



Federal Communications Commission
Washington, D.C. 20554

September 21, 2020

Estrella Television License LLC
1845 Empire Avenue
Burbank, CA 91504
bkei@EstrellaMedia.com

(via electronic mail)

Re: Request for Reinstatement and
Extension of License and Silent
Authority Under Section 312(g)
WASA-LD, Port Jervis, NY
LMS File No. 00000121766
Facility ID No. 167320

Dear Licensee:

This concerns the above-referenced request to reinstate and extend license and silent authority (Request) filed on September 17, 2020, by Estrella Television License LLC (Estrella), licensee of low power television station WASA-LD, Port Jervis, New York (WASA or Station). For reasons set forth below, we grant the request, waive all applicable rules, and reinstate and extend the Station's license and silent authority 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 station's 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, WWOR-TV, Secaucus, New Jersey, transition to post-auction channel 25 displaced WASA’s digital operations and WASA was forced to discontinued operations, and went silent on March 7, 2018.⁶ WASA timely filed a displacement application requesting a construction permit for channel 13 on May 10, 2018, in the Commission’s displacement application filing window for low power television stations that were displaced by the incentive auction and repacking process (Special Displacement Window).⁷ While WASA remained silent, it made arrangements for its programming to be carried on WEPT-CD, Newburgh, New York (WEPT-CD).

The Media Bureau determined that WASA’s displacement application for channel 13 was mutually exclusive with two other applications and Estrella submitted a settlement agreement to resolve the mutual exclusivity. Pursuant to the settlement agreement, WASA agreed to dismiss its application and to channel share with WKOB-LD, New York, New York, on its newly authorized displacement channel 13. However, WKOB-LD and WASA could not initiate shared operations on channel 13 because channel 13 was the pre-auction channel for full power television station WNET, New York, New York. WNET was repacked from channel 13 to channel 12 in the incentive auction and repacking process and did not complete its transition to channel 12 until July 13, 2020. Therefore, the stations could not previously begin shared operations until after WNET completed its transition to its post-auction channel.

Estrella states that, now that channel 13 is vacant, it is working with HC2 to finalize their plans to transition to the displacement facilities. Estrella states that lease negotiations for the stations’ shared facility have been delayed by the recent death of the executive overseeing the broadcast transmission facility at One World Trade Center. In the meantime, Estrella notes that WASA-LD continues to serve its viewers in the New York market through a multicast arrangement on WEPT-CD.

Based on similar facts, the Media Bureau granted WASA three requests for extension of license and silent authority under section 312(g) and extended the station’s license to September 8, 2020.⁸ Estrella inadvertently failed to timely request additional relief prior to the September 8, 2020 deadline and is now requesting both reinstatement and extension of its license as permitted by section 312(g).

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. 0000052891.

⁷ See LMS File No. 0000053954; *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).

⁸ See LMS File Nos. 0000059940, 0000081212 and 0000106737.

Discussion. Upon review of the facts and circumstances presented, we find that Estrella's Request to waive all applicable rules, and reinstate and further extend the Station's license and silent authority 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 related to the incentive auction and repacking. 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 circumstances outside its control, WASA was unable to return to the air because it had to wait until the channel it will share with WKOB-CD was available for use. Further, Estrella has taken steps to continue to serve WASA's viewers through an arrangement with WEPT-CD.

Accordingly, we find that in order to promote fairness and equity the request filed by Estrella Television License LLC **IS HEREBY GRANTED**, the applicable Commission rules **ARE WAIVED**,⁹ and the license for WASA-LD, Port Jervis, New York **IS REINSTATED AND EXTENDED** and silent authority **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 Kirby, Esq.

⁹ 47 CFR §§ 74.15(f) and 74.763(c)