



Federal Communications Commission
Washington, D.C. 20554

July 13, 2021

Edge Spectrum, Inc.
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randy@crosstalk.org
(via electronic mail)

Re: Requests for Reinstatement and
Extension of License and Silent
Authority Under Section 312(g) and
Extension of Digital Construction
Permit or Waiver of Tolling Rules

Dear Licensee:

This concerns requests to reinstate and extend license and silent authority (Requests) and applications for extension of digital construction permit or waiver of the tolling rules (Extensions and Tolling Waivers) filed by Edge Spectrum, Inc. (Edge), licensee of low power television stations.¹ For reasons set forth below, we grant Edge's Requests; waive all applicable rules; reinstate and extend the Stations' licenses and silent authority to January 3, 2022; grant Edge's Extensions and Tolling Waivers; and extend or toll the Stations' digital construction permits to January 3, 2022 (as applicable).²

Background. Section 312(g) of the Communications Act of 1934 (the Act) 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."³ 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

¹ A list of the stations covered by this action (referred to herein collectively as "Stations"), as well as the LMS file numbers of the Requests, Extensions and Tolling Waivers, are contained in the Appendix to this letter.

² We note that not all of the Stations have pending extensions or tolling waivers as their digital construction permits do not expire until later in 2021. Those expiration dates have not been modified by this action. *See infra* Appendix note 1.

³ 47 U.S.C. § 312(g). 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).

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.”⁴ Further, in the *Post-Incentive Auction Procedures PN* the Media Bureau (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.”⁵ 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.⁶ 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, it would “consider a request for extension or reinstatement pursuant to section 312(g) of the Act and a request for waiver of the Commission rule.”⁷

In addition, analog low power television stations are required to cease analog operation and complete construction of their digital facility by July 13, 2021.⁸ Stations that require additional time to complete construction of their digital facilities were permitted to seek one last extension of their digital construction permits of not more than 180 days.⁹ An application for extension of time to construct a station’s digital facility must include an exhibit demonstrating that failure to meet the construction deadline is due to circumstances that are either unforeseeable or beyond the licensee’s control and that the licensee has taken all reasonable steps to resolve the problem expeditiously.¹⁰

⁴ *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, GN Docket No. 12-268 et al., 29 FCC Rcd 6567, 6806-07, para. 585 (2014) (*Incentive Auction R&O*).

⁵ *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition*, MB Docket No. 16-306 and GN Docket No. 12-268, 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*, MB Docket No. 16-306 and GN Docket No. 12-268, 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)).

⁶ 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*, MB Docket No. 16-306 and GN Docket No. 12-268, Public Notice, 33 FCC Rcd 1234, 1237, para. 7 (IATF/MB 2018) (*Special Displacement Window PN*).

⁷ *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).

⁸ See 47 CFR § 74.731(m); see also *Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power Television and Television Translator Stations*, MB Docket No. 03-185, Third Report and Order and Fourth Notice of Proposed Rulemaking, 30 FCC Rcd 14927, 14932-33, para. 9 (2015) (*LPTV DTV Third R&O*) (extending the LPTV digital transition date until July 13, 2021 - 12 months following the completion of the 39-month post-Incentive Auction transition period); see also *Incentive Auction Closing and Channel Reassignment Public Notice: The Broadcast Television Incentive Auction Closes; Reverse Auction and Forward Auction Results Announced; Final Television Band Channel Assignments Announced; Post-Auction Deadlines Announced*, GN Docket No. 12-268 et al., Public Notice, 32 FCC Rcd 2786 (IATF/MB 2018).

⁹ See 47 CFR § 74.788(c)(3).

¹⁰ *Id.*

Low power television stations that have already transitioned to digital and are subsequently granted digital construction permits for displacement facilities are given three years to complete construction of their displacement facilities.¹¹ If they experience delays, these stations may only obtain additional time to complete construction through the Commission's "tolling" rule.¹² The tolling rule provides that a construction permit deadline may be tolled only for specific circumstances not under the licensee's control, such as acts of God or delays due to administrative or judicial review.¹³ 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.¹⁴

Requests. As part of the Incentive Auction and repacking process, each of the Stations' pre-auction operating channels were displaced. Some of the Stations were operating in analog mode at the time and some had already transitioned to digital facilities. Each of the Stations filed a displacement application requesting a new digital channel in the Commission's displacement application filing window for low power television stations that were displaced by the Incentive Auction and repacking process.¹⁵ In preparation for moving to their displacement channels the Stations all went silent on July 3, 2020.

Since the grant of the Stations' displacement applications, Edge states that all of the equipment to convert the Stations' to digital operations on their displacement channels has been ordered, deliveries are being staged, and tower crews are being scheduled to complete construction. However, Edge states that the Stations have been unable to complete construction due to equipment manufacturer and installation crew delays. Edge states that it is committed to completing construction of each of the Stations' displacement facilities within the extended license period. Therefore, Edge seeks reinstatement and extension of the Stations' licenses arguing that reinstatement extension are appropriate as the Stations' silence was a result of being displaced by the Incentive Auction and repacking process, and construction delays outside of its control. For these similar reasons Edge argues that extension or tolling of its construction permits and continued silent authority for the Stations is also warranted.

Discussion. Upon review of the facts and circumstances presented, we find that Edge's Requests for reinstatement and extension of the Stations' licenses satisfy 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 are, therefore, in the public interest. Consistent with the public interest and prior Bureau actions, we will provide section 312(g) relief to displaced LPTV and TV translator stations that were displaced by the Incentive Auction and pursued new displacement channels. The Stations were displaced by the Incentive Auction and repacking process. Edge's efforts to construct the displacement facilities prior to its one-year silence anniversary were hindered by equipment manufacturing and installation delays. For similar reasons, we find that Edge has met the standard for extension of its digital construction permits, for tolling, and for silent authority. Grant of Edge's requests will permit the Stations to once again serve their viewers with digital facilities. **We note that our action**

¹¹ See 47 CFR § 74.788(d).

¹² See 47 CFR § 73.3598(b).

¹³ *Id.*

¹⁴ See *1998 Regulatory Review - Streamlining of Mass Media Applications, Rules and Processes*, Memorandum Opinion and Order, 14 FCC Rcd 17525, 17536, para. 42 (1999).

¹⁵ See *Special Displacement Window PN; Incentive Auction Task Force and Media Bureau Extend Post Incentive Auction Special Displacement Window Through June 1, 2018*, MB Docket No. 16-306 and GN Docket No. 12-268, Public Notice, 33 FCC Rcd 3794 (IATF/MB 2018).

today does not permit any analog stations to operate in analog mode after 11:59 p.m. on July 13, 2021.¹⁶

We remind Edge that, pursuant to the Reimbursement Expansion Act, the some Stations may be eligible for reimbursement from the TV Broadcast Relocation Fund (Fund) of costs reasonably incurred as a result of the reorganization of broadcast television spectrum.¹⁷ Please note, however, that additional expenses incurred, such as those resulting from changes in a Stations' plans to construct their displacement facilities that are unrelated to the displacement, may not be eligible for reimbursement from the Fund.

We further remind Edge that the deadline for submitting final expense documentation for reimbursement for eligible Stations is September 5, 2022.¹⁸ Thus, we strongly encourage the Edge to diligently pursue completion of the current deadlines to improve the likelihood that there will be sufficient funds available to reimburse the Stations for their legitimate expenses, and we encourage Edge to submit eligible invoices as soon as practicable.

Accordingly, we find that in order to promote fairness and equity, the requests filed by Edge Spectrum, Inc. and listed in the Appendix, **ARE HEREBY GRANTED**, the applicable Commission rules **ARE WAIVED**,¹⁹ and the licenses of the low power television stations set forth in the Appendix **ARE EXTENDED** to January 3, 2022. In addition, the applications for extension of digital construction permit or waiver of the tolling rules listed in the Appendix **ARE GRANTED** and the expiration date of the construction permits **ARE EXTENDED/TOLLED** to January 3, 2022. We note that another request for extension of a station's license under section 312(g) or tolling of a station's construction permit under section 73.3598(b) of the Commission's rules will not be favorably viewed unless accompanied by a showing that completion of the station's permanent displacement facilities was prevented by additional compelling circumstances. Edge must also include with any such request(s) a detailed plan for completing construction and returning the station to operation.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

¹⁶ 47 CFR 74.731(m).

¹⁷ See *Consolidated Appropriations Act, 2018*, Pub. L. 115-141, at Division E, Title V, § 511, 132 Stat. 348 (2018) (codified at 47 U.S.C. § 1452(j)-(n)). See also 47 CFR § 73.3701 (Reimbursement Under the Reimbursement Expansion Act); *LPTV, TV Translator, and FM Broadcast Station Reimbursement; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 34 FCC Rcd 1690 (2019); and *LPTV, TV Translator, and FM Broadcast Station Reimbursement; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Notice of Proposed Rulemaking and Order, 33 FCC Rcd 7855 (2018).

¹⁸ See *Invoice Filing Deadlines for TV Broadcaster Relocation Fund*, Public Notice, 35 FCC Rcd 11273, 11277, paras. 10-11 (IATF/MB Oct. 7, 2020) (setting three filing deadlines for the submission of all outstanding repack invoices, notably: 1) October 8, 2021 for eligible entities assigned repack transition completion dates in the first half of the 39-month post-auction transition period; 2) March 22, 2022 for entities assigned completion dates in the second half of the transition period; and 3) September 5, 2022 for all other participants in the reimbursement program).

¹⁹ 47 CFR §§ 74.15(f) and 74.763(c).

APPENDIX¹

Call Sign	Facility ID	City	State	Extension File No.	Tolling File No.	Silent STA File No.
K38IM	40743	ALBUQUERQUE	NM	139147		149501
K43JV	67023	PROVO	UT	139328		149504
K45JA	130801	HOBBS	NM	139218		149506
K51KR	131137	BILLINGS	MT		148501	149768
KQSX-LP	125481	CAL - OREGON	CA	139192		151570
W41BQ	67015	ASHEVILLE	NC	139169		149511
W42CK	25042	HAGERSTOWN	MD	139249		149513
W48CL	67010	GRAND RAPIDS	MI		149471	149470
W50CO	24569	JACKSONVILLE	FL	139211		149498
WCNT-LP	49239	CHATTANOOGA	TN	139194		149496
WFYW-LP	33955	FAIRFIELD/WATERVILLE	ME	139242		149489
K18HQ-D	130175	SANDPOINT	ID		149724	149723
K19II-D	181159	ARDMORE	OK			150261
K20KF-D	74376	DAVENPORT	IA			149720
K21KJ-D	182493	MINERAL WELLS	TX			149740
K22HS-D	11137	EUREKA SPRINGS	AR		149676	149675
K24IW-D	181157	ARDMORE	OK			150259
K27JP-D	14884	LITTLE ROCK	AR			149684
K31MU-D	183206	LINGLEVILLE-CROWLEY	TX			149664
K38JX-D	167269	GRAND JUNCTION	CO		148492	149480
K38MM-D	130207	INTERNATIONAL FALLS	MN			149727
K39EO-D	17401	CRESCENT CITY	CA		148488	149647
K39JC-D	167489	BUTTE	MT		148496	149657
K40IJ-D	125157	TOPEKA	KS			149721
K40KC-D	14883	TULSA	OK			149683
K40MT-D	130171	BONNERS FERRY	ID			149722
K42FE-D	40192	SHREVEPORT	LA		148494	150311
K42IM-D	167526	MINOT	ND		148493	149658
K42IQ-D	125496	FLAGSTAFF	AZ			149654
K42JQ-D	184022	REDDING	CA		148497	150284
K43JE-D	130209	LAKE CRYSTAL	MN			149728
K43JQ-D	131348	BISMARCK	ND			149737
K43LK-D	127216	LAWTON	OK		148491	150323
K43MH-D	130215	VESTA	MN			150293
K44GH-D	130185	ALEXANDRIA	MN			150291
K44KG-D	184021	REDDING	CA		151472	149743
K45KS-D	131138	BILLINGS	MT		149736	149735
K47JC-D	130216	WADENA	MN			149730
K47JE-D	130213	OLIVIA	MN			149279
K47JK-D	130174	POCATELLO	ID		149464	149465

¹ Some cells in the chart are intentionally left blank. A blank cell under ‘Extension File No.’ or ‘Tolling File No.’ means that the station’s construction permit expiration date has not been modified.

Call Sign	Facility ID	City	State	Extension File No.	Tolling File No.	Silent STA File No.
K48GC-D	477	FLORENCE	OR		148487	150302
K48KJ-D	130199	GENEVA	MN			149726
K49KT-D	125279	BEND	OR		148490	149651
K49LJ-D	184717	CASPER	WY		148948	150301
KCTL-LD	28943	LIVINGSTON	TX			149689
KHFD-LD	127785	DALLAS	TX			149656
KHGS-LD	126700	GLENWOOD SPRINGS	CO		149473	149472
KHTX-LD	168805	HUNTSVILLE	TX			149739
KHVM-LD	130940	MINNEAPOLIS	MN			149732
KIBN-LD	28961	LUFKIN	TX		148489	149650
KMSX-LD	130178	SACRAMENTO	CA			149725
KTCJ-LD	130941	MINNEAPOLIS	MN		149734	149733
W14CX-D	17784	KNOXVILLE	TN			149685
W16CX-D	182839	PANAMA CITY	FL			150257
W18DS-D	72218	CHATTANOOGA	TN		149719	150254
W24DL-D	74379	SAGINAW	MI		149183	149163
W28DQ-D	130222	WINDSOR	VT			149731
W32DJ-D	71240	MELBOURNE	FL		148495	149633
W39CV-D	57592	MINOCQUA	WI	151462		149717
W45DN-D	125165	WASHINGTON	DC		148486	151572
W48DP-D	127219	ATLANTIC CITY	NJ			151575
WCTU-LD	57865	PENSACOLA	FL			149718
K49LK-D	184723	NORTH PLATTE	NE		149669	149667
WFRW-LD	187829	ENTERPRISE	AL			149673