



Federal Communications Commission
Washington, D.C. 20554

July 21, 2020

New York Spectrum Holding Company, LLC
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(via electronic mail)

Re: Request for Extension of
License and Silent Authority Under
Section 312(g)
KVHD-LD, Los Angeles, CA
LMS File No. 0000117662
Facility ID No. 67901

Dear Licensee:

This concerns the above-referenced request to further extend silent authority and license (Request) filed on July 13, 2020, by New York Spectrum Holding Company, LLC (NYSHC), licensee of low power television station KVHD-LD, Los Angeles, California (KVHD 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 180 days from the date of this letter.

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

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)).

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.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, KVHD’s channel 40 was reallocated for use by wireless operator T-Mobile USA (T-Mobile). As a result, KVHD has been silent since April 12, 2019. KVHD timely filed a displacement application requesting a construction permit for channel 3 in the Commission’s displacement application filing window for low power television stations that were displaced by the incentive auction and repacking process.⁶ KVHD’s displacement application for channel 3 was deemed mutually exclusive with another application filed by KRCA License, LLC (KLL) for the same channel for its station KSGA-LD, Los Angeles, California, and placed in MX group 25.⁷ The parties entered into a settlement agreement whereby NYSHC agreed to dismiss its application and channel share with KLL on KSGA-LD’s displacement channel facilities. The settlement was approved and the stations filed their channel sharing agreement with the Commission which was approved on June 25, 2019.

Since that time, the stations have been diligently constructing their shared facilities. NYSHC estimates that construction of the shared facility will be completed “several months from now.” However, construction will not be complete by the Station’s current license expiration date of July 27, 2020. Therefore, NYSHC seeks further extension of the Station’s license for an additional 180 days. In its Request, NYSHC argues that grant of relief under section 312(g) is appropriate as the Station’s silence was due to circumstances beyond its control, namely, a result of being displaced by the Incentive Auction and repacking process. The Commission previously granted the Station’s request for extension of license and extended the Station’s license to July 27, 2020.⁸

Discussion. Upon review of the facts and circumstances presented, we find that NYSHC’s request for extension of license and silent authority pursuant to section 312(g) for a period of 180 days from the date of this letter 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. KVHD was displaced by the incentive auction and diligently pursued a new displacement channel. KVHD will be sharing with another station in its market and construction of the shared facilities is underway. Therefore, due to circumstances outside its control, KVHD has been unable to return to the air prior to the one-year anniversary of going silent.

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. 0000054274; *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).

⁷ See LMS File No. 0000052735.

⁸ See LMS File No. 0000079920.

Accordingly, we find that in order to promote fairness and equity the request filed by New York Spectrum Holding Company, LLC **IS HEREBY GRANTED**, the applicable Commission rules ARE WAIVED,⁹ and the license for KVHD-LD, Los Angeles, California **IS EXTENDED** for 180 days from the date of this letter.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Kathleen Victory, Esq.

⁹ 47 CFR §§ 74.15(f) and 74.763(c)