

Request for Waiver of Section 312(g) of the Communications Act  
and Extension of Silent Authority

K28GY-D, Santa Barbara, CA

Public Media Group of Southern California (“PMGSC”), licensee of K28GY-D, Santa Barbara, California, Facility ID 13469, hereby requests a waiver of Section 312(g) of the Communications Act that otherwise would result in the expiration of the translator’s license given it has not operated for a consecutive 12-month period. Section 312(g), however, allows the Commission to extend a station’s license to promote equity and fairness, among other reasons. 47 U.S.C. Section 312(g). In adopting the auction procedures and repacking rules, the Commission recognized that some stations might be forced to remain off the air for more than a year and held that waivers of the provision would be processed on a case-by-case basis.<sup>1</sup> K28GY-D was displaced by another repacked station, KVMM-CD (formerly on channel 41), Santa Barbara, California, Facility ID, 18741, that moved to Channel 28.

According to the FCC repack schedule, KVMM-CD was in repack phase 8 that would have required it to transition in the Spring of 2020. However, PMGSC learned in early 2018 that T-Mobile had received permission to incentivize licensees on their acquired spectrum to move to their new channel far earlier than scheduled. KVMM-CD’s waiver request to change to an earlier phase was granted in LMS File No. 0000042206. This change put PMGSC into an accelerated situation where it needed to file for a new channel and construct a new facility in a very short period of time.

PMGSC immediately engaged Hammett and Edison to explore available channels in the market. After performing interference studies, Hammett and Edison suggested filing a displacement application for UHF channel 19. PMGSC filed and received a Construction Permit for K19MO-D (LMS File No. 0000054782). The local engineer for KCOY-TV, Facility ID 63165, Santa Maria, California, reached out to PMGSC’s engineer asking if its proposed facility would interfere with KCOY-TV’s existing channel 19 operation to the north. Station ownership for KCOY-TV performed its own interference studies, and its consulting engineers also concluded that the proposed K19MO-D facility would not cause any interference in its protected contour and did not file any objection to PMGSC’s application.

PMGSC proceeded to construct the K19MO-D facility and began testing on June 10, 2020. Within a day, PMGSC received a complaint of interference from KCOY-TV and decided it was in the public’s best interest to cease testing to prevent loss of important local emergency information especially in light of the wildfires and the pandemic. After receiving more info on

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<sup>1</sup> *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, 29 FCC Rcd. 6567, 6807 (2014) *aff’d*, *Nat’l Assoc. of Broadcasters v. FCC*, 789 F.3d 165 (D.C. Cir. 2015) (In considering requests for waiver of the 12-month period, “we 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, equity and fairness dictate a license extension or reinstatement and a waiver”); *Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power Television and Television Translator Stations; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions; Amendment of Part 15 of the Commission’s Rules to Eliminate the Analog Tuner Requirement*, 30 FCC Rcd 14927, 14954-55 (2015).

the interference area from KCOY-TV, PMGSC decided against filing for a license to cover for K19MO-D and instead filed a silent STA for K28GY-D on August 20, 2020 (see LMS File No. 0000120625) until it could find a solution for the displaced translator on channel 19.

PMGSC again engaged Hammett and Edison to look at channel 18 as an alternative solution to the problem given PMGSC is also the licensee in the adjacent market holding a channel 18 license. It predicted some potential interference to the south in Oxnard, CA and advised a full-service filter would need to be installed to protect KSBB-CD on UHF channel 17, but the proposal would allow PMGSC to keep and use its new channel 19 antenna. PMGSC also recently engaged another consulting firm to explore other options including possibly swapping PMGSC's K26FT-D and K19MO-D facilities. Initial analysis showed this could potentially work and continue to serve the market, but the cost would be somewhat prohibitive in addition to needing to engage with FCC staff and file more applications to make this option viable.

PMGSC has come to the conclusion that the best course of action going forward is to ask Hammett and Edison to perform a complete interference analysis using channel 18 and file a modification of the K19MO-D CP to reflect the channel change. An application will be filed as soon as the engineering can be completed.

Because another extension of the silent authority will extend beyond the 12-month silent period referenced in Section 312(g), the licensee respectfully requests that the Commission waive the 12-month silent provision to extend the station's license to promote equity and fairness. The licensee's displacement was caused by the FCC's repacking process which was beyond the control of the licensee. PMGSC wants to continue to operate the station to serve the residents of Santa Barbara with public television programming as it did prior to being displaced. It was diligent in filing a displacement application and building those facilities, only to receive unexpected complaints of interference during testing that made further operation inadvisable. Good cause, therefore, exists for the Commission to exercise its discretion to extend K28GY-D's license and to extend its silent authority beyond the one-year automatic expiration date to preserve this station's license, so that it can provide service in the public interest.