



Federal Communications Commission
Washington, D.C. 20554

October 20, 2020

George S Flinn , Jr .
6080 Mt. Moriah Ext.
Memphis, TN 38115
airwavesjd@aol.com
(via electronic mail)

Re: Request for Extension of
License and Silent Authority Under
Section 312(g)
WFBI-LD, South East Memphis, TN
LMS File No. 0000124288
Facility ID No. 23844

Dear Licensee:

This concerns the above-referenced request to extend license and silent authority (Request), as amended, filed by George S. Flinn, Jr. (Flinn), licensee of low power television station WFBI-LD, South East Memphis, Tennessee (WFBI or Station). For reasons set forth below, we grant the request, waive all applicable rules, 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 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, WFBI’s channel 33 was displaced by WPXX-TV, Memphis, Tennessee, which was placed in Phase 1 of the post-auction transition forcing WFBI to discontinue operations and go silent on October 23, 2018.⁶ WFBI’s displacement application for channel 34 was granted on May 15, 2018.⁷ WFBI was previously granted an extension of license and silent authority to October 24, 2020.⁸ Since the grant of his last license extension, Flinn represents that he has obtained quotes for his displacement equipment. However, Flinn states that supply chain uncertainty resulting from the COVID-19 pandemic has continued to delay the delivery of his equipment. Flinn states that his current contractor estimates that equipment will be delivered in 6 to 8 weeks. Flinn expects to be able to begin construction thereafter and resume operations. Therefore, pursuant to section 312(g), Flinn requests extension of the WFBI license and silent authority for an additional 180 days.

Discussion. Upon review of the facts and circumstances presented, we find that Flinn’s request for extension of license and silent authority pursuant to Section 312(g) 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.⁹ WFBI was forced off the air as a result of being displaced by the incentive auction and repacking process and Flinn took steps to build its displacement facilities in a timely manner. Recently, construction was prevented by the COVID-19 pandemic and contractor delays. Grant of relief will allow WFBI to return to the air and once again serve its viewers.

Accordingly, we find that in order to promote fairness and equity the request filed by George S. Flinn, Jr. **IS HEREBY GRANTED**, the applicable Commission rules **ARE WAIVED**,¹⁰ and the license

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. 0000063974.

⁷ See LMS File No. 0000054142.

⁸ See LMS File No. 0000111736.

⁹ See *V.I. Stereo Communications Corp.*, 21 FCC Rcd. 14259 (2006) (granting a request to reinstate a station’s license when the station’s tower had been destroyed by a hurricane and after it was rebuilt, again sustained substantial damage from three more hurricanes); *Community Bible Church, Letter*, 23 FCC Rcd 15012, 15014 (MB 2008) (reinstatement warranted where licensee took all steps needed to return to air, but remained off air to promote air safety after discovering and reporting that FCC and FAA records contained incorrect tower information); *Mark Chapman, Court-Appointed Agent, Letter*, 22 FCC Rcd 6578 (MB 2007) (reinstatement warranted where extended silence resulted from licensee’s compliance with a court order).

¹⁰ 47 CFR §§ 74.15(f) and 74.763(c).

and silent authority for WFBI-LD, South East Memphis, Tennessee **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): Stephen C. Simpson, Esq.