



Federal Communications Commission
Washington, D.C. 20554

June 15, 2020

Gray Television Licensee, LLC
4370 Peachtree Road, NE
Atlanta, GA 30319
Robert.Folliard@gray.tv

Re: Request for Reinstatement and
Extension of License and Silent
Authority Under Section 312(g)
KSWX-LD, Duncan, OK
LMS File No. 0000106911
Facility ID No. 130242

Dear Licensee:

This concerns the above-referenced request to extend silent authority and license (Request) filed on March 2, 2020, as amended, by Gray Television Licensee, LLC (Gray), licensee of low power television station KSWX-LD, Duncan, Oklahoma (KSWX or Station). For reasons set forth below, we grant the request, extend the Station's silent authority, waive all applicable rules, and reinstate and extend the Station's license for a period of 180 days from the date of this letter.

Background. Section 312(g) of the Communications 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.”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

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)).

stations would be relinquishing as a 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, KSWX’s channel 31 was displaced by KAZD, Lake Dallas, Texas, that was repacked to channel 31. KSWX timely filed a displacement application requesting a construction permit for channel 26 and it was granted on February 12, 2019.⁶ Since the grant of its displacement application, Gray reports KSWX built and licensed its displacement facility but was required to take the Station silent on June 8, 2019,⁷ because the building on which it was located needed to be taken down. Gray states that the Station will need to relocate to a new tower or building before it can resume operations. Because of wide-spread construction delays due to the COVID-19 pandemic, Gray states that the Station is unable to resume operations at this time. The Station is searching for options for a temporary facility that will allow it to resume operations. Gray requests that the Commission reinstate and extend KSWX’s license and silent authority beyond the one-year automatic expiration date.

Discussion. Upon review of the facts and circumstances presented, we find that Gray’s request for reinstatement and extension of the KSWX’s license and silent authority for a period of 180 days from the date of this letter 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 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. KSWX was displaced by the incentive auction and diligently pursued a new displacement channel. Therefore, due to circumstances outside its control, KSWX 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 Gray Television Licensee, LLC **IS HEREBY GRANTED**, the applicable Commission rules **ARE WAIVED**,⁸

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. 0000054102.

⁷ See LMS File No. 0000080998.

⁸ 47 CFR §§ 74.15(f) and 74.763(c)

and the license and silent authority for KSWX-LD, Duncan, Oklahoma **ARE REINSTATED AND EXTENDED** for 180 days from the date of this letter.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Joan Stewart, Esq.