



Federal Communications Commission
Washington, D.C. 20554

June 17, 2021

WCNC-TV, Inc.
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(via electronic mail)

Re: Request for Reinstatement and
Extension of License and Silent
Authority Under Section 312(g)
W30CR-D, Biscoe, NC
W24AY-D, Lilesville-Wadesboro, NC
LMS File Nos. 0000107929 and
0000107931
Facility ID Nos. 32316 and 32317

Dear Licensee:

This concerns the above-referenced requests to reinstate and extend licenses and silent authority, as amended (Requests) filed by WCNC-TV, Inc. (WCNC), licensee of low power television stations W30CR-D, Biscoe, North Carolina (W30CR) and W24AY-D, Lilesville-Wadesboro, North Carolina (W24AY) (collectively Stations). For reasons set forth below, we grant the Requests, waive all applicable rules, reinstate and extend the Stations' licenses and silent authority to August 22, 2021 for W30CR-D and December 17, 2021 for W24AY-D.

Background. Section 312(g) of the Communications Act of 1934 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

¹ 47 U.S.C. § 312(g).

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 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. The Stations serve as translators for WCNC’s full power station, WCNC-TV, Charlotte, North Carolina. The Stations were required to go silent on September 9, 2019, because they were displaced by the Incentive Auction and repacking process.⁶ WCNC timely filed displacement applications for the Stations (channel 36 for W30CR and channel 17 for W24AY) and those applications were granted on August 21, 2018 and January 28, 2019, respectively.⁷

² *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, Report and Order, 29 FCC Rcd 6567, 6806-07, para. 585 (2014) (*Incentive Auction R&O*). The Bureau’s discretion under that provision of section 312(g) is severely limited. See e.g. *A-O Broad. Corp.*, Memorandum Opinion and Order, 23 FCC Rcd 603, 617, para. 27 (“This limited, discretionary provision is phrased as an exception to the general rule that most affected licenses will be forfeited”). The Commission has exercised its authority to reinstate an expired license to “promote equity and fairness” only where the station failed to provide service for 12 consecutive months due to compelling reasons beyond the licensee’s control. See, e.g., *V.I. Stereo Communications Corp.*, Memorandum Opinion and Order, 21 FCC Rcd 14259 (2006); *Community Bible Church*, Letter, 23 FCC Rcd 15012, 15014 (MB 2008); *Mark Chapman, Court-Appointed Agent*, Letter, 22 FCC Rcd 6578 (MB 2007). The Commission has declined to reinstate licenses where the failure to transmit a broadcast signal was due to the licensee’s own actions, finances, and/or business judgment. See, e.g., *A-O Broadcasting*, 23 FCC Rcd at 617, para. 27; *ETC Communications, Inc.*, Letter, 25 FCC Rcd 10686 (MB 2010); *Kirby Young, Letter*, 23 FCC Rcd 35 (MB 2008).

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)).

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 Nos. 0000081307 and 0000081309. W24AY was displaced by the repacking of full power station WCNC-TV from Channel 22 to Channel 24. W30CR was displaced by the repacking of full power station WUNU(TV) from Channel 31 to Channel 30.

⁷ See LMS File Nos. 0000054531 and 0000054532.

Since the grant of the displacement applications, WCNC states that construction of the Stations' displacement facilities was delayed throughout 2020 by the then ongoing COVID-19 pandemic. More recently, WCNC discovered that its initial coverage studies had been completed using incorrect antenna technical parameters. WCNC states that it has now received updated coverage studies with revised antenna patterns for both Stations. With revised technical parameters confirmed, WCNC states that it has developed an action plan for timely completing construction of both Stations' displacement facilities and expects to be able to complete construction and resume operations prior to the Stations existing construction permit deadlines (August 22, 2021 for W30CR and January 28, 2022 for W24AY).

WCNC argues that grant of these Requests is in the public interest because the reactivation of the Stations will restore reliable over-the-air service to tens of thousands of viewers who would not otherwise have over-the-air access to its full power station's signal. Therefore, WCNC seeks reinstatement and extension of the Stations' licenses and silent authority pursuant to section 312(g) to promote equity and fairness.

Discussion. Upon review of the facts and circumstances presented, we find that WCNC's Requests for reinstatement and extension of license and silent authority pursuant to section 312(g) for a period of 180 days from the date of this letter 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. The Stations were displaced by the incentive auction and WCNC diligently pursued new digital displacement channels. Due to circumstances outside its control, WCNC has been unable to return the Stations to the air. Grant of relief will enable the Stations to return to the air and once again serve their viewers.

Accordingly, we find that in order to promote fairness and equity the requests filed WCNC-TV, Inc. **ARE HEREBY GRANTED**, the applicable Commission rules **ARE WAIVED**,⁸ and the licenses and silent authority for W30CR-D, Biscoe, North Carolina; and W24AY-D, Lilesville-Wadesboro, North Carolina, **ARE REINSTATED AND EXTENDED** to August 22, 2021 for W30CR-D and December 17, 2021 for W24AY-D. We also remind TEGNA that any requests for tolling of the Stations' construction permit deadlines will be subject to the Commission's tolling provisions.⁹ Further requests for extension of license under section 312(g) or tolling of the Stations' construction permits will not be favorably viewed unless accompanied by a showing that completion of the Stations' permanent displacement facilities were prevented by additional compelling circumstances as well as a detailed plan

⁸ 47 CFR §§ 74.15(f) and 74.763(c).

⁹ See 47 § CFR 73.3598(b). We note that the Section 73.3598(b) tolling standard does not provide relief for financial hardship, except that paragraph (b)(2) would toll the construction deadline for a station that could not build because of a pending bankruptcy court action. See *Implementation of the DTV Delay Act*, MB Docket No. 09-17, Third Report and Order and Order on Reconsideration, 24 FCC Rcd 3399, 3429 n.156 (2009). Stations must electronically file tolling requests via LMS. Stations may also seek a waiver of the tolling rule to receive additional time to construct in the case where "rare or exceptional circumstances" prevent construction. See *1998 Regulatory Review - Streamlining of Mass Media Applications, Rules and Processes*, Memorandum Opinion and Order, 14 FCC Rcd 17525, 17536, para. 42 (1999).

for completing construction and returning the Stations to operation.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Michael Beder, Esq.