

Request for Extension of STA to Remain Silent and for Extension of License Under Section 312(g)

Background

JBS, Inc. (“JBS”), holder of the Commission authorization for low power television station WJHJ-LP, Newport News, Etc., VA (Facility ID 35137) (the “Station”) hereby respectfully requests that the current special temporary authority (“STA”) for the Station to remain silent be extended for an additional six-month period, and that a concurrent extension of the Station’s license under Section 312(g) of the Communications Act of 1934, as amended, be granted, so as to permit JBS to complete work on the Station’s displacement facilities.¹

As a result of the Broadcast Incentive Auction, the Station was displaced from analog Channel 39 and was granted a construction permit to build digital displacement facilities on Channel 34 (LMS File 0000054621).² The Station also went silent on April 15, 2020 in order to prevent interference on Channel 39 with the 600 MHz operations of T-Mobile USA, Inc., and was granted STA to remain silent until April 15, 2021 (LMS File No. 0000124950, as extended).

Due to delays in obtaining municipal building and electrical permits, construction of the Channel 34 facilities has not yet commenced. In addition, the tower on which the Station’s facilities are located was acquired by American Tower Company in December 2020 as part of American Tower’s acquisition of the Insite Wireless Group tower portfolio. This change in ownership of the tower has also delayed the construction process as American Tower works to integrate management of the towers acquired from Insite.

Request for STA Extension and Section 312(g) License Extension

Section 312(g) of the Communications Act of 1934, as amended, states as follows:

If a broadcasting station fails to transmit 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.³

The Commission has stated that in considering requests for extensions under of Section 312(g) in the television repack context, it “will take 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,

¹ JBS also requests that any other applicable Commission rules be waived to the extent necessary to grant the relief hereby requested.

² JBS filed a request for extension of that construction permit which is currently pending (LMS File 0000139629).

³ 47 U.S.C. §312(g).

equity and fairness dictate a license extension or reinstatement and a waiver.”⁴ Similarly, the Media Bureau has stated that in considering such requests, the Bureau “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.”⁵

The Station clearly has been forced to remain silent due to the displacement process, because until it can operate on its displacement Channel 34 facilities it would cause predicted interference with T-Mobile 600 MHz operations. The circumstances preventing completion of construction of those post-repack facilities are also clearly outside of JBS’s control as they relate to delays in obtaining permits and consents from the third party tower owner.

In addition, the history of the Station and the circumstances under which its current President and sole stockholder, Neal Rosenbaum, came to acquire control of the Station, support a license extension under Section 312(g) on equity and fairness grounds.⁶ The Station (along with Class A television station WYSJ-CA) previously was controlled and operated by one Samuel Jacobs who used it to further a so-called “Ponzi scheme” in which numerous innocent individuals, including Mr. Rosenbaum, were defrauded. Mr. Jacobs was convicted in Federal court, sentenced to 12 years in prison and ordered to pay restitution to victims of his fraudulent activities. After Mr. Jacobs’ conviction, Mr. Rosenbaum assumed control of JBS. The Commission, JBS and Mr. Rosenbaum entered into a Consent Decree pursuant to which JBS would attempt to sell the Station and to use the proceeds from such sale, after payment of certain expenses, to satisfy a portion of Mr. Jacobs’ restitution obligations under the court order and to pay obligations to innocent creditors of JBS.⁷

Since the time the Consent Decree was entered into, Mr. Rosenbaum has pursued the sale of the Station without success. The Station has generated very little, if any, revenue since Mr. Rosenbaum took control, and Mr. Rosenbaum has paid Station expenses from his own pocket in an effort to obtain some compensation for persons defrauded by Mr. Jacobs and for creditors. Mr. Rosenbaum and JBS have devoted a considerable amount of time and resources to preserve the Station’s value and in the belief that if the Station can be built with new equipment on its displacement channel, it will be more attractive to potential buyers.

A license extension under Section 312(g) would be consistent with the criteria set forth by the Commission and the Media Bureau for such extensions, as described above. It also would be consistent with extensions under Section 312(g) recently granted by the Bureau.⁸

⁴ *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report & Order, 29 FCC Rcd 6567 (2014), at ¶1585.

⁵ *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition*, Public Notice, 32 FCC Rcd 858 (IATF/MB 2017), at ¶49.

⁶ See *JBS, Inc., Licensee of Station WYSJ-CA, Yorktown, Virginia*, 29 FCC Rcd 01121 (MB 2014), and Application for Transfer of Control of JBS, Inc., File No. BCTTTA-20120503ABK, at Exhibit 6.

⁷ See *JBS, Inc.*

⁸ See, e.g., *Letter dated October 16, 2020 from Barbara A. Kreisman, Chief, Video Division, to Local Media TV Chicago, LLC* (granting Section 312(g) waiver on equity and fairness grounds where permittee was subject to

Moreover, the extension would enable JBS to complete construction on the Station's displacement channel, and to market the Station with newly constructed facilities. This result would promote equity and fairness by increasing the likelihood of a sale of the Station, the proceeds of which would be used to pay down the restitution obligations imposed on Mr. Jacobs by the Federal court, thereby reimbursing victims of Mr. Jacobs' fraud, and to make payments to innocent creditors of the Station. It would also serve to further the intent of the court order and the Consent Decree. If the Station's license were to be terminated on the other hand, any practical possibility that those victims and creditors might obtain restitution or payment would be eliminated.

For the reasons set forth above, JBS asserts that an extension of STA for the Station to remain silent until October 10, 2021, would serve the public interest. In addition, an extension under Section 312(g) of the Communications Act of 1934, as amended, to permit the Commission license for the Station to remain in effect until October 10, 2021 notwithstanding that it is silent, would promote equity and fairness and would also be in the public interest.

unanticipated construction delays, including due to compliance with local building codes); *Letter dated October 16, 2020 from Barbara A. Kreisman, Chief, Video Division, to Sanford Broadcasting Group, Inc.* (granting Section 312(g) waiver on equity and fairness grounds where permittee was subject to unanticipated delays in receipt of equipment and in obtaining required local permits).