displacement Window PN*; *Incentive Auction Task Force and Media Bureau Extend Post Incentive Auction Special Displacement Window Through June 1, 2018*, Public Notice, 33 FCC Rcd 3794 (IATF/MB 2018).

relief to displaced LPTV and TV translator stations that were displaced by the Incentive Auction and pursued new displacement channels. We note that three of the four Stations have resumed operations.

Accordingly, we find that in order to promote fairness and equity, the Requests filed by DTV America Corporation and HC2 LPTV Holding, Inc., **ARE HEREBY GRANTED**, the applicable Commission rules **ARE WAIVED**,⁹ and the licenses of the low power television stations set forth in the Appendix **ARE EXTENDED** to September 24, 2020.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Rebecca Hanson, Esq.

⁹ 47 CFR §§ 74.15(f) and 74.763(c).

**REQUESTS FOR EXTENSION OF LICENSE
AND SILENT AUTHORITY UNDER SECTION 312(G)**

Call Sign	Fac ID	State	City	Licensee	STA File Number
WWBH-LP	10940	AL	MOBILE	HC2 BROADCAST LICENSE, INC.	68425
KMBD-LD	49177	MN	MINNEAPOLIS	DTV AMERICA CORPORATION	69750
WCUH-LD	183648	IN	FORT WAYNE	DTV AMERICA CORPORATION	67911
K27NB-D	183919	LA	LAFAYETTE	DTV AMERICA CORPORATION	68389