

New York Spectrum Holding Company, LLC  
Station WTBT, Tampa, FL  
Facility ID 168481  
Request for Extension of Silent STA and Waiver of 47 U.S.C. §312(g)

**REQUEST FOR WAIVER OF 47 U.S.C. §312(G)/ EXTEND SILENT STA AND LICENSE**

New York Spectrum Holding Company, LLC (“NYSHCo”) is the licensee of WTBT-LD, Tampa, FL (Facility ID 168481). By this request, NYSHCo requests for further extension of its silent STA (FCC File No. LMS 0000120535) and seeks 312(g) waiver. Its current waiver/Silent STA expires on 7/20/2021. (Due to the fact that this extension request is filed on the date that the STA actually expired, this request, to the extent necessary requests reinstatement and extension of the WTBT license.

Since WTBT-LD’s licensed Channel 45 is in the wireless duplex gap, the absolute shut down date for operation on Channel 45 was in summer 2020 not 2021. NYSHCo has a displacement CP for Ch. 8. That CP expires 9/11/2021. While progress toward implementation, delays beyond NYSHCo’s control have delayed completion. During the COVID-19 pandemic, equipment manufacture and delivery have been significantly delayed. Equipment delivery is delayed due to an ongoing site access dispute with the landlord. NYSHCo has negotiated an asset purchase for the sale of the station and filing of an assignment of license application is imminent. The Buyer will assist with the final implementation of the CP.

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 8 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)).