

New York Spectrum Holding Company, LLC  
Station WAGC, Atlanta, GA  
Facility ID 190105

#### Request for further 312g extension of Silent STA

New York Spectrum Holding Company, LLC (“NYSHCo”) is the licensee of WAGC-LD, Atlanta, GA (Facility ID 190105). By this request, NYSHCo requests for further extension of its silent STA (FCC File No. LMS 0000107490) and seeks further 312(g) waiver.

As part of the Incentive Auction repacking process, WAGC’s channel 14 was displaced by WSKC-CA, Atlanta, Georgia that was repacked to channel 14. WAGC-LD went silent on September 12, 2019 in response to the FCC notification on September 11, 2019 that WAGC Channel 14 was interfering with WSKC-CA. NYSHCo filed for and received the grant of a displacement CP for Ch. 15 (LMS File No. 0000054666). That CP expires 9/14/2021. The FCC previously granted 312(g) relief but that waiver expires on 2/17/21.

New transmitting equipment for the new Channel 15 has been purchased but not yet delivered due to (i) the fact that the station continues to have issues finalizing the new lease and access with the tower owner (American Tower) due to unpaid rents after WAGC was forced to go off the air due to displacement, (ii) the landlord’s primary focus for the last several months on the significant recently completed merger with InSite Wireless, and (iii) residual delivery delays due to significant slow-downs during the COVID-19 pandemic.

Progress has been made with the landlord in discussions/negotiations in December and January. NYSHCo is now part of a consortium of television licensees working to develop a nationwide network. The consortium is working to develop a master lease with ATC and ATC has tentatively agreed to facilitate WAGC access and implementation of the Ch. 15 facilities. NYSHCo hopes to have the equipment delivered and the implementation completed and the station back on the air serving the public in the next three months.

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.”<sup>1</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>2</sup> Similarly, 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.”<sup>3</sup>

Considering the foregoing, NYSHCo respectfully requests an extension of the waiver of Section 312(g) to allow it to remain off the air until the Channel 15 station completes the build and resumes broadcasting.

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<sup>1</sup> *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 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>2</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>3</sup> *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)).