



Federal Communications Commission  
Washington, D.C. 20554

July 26, 2021

Spectrum Evolution, Inc.  
WatchTV, Inc.  
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Southlake, TX 76092  
[GJHPDX@MAC.COM](mailto:GJHPDX@MAC.COM)  
[WATCHTVINC@MAC.COM](mailto:WATCHTVINC@MAC.COM)  
(via electronic mail)

Re: Requests for Extension of  
License and Silent Authority Under  
Section 312(g)

Dear Licensee:

This concerns the requests to reinstate and extend license and silent authority (Requests) filed by Spectrum Evolution, Inc. (SEI) and WatchTV, Inc. (WatchTV) (referred to collectively herein as SEI/WatchTV) licensee of 29 low power television stations.<sup>1</sup> For reasons set forth below, we deny SEI/WatchTV's Requests. Pursuant to section 312(g) of the Communications Act of 1934, as amended (the Act)<sup>2</sup> the Stations' licenses have been automatically cancelled and their call signs deleted.

*Background.* Section 312(g) of 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."<sup>3</sup> As discussed in greater detail below, the Commission has exercised its discretion under section 312(g) to extend or reinstate a station's expired license "to promote equity and fairness" only in limited circumstances where a station's failure to transmit a broadcast signals for 12 consecutive months is due to "compelling circumstances" that were beyond the licensee's control.<sup>4</sup> For example, the Commission has granted section 312(g) relief to stations whose facilities were destroyed by natural disasters such as hurricanes;<sup>5</sup> where silence was necessary in furtherance of public safety;<sup>6</sup> where reinstatement of the station's license was necessitated by court order;<sup>7</sup>

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<sup>1</sup> A list of the 29 stations covered by this action (referred to herein collectively as "Stations"), and the LMS file numbers of the Requests are contained in the Appendix to this letter.

<sup>2</sup> 47 U.S.C. § 312(g).

<sup>3</sup> *Id.* See also 47 CFR § 74.15(f).

<sup>4</sup> See *A-O Broadcasting Corp.*, Memorandum Opinion and Order, 23 FCC Rcd 603, 617, para. 27 (2008) (*A-O Broadcasting*) ("This limited, discretionary provision is phrased as an exception to the general rule that most affected licenses will be forfeited").

<sup>5</sup> *V.I. Stereo*, 21 FCC Rcd at 14262 (reinstating license where silence due to destruction of towers in hurricanes).

<sup>6</sup> *Community Bible Church*, Letter Order, 23 FCC Rcd 15012, 15014 (MB 2008) (*Community Bible*) (reinstatement warranted where licensee took all steps needed to return to air, but remained off air to promote air safety after discovering and reporting that FCC and FAA records contained incorrect tower information).

<sup>7</sup> *Mark Chapman, Court-Appointed Agent*, Letter Order, 22 FCC Rcd 6578, 6580 (MB 2007) (*Mark Chapman*) (reinstating license where silence necessitated by licensee's compliance with court order).

where stations were actually displaced by the Incentive Auction and repacking process;<sup>8</sup> or where station silence was the result of governmental closure.<sup>9</sup> The Commission has declined to exercise its section 312(g) discretion when a station's silence is the result of a licensee's own action or inaction, finances, and/or business judgment.<sup>10</sup>

*Requests.* In its largely-identical Requests, SEI/WatchTV explain that they are currently the licensee of 43 digital LPTV stations – SEI the licensee of 35 stations and WatchTV the licensee of 8 stations.<sup>11</sup> SEI/WatchTV explains that all 42 of their stations went silent on March 23, 2020, as part of an effort by SEI/WatchTV to convert all of their digital LPTV stations to the next generation ATSC 3.0 format.<sup>12</sup> SEI/WatchTV states that they are building a network of ATSC 3.0 stations to provide next generation television and broadband internet services to the American public.<sup>13</sup> SEI/WatchTV report that 14 of the 42 silent stations returned to the air on March 15, 2021, 8 days prior to their one-year silent anniversary.<sup>14</sup> However, as a result of events and conditions that it claims were beyond its control, SEI/WatchTV states that it was unable to return the 29 Stations that are the subject of this decision to operation before their one-year silent anniversary.<sup>15</sup>

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<sup>8</sup> See, e.g., *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) (displaced LPTV station that remains silent for more than one year may request an extension or reinstatement of license where station can demonstrate that its silence is the result of compelling reasons beyond the station's control including facts that relate to the post-auction transition process); *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) (displaced LPTV station receiving conditional grant of its displacement construction permit that results in station remaining silent for more than one year may request extension or reinstatement of license pursuant to section 312(g)).

<sup>9</sup> *Universal Broadcasting*, 34 FCC Rcd at 10319 (station unable to file STA to resume service due to a federal government shutdown).

<sup>10</sup> See, e.g., *New Visalia Broadcasting, Inc.*, Memorandum Opinion and Order, 29 FCC Rcd 9744 (2014) (record did not show that health problems prevented the principals from resuming operations); *A-O Broadcasting*, 23 FCC Rcd 603 (transmission from unauthorized location not sufficient to avoid the consequences of section 312(g)); *Eagle Broadcasting Group, Ltd.*, Memorandum Opinion and Order, 23 FCC Rcd 588, 592, 589-90 (2008) (operation from unauthorized site insufficient to avoid the consequences of section 312(g)); *Mt. Rushmore Broadcasting, Inc.*, Letter Order, 32 FCC Rcd 3924, 3927 (MB 2017) (discretion unwarranted when station was either silent or engaging in brief periods of unauthorized operation for six years); *Zacarias Serrato*, Letter Order, 20 FCC Rcd 17232 (MB 2005) (station taken off the air due to a business decision); *Kingdom of God*, Letter Order, 29 FCC Rcd 11589 (MB 2014) (station's numerous periods of extended silence were a direct result of licensee's own business decisions); *Christian Broadcasting*, 30 FCC Rcd at 13976 (2015) (licensee provided no evidence that station's silence was beyond its control).

<sup>11</sup> Requests at 1.

<sup>12</sup> *Id.* WatchTV's digital LPTV station – K16KI-D, Bend, Oregon, was an unbuilt station at the time and initiated operations on March 15, 2020.

<sup>13</sup> *Id.*

<sup>14</sup> Included in the 14 silent stations that resumed operations on March 15, 2021, were 3 WatchTV stations that resumed operations with ATSC 3.0 digital facilities, as well as 3 WatchTV stations and 8 SEI stations that resumed operations with ATSC 1.0 digital facilities.

<sup>15</sup> *Id.*

SEI/WatchTV explain that construction of the new ATSC 3.0 facilities has been delayed over the past year due to shortages of equipment, engineering services, tower crew, and construction services.<sup>16</sup> In addition, SEI/WatchTV state that construction was delayed for the past year as a result of the COVID-19 pandemic which SEI/Watch TV state resulted in closed businesses, plants and storage facilities.<sup>17</sup> SEI/WatchTV also state that the COVID-19 pandemic hindered meetings and negotiations for equipment purchase, equipment testing and implementation on planning.<sup>18</sup> Although it attempted to restore service prior to their one-year anniversary of going silent, and was able to do so for 14 of their stations (3 in ATSC 3.0 digital format and 11 in ATSC 1.0 digital format), SEI/WatchTV were unable to restore service for the twenty-nine Stations.<sup>19</sup> SEI/WatchTV state that, most recently, construction was delayed at many of Stations' transmitter sites which are remote and inaccessible due to heavy winter snow.<sup>20</sup> SEI/WatchTV pledge to resume operations with ATSC 3.0 facilities for each of the Stations within the extended license period.<sup>21</sup> Accordingly, SEI/WatchTV seek reinstatement and extension of the Stations' licenses for an additional 180 days arguing that reinstatement and extension are appropriate as the Stations' silence was a result of compelling circumstances outside of its control, namely, the COVID-19 pandemic.<sup>22</sup>

*Discussion.* Upon review of the facts and circumstances presented, we find that SEI/WatchTV's Requests fail to satisfy the requirements of section 312(g). Based on its showings, we find the Stations' extended silence were a direct result of SEI/WatchTV's voluntary business judgments.<sup>23</sup> We have previously determined that such voluntary business judgments do not warrant reinstatement or extension under section 312(g).<sup>24</sup> SEI/WatchTV have failed to adequately demonstrate that the Stations' failures to return to the air before their section 312(g) deadline was due to compelling circumstances beyond the licensee's control and that reinstatement or extension is warranted under the "equity and fairness" provision of section 312(g).

SEI/WatchTV argue that the COVID-19 pandemic prevented the Stations timely resumption of service. However, we note that SEI/WatchTV voluntarily took the Stations silent and did so on March 23, 2020, after the start of the pandemic and implementation of nationwide shutdowns that began March 13, 2020, notably 10 days before the Stations went silent, after the United States declared a state of emergency.<sup>25</sup> SEI/WatchTV assumed the risk that they would be able to complete construction without

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<sup>16</sup> *Id.* at 2.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> Requests at 1-2.

<sup>23</sup> We note that while some of the Stations were displaced as a result of the Incentive Auction and repacking process, SEI completed construction and began operating their displacement facilities. Therefore, unlike other displaced LPTV stations that have received relief under section 312(g), the reason for these Stations' silence was not displacement and instead was SEI's voluntary business decision.

<sup>24</sup> See e.g., *Zacarias Serrato*, *supra* n. 10 (station taken off the air due to a business decision); *Kingdom of God*, *supra* n. 10 (station's numerous periods of extended silence were a direct result of licensee's own business decisions).

<sup>25</sup> The United States government declared a national State of Emergency on March 13, 2021, with travel restrictions being implemented across the country shortly thereafter. See e.g., *Declaring a National Emergency Concerning the*

remaining silent for 12 consecutive months. At the time it took the Stations silent, the potential resource constraints that were likely to occur as a result of the COVID-19 pandemic were obvious, as evidenced by shortages that had already occurred overseas and were occurring in the United States at the time the Station's went silent.<sup>26</sup> Further, SEI/WatchTV do not explain why the Stations needed to go silent or, as the pandemic continued to worsen, why the Stations did not resume operation using the ATSC 1.0 standard. SEI/WatchTV made the business decision to take the Stations silent instead of taking other actions that could have preserved their operations and avoided license cancellation, such as continuing to operate the Stations until the impacts of the COVID-19 pandemic waned or resuming operations with temporary facilities while their modified ATSC 3.0 facilities were constructed. We find that the Stations' continued silence stemmed from SEI/WatchTV's voluntary business decision to modify their facilities despite knowing time was limited and that the COVID-19 pandemic may place strains on resources, including both equipment and labor. SEI/WatchTV's ambitious business plan to upgrade to ATSC 3.0 service during a global pandemic and later to restore ATSC 1.0 service at the last minute unfortunately fell short with respect to these Stations.

Given the totality of the circumstances, we find that SEI/WatchTV have failed to demonstrate that compelling circumstances warrant a finding of equity and fairness to justify reinstatement and extension of the Stations' licenses pursuant to section 312(g).

Accordingly, the requests to reinstate and extend licenses filed by Spectrum Evolution, Inc. and WatchTV, Inc. **ARE DENIED** and the requests for extension of silent authority **ARE DISMISSED**. Further, the licenses of the low power television stations set forth in the Appendix **ARE CANCELLED** and their call signs **DELETED**. All authority to operate these facilities **IS TERMINATED** and any operation of these facilities **MUST CEASE IMMEDIATELY**.<sup>27</sup>

Sincerely,

/s/

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

cc (via electronic mail): Kathleen Victory, Esq.

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*Novel Coronavirus Disease (COVID-19) Outbreak*, Presidential Executive Order 9994, March 13, 2020; 85 FR 15337 (Mar. 18, 2020); *A Year of COVID: What Was Going on in the United States in March 2020* (Mar. 6, 2021), <https://abcnews.go.com/Health/year-covid-19-us-march-2020/story?id=76204691>; A Timeline of the Coronavirus Pandemic (Mar. 17, 2021), <https://www.nytimes.com/article/coronavirus-timeline.html>.

<sup>26</sup> See *Guidance for Stations in Phase 9 of the Post-Incentive Auction Transition As A Result Of The Novel Coronavirus (COVID-19) Pandemic*, Public Notice, 35 FCC Rcd 2720 (MB 2020) (offering guidance to stations in phase 9 of the post-Incentive Auction transition and noting the grant of construction permit extensions to phase 8 station in light of delivery delays of equipment being manufactured outside the United States as a result of the COVID-19 pandemic). We note that this Public Notice was released March 17, 2020 – three days before SEI took the Stations silent.

<sup>27</sup> We remind SEI/WatchTV, that, pursuant to section 73.1740(a)(4) of the rules, they must continue to adhere to the requirements in the Stations' authorizations pertaining to lighting of antenna structures. See 47 CFR § 73.1740(a)(4).

## APPENDIX

<b>Call Sign</b>	<b>City</b>	<b>State</b>	<b>Facility ID</b>	<b>LMS File No. Silent STA</b>	<b>Licensee</b>
K16IG-D	COTTAGE GROVE	OR	181996	140478	Spectrum Evolution, Inc.
K19MB-D	MOUNTAIN HOME	ID	182705	140479	Spectrum Evolution, Inc.
K21KD-D	WYOLA	MT	181982	140480	Spectrum Evolution, Inc.
K21NJ-D	THREE FORKS	MT	182448	140481	Spectrum Evolution, Inc.
K21NX-D	HERMISTON	WA	182504	140483	Spectrum Evolution, Inc.
K22JK-D	MOSES LAKE	WA	182536	140485	Spectrum Evolution, Inc.
K23NZ-D	THREE FORKS	MT	182453	140487	Spectrum Evolution, Inc.
K24IQ-D	BILLINGS	MT	181965	140489	Spectrum Evolution, Inc.
K24JI-D	HERMISTON	OR	182498	140490	Spectrum Evolution, Inc.
K24NN-D	TWIN FALLS	ID	182748	140493	Spectrum Evolution, Inc.
K28LC-D	REDDING	CA	182518	140511	Spectrum Evolution, Inc.
K29JB-D	MOSES LAKE	WA	182538	140513	Spectrum Evolution, Inc.
K29JD-D	REDDING	CA	182520	140514	Spectrum Evolution, Inc.
K29MM-D	BILLINGS	MT	182640	140516	Spectrum Evolution, Inc.
K30KN-D	WYOLA	MT	182461	140520	Spectrum Evolution, Inc.
K30KR-D	BOISE	ID	181930	140521	Spectrum Evolution, Inc.
K30QF-D	HERMISTON	WA	182506	140522	Spectrum Evolution, Inc.
K31KR-D	THREE FORKS	MT	181980	140523	Spectrum Evolution, Inc.
K32JE-D	QUINCY	WA	182530	140525	Spectrum Evolution, Inc.
K32JK-D	BOISE	ID	182688	140527	Spectrum Evolution, Inc.
K32JM-D	TWIN FALLS	ID	181933	140529	Spectrum Evolution, Inc.
K32NP-D	BILLINGS	MT	182638	140530	Spectrum Evolution, Inc.
K33PW-D	MOSES LAKE	WA	182541	140531	Spectrum Evolution, Inc.
K34KY-D	MOUNTAIN HOME	ID	182701	140532	Spectrum Evolution, Inc.
K34PO-D	BILLINGS	MT	182639	140534	Spectrum Evolution, Inc.
K35NI-D	THREE FORKS	MT	182450	140535	Spectrum Evolution, Inc.
K45KX-D	WEED	CA	182437	55053	Spectrum Evolution, Inc.
K29MU-D	COOS BAY	OR	71077	140475	WatchTV, Inc.
K34QA-D	KLAMATH FALLS	OR	71076	140477	WatchTV, Inc.