

**REQUEST FOR EXTENSION OF SILENT STA AND WAIVER OF SECTION 312(g)**

Word of God Fellowship, Inc. ("WOGF"), licensee of WETU-LD, Montgomery, AL (Fac ID 63859), hereby requests an extension of its silent authority and an extension of the deadline by which the station must return to the air or forfeit its license pursuant to Section 312(g) of the Communications Act of 1934, as amended.

On October 1, 2018, WETU-LD went silent on Channel 39 pursuant to a notice from T-Mobile of intent to begin 600 MHz operations. See LMS File No. 0000060019. The Commission granted WOGF a construction permit to move WETU-LD to Channel 21 using antenna structure number 1038437, which is owned by Woods Communications Corporation, licensee of full power television station WCOV-TV, Montgomery, AL (Fac ID 73642). On July 31, 2019, the Commission granted Woods Communications Corporation Special Temporary Authority to utilize antenna structure number 1038437 as an interim site for WCOV-TV to accommodate tower work, removal of WCOV-TV's channel 20 main antenna, installation of WCOV-TV's channel 22 main antenna, and coordination with co-located WSFA-TV. Wood Communications Corporation had to remove WETU-LD's antenna to accommodate WCOV-TV's use of the interim site. WCOV-TV did not relocate to its main site and filed its license to cover on June 9, 2020. Subsequent thereto, Woods Communications Corporation notified WOGF that tower modifications are needed at the WETU-LD tower site. WOGF is currently working with Woods Communications Corporation to determine whether WETU-LD can resume operations while those modifications are pending. Between being displaced by full power station WCOV-TV and not being unable to access its tower site due to a newly discovered need for modifications, WETU-LD's silence is for reasons beyond WOGF's control.

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). The Commission has regularly reinstated licenses that have been off the air for more than one year where there is a reasonable explanation for the station's extended silence.<sup>1</sup>

In the *Incentive Auction Report and Order*, the Commission explained 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

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<sup>1</sup> See *V.I. Stereo Commc'ns Corp.*, Memorandum Opinion and Order, 21 FCC Rcd. 14259 ¶ 8 (2006) (reinstating license of station that was off air due to hurricane damage); *Community Bible Church*, Letter, 23 FCC Rcd. 15012, 15014 (MB 2008) (reinstating license of station unable to obtain building permit and ASR discrepancies); *Sumiton Broadcasting Company, Inc.*, Letter, 22 FCC Rcd. 6578 (MB 2007) (reinstating license of station where silence was to effectuate court order).

reinstatement and a waiver.”<sup>2</sup> The Media Bureau expanded upon this position 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 reasons beyond the station’s control, including facts that relate to the post-auction transition process.”<sup>3</sup> Finally, in the *Special Displacement Window Public Notice*, the Media 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 and 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.”<sup>4</sup>

The Commission should grant the instant request for waiver because WETU-LD’s silence is fully attributable to circumstances beyond its control relating to the post-Incentive Auction transition. Specifically, WETU-LD had to vacate its prior channel due to a notice from T-Mobile and is unable to operate its displacement facility until Woods Communications Corporation completes the modifications at the WETU-LD tower site.<sup>5</sup>

The Commission has granted waivers of Section 312(g) under similar circumstances, and WOGF respectfully requests the same consideration here.<sup>6</sup>

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<sup>2</sup> *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567 ¶ 585 (2014), *aff’d*, *Nat’l Assoc. of Broadcasters, et al v. FCC*, 789 F.3d 165 (D.C. Cir. 2015)

<sup>3</sup> *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition*, Public Notice, 32 FCC Rcd. 858 ¶ 49 (IATF/MB 2017).

<sup>4</sup> *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 ¶ 7 & n.25 (IATF/MB 2017).

<sup>5</sup> The Commission has extended WCOV-TV’s construction permit through March 9, 2020. *See* LMS File No. 0000078707.

<sup>6</sup> *See e.g.*, Letter from Barbara A. Kreisman, Chief, Video Division, Media Bureau to KRCA License LLC, LMS File No. 0000059940 (Mar. 15 2019).