

**REQUEST FOR REINSTATEMENT OF LICENSE, FURTHER EXTENSION OF SILENT STA,
AND WAIVER OF SECTION 312(g)**

Estrella Television License LLC (“Estrella,” formerly KRCA License LLC), licensee of WASA-LD, Port Jarvis, New York (Fac ID 167320), hereby requests reinstatement of its license and an extension of its current Silent STA and its license for an additional 180 days. As explained more fully below, Estrella and WASA-LD have continued to serve viewers in the market while they complete their transition to a displacement channel.

Background

On March 7, 2018, Fox Television Stations, LLC transitioned full power television station WWOR-TV to channel 25, displacing WASA-LD. See LMS File No. 0000048531. Due to the lack of available channels in the market for interim operations, WASA-LD went silent on March 7, 2018, but continued to distribute its signal through arrangements with other stations in the market.

Estrella timely filed a displacement application on May 10, 2018, seeking authorization to operate on Channel 31. See LMS File No. 0000053954. That application, however, was mutually exclusive with applications filed by HC2 LPTV Holdings, Inc. (“HC2”) and Venture Technologies Group, LLC and assigned to MX Group 76. After entering into a settlement agreement approved by the Commission, on May 24, 2019, Estrella submitted an application for a construction permit to channel share with WKOB-LD on channel 13, which the Commission granted on May 31, 2019. See File No. 0000073241. WKOB-LD, however, was unable to complete construction of its displacement facilities on channel 13 because, until July 14, 2020, that channel was occupied by full power television station WNET, New York, New York. Now that channel 13 is vacant, Estrella is working with HC2 to finalize their plans to transition to the displacement facilities.

Argument

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).

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 reinstatement and a waiver.”¹ The Media Bureau expanded upon this position in the *Post-Incentive*

¹ *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)

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.”² Most recently, in a public notice reminding repacked stations of their post-auction deadlines, the Media Bureau and the Incentive Auction Task Force stated “In considering requests to extend or reinstate a license, we 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.”³

On three prior occasions, the Commission has granted Estrella’s request for a waiver of Section 312(g) and an extension of WASA-LD’s license. See File Nos. 0000059940; 0000081212; 0000059940. In finding that Estrella’s initial request was in the public interest, the Video Division explained:

WASA was authorized to operate on an in-core channel in a market that pursuant to the Transition Scheduling Plan would have been displaced in phase 4 with a phase completion deadline in August 2019. However, WWOR-TV achieved its transition to its post-auction channel in March 2018 pursuant to the grant of a phase change request, WASA was displaced much earlier than expected. As described above, due to circumstance outside its control, [Estrella] has been unable to return to the air because its displacement application for a channel in New York City, a market with limited channel availability, remains mutually exclusive. Further, [Estrella] has taken steps to continue to serve WASA’s viewers through a multicasting arrangement with WEPT-CD.

Letter from Barbara A. Kreisman, Chief, Video Division, Media Bureau to KRCA License LLC at 3 (Mar. 15, 2019). Most recently, the Video Division recognized that “due to circumstances outside its control, WASA has been unable to return to the air because it must wait until the channel it will share with WKOB-CD is available for use later this year.” Letter from Barbara A. Kreisman, Chief, Video Division, Media Bureau to Estrella Television License LLC at 3 (Mar. 12, 2020).

The same circumstances that the Video Division found relevant in the prior requests remain present today. WASA-LD’s silence is fully attributable to circumstances beyond its control relating to the post-Incentive Auction transition. As explained above, Estrella entered into a settlement agreement pursuant to which WASA-LD will channel share with WKOB-LD once WKOB-LD commences operations on channel 13. Channel 13 only recently became available, and the lease negotiations have been delayed by the recent death of the executive overseeing the broadcast transmission facility at One World Trade Center. Estrella is working with the licensee of WKOB-LD to ensure a timely transition to channel 13 once it becomes available. In the meantime, WASA-LD continues to serve its viewers in the New York market through a multicast arrangement on WKOB-LD.

Accordingly, a further extension of WASA-LD’s silent authority and license would promote fairness and equity and should be granted.

² *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).

³ *Incentive Auction Task Force and Media Bureau Remind Repacked Stations of Certain Post-Auction Transition Requirements and Deadlines*, MB Docket No. 16-306, GN Docket No. 12-268, DA 18-884 n. 25 (MB/IATF Aug. 27, 2018) (citing *Christian Broadcasting of East Point, Inc.*, 30 FCC Rcd. 13975, 13976-77, para. 4 (2015)).