

New York Spectrum Holding Company, LLC  
Station KVHD, Los Angeles, California  
Facility ID 67901

### **Request for Further 312(g) Extension of Silent Authority and KVHD License**

New York Spectrum Holding Company, LLC (“NYSHCo”), the licensee of KVHD-LD, Los Angeles, CA (Facility ID 67901) by this request, requests that the FCC further extend its silent station STA (FCC File No. LMS 0000079920) and, in doing so, further waive the time limitation of 47 U.S.C. §312(g).

As previously reported, KVHD-LD went silent on February 7, 2019, after it was granted a displacement construction permit as part of a settlement of MX Group No. 25. Station KVHD-LD is one of two stations that were in MX Group No. 25. Both parties agreed to a settlement with KJLA, LLC (“KJLA”), licensee of Station KSGA-LD as the Sharer station and KVHD as the Sharee station, and the FCC granted separate construction permits to the stations.

KJLA, as Sharer, is responsible for implementation of the displacement facilities. On January 4, 2021, KJLA filed a request for extension of the KSGA-LD silent STA noting that:

“KJLA is working on the plans necessary to effectuate the substitution of channels and the channel sharing arrangement with [NYSHCo]. As with many other matters involving the broadcasting industry, KJLA’s plans have been detrimentally affected by the Covid-19 pandemic and its negative impact on television broadcasters. KJLA is seeking to overcome the pandemic related problems and arrange for the operation of the Station. It needs additional time, with KSGA-LD silent, in which the [sic] accomplish these results.”

Due to a significant commercial dispute with ATC, the lessor at the propose site (Mt. Wilson) to be used for the shared facility, ATC has refused to enter into a lease with either KJLA or NYSHCo. KJLA promptly undertook efforts to locate a new tower site and adjusted the equipment and construction needs to complete the construction from the new site. In mid-June, 2021, after such diligent efforts, KJLA negotiated a leasing arrangement with Sunset Ridge, LLC, the owner of a tower located in Claremont, California (one of the few alternatives to the Mt. Wilson antenna farm for Los Angeles television stations. After the engineering plans for the revised facility to move the shared facility to the Sunset Ridge tower, both KJLA and NYSCHO submitted STAs to the FCC for operation from the new site. (NYSCHO’s STA: [LMS-0000150068](#) filed June 11, 2021 remains pending.)

Equipment orders for the proposed modified facility were negotiated with vendors but as KJLA has advised the FCC in its 312(g) request (LMS- \_\_\_\_\_) was advised “vendors were suffering

raw materials shortages and other problems arising from the Covid-19 pandemic on equipment and personnel. These shortages, along with supply chain difficulties, involving transportation, have affected detrimentally the ability of manufacturers to construct and then deliver equipment on a timely basis.”

The inability to receive firm delivery dates for equipment has a deleterious effect on the KJLA’s ability to schedule already scarce tower crews for the installation. If a delivery window is not met, the tower crew is lost and the station has to “get back in line” to await another opportunity to secure a crew.

KJLA advises that it has received the antenna (and placed it in storage) and that it is awaiting it is awaiting delivery of a filter (already four weeks late in delivery), the transmitter, and combiner. KJLA indicates that vendors are advising that all of these items will be delivered within the next 45 days. Once the equipment is received, KJLA will schedule an installation crew and complete the installation. KJLA believes that, assuming that there are no unexpected and material delays, the Station will be operational by September 13, 2021.

Meanwhile, KVHD-LD is unable to resume operation on its currently licensed Channel 40, because T-Mobile notified KVHD to vacate that channel by April 12, 2019. Channel 40 is thus no longer available for use by the TV station.

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.” 47U.S.C. § 312(g).

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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

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

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>

KVHD-LD was forced to go silent is due to a demand by T-Mobile that KVHD-LD abandon Channel 40 by April 12, 2019. Despite good faith efforts, due to the reasons cited above, implementation of the post repack shared facility has been delayed by factors and events beyond either KJLA or NYSCHO’s control.

In light of 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 3 station completes the build and resumes broadcasting.

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<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)).