



Federal Communications Commission
Washington, D.C. 20554

July 7, 2020

Vail Associates, Inc. d/b/a TV 8
Stephen Wodlinger
P.O. Box 7
Vail, CO 81658
SWODLINGER@VAILRESORTS.COM

Re: Request for Extension
of License and Silent
Authority Under Section 312(g)
K45IE-D, Vail, CO
LMS File No. 0000116748
Facility ID No. 128356

Dear Licensee:

This concerns the above-referenced request to extend silent authority and license (Request), as amended, filed by Vail Associates, Inc. d/b/a TV 8 (VAI), licensee of low power television station K45IE-D, Vail, Colorado (K45IE or Station). For reasons set forth below, we grant the request, extend the Station's silent authority, waive all applicable rules, and extend the Station's license 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, K45IE’s channel 45 was reallocated for use by new 600 MHz band wireless licensees. K45IE timely filed a displacement application requesting a construction permit for digital channel 34 and it was granted on September 13, 2018.⁶ The Station subsequently went silent on July 17, 2019, due to an equipment failure.⁷ Since the grant of its displacement application, VAI has worked to complete construction of its displacement facility. However, VAI reports that the construction will not be completed by the Station’s one-year silent anniversary due to delays from the effects of the COVID-19 pandemic. VAI argues that the public interest would be furthered by extending the Station’s license and the silent STA so that it can resume offering television service.

Discussion. Upon review of the facts and circumstances presented, we find that VAI’s request for extension of the K45IE’s license and silent authority 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. K45IE was displaced by the incentive auction and diligently pursued a new digital displacement channel. Therefore, due to circumstances outside its control, K45IE was unable to return to the air prior to the one-year anniversary of going silent. Grant of relief will permit the Station to resume operations and once again serve its viewers.

Accordingly, we find that in order to promote fairness and equity the request filed by Vail Associates, Inc. d/b/a TV 8 **IS HEREBY GRANTED**, the applicable Commission rules **ARE WAIVED**,⁸ and the license and silent authority for K45IE-D, Vail, Colorado **ARE EXTENDED** 180 days from the date of this letter.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): David Oxenford, Esq.

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. 0000053947.

⁷ See LMS File No. 0000080395.

⁸ 47 CFR §§ 74.15(f) and 74.763(c)