

REQUEST FOR EXTENSION OF SILENT STA AND WAIVER OF SECTION 312(g)

Edge Spectrum, Inc. ("ESI"), licensee of W48DU-D, Albany, GA and permittee of W29EX-D, Albany, GA (Fac ID 184035) (the "Station"), hereby requests extensions of its authority to remain silent and the deadline by which the Station must return to the air or forfeit its license pursuant to Section 312(g) of the Communications Act of 1934, as amended.

The Station's licensed facilities are located on channel 48. As a result, the Station had to discontinue licensed operations on or before July 13, 2020. On November 3, 2020, ESI applied for and received Special Temporary Authority to operate at reduced power from its assigned displacement channel (29). ESI had to discontinue those operations in June 2021 while it worked to complete construction of its permanent displacement facilities. Those efforts have taken longer than expected and remain ongoing.

As ESI explained in its request for Tolling, ESI was not been able to complete construction because of a delay in getting the necessary equipment from Anywave Communication Technologies Inc. ("Anywave") and Hitachi Kokusai Electric Comark LLC d/b/a Comark Communications ("Hitachi Comark"). ESI expected to complete construction by May 1, 2022. However, the Commission did not grant ESI's request for tolling until May 25, 2022. See File No. 177328. In granting tolling, the Commission acknowledged that:

Edge's efforts to construct the displacement facilities were hindered by documented tower siting and equipment manufacturing and installation delays. Grant of Edge's requests will permit the Stations to once again serve their viewers, some for the first time in digital.

ESI has all of the equipment needed for this Station and has been working diligently to finalize an amendment to the Station's CP for its channel 29 facilities, which it expects to file in the coming days. The amendment will relocate the proposed facility to an American Tower site. Once that application is granted, ESI will deploy a crew to Albany to complete a series of installations in that area. ESI expects to file a license to cover for the station within the month.

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) (emphasis added). The Commission has regularly reinstated licenses that have been off the air for more than one year where there is a reasonable explanation for the station's extended silence.¹

¹ See *V.I. Stereo Commc'ns Corp.*, Memorandum Opinion and Order, 21 FCC Rcd. 14259 ¶ 8 (2006) (reinstating license of station that was off air due to hurricane damage); *Community Bible Church*, Letter, 23 FCC Rcd. 15012, 15014 (MB 2008) (reinstating license of station unable to obtain building permit and

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.”² 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.”³ Finally, in the *Special Displacement Window Public Notice*, the Media Bureau explained that if an LPTV or TV translator station needed to remain silent for a consecutive 12-month period, 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.”⁴

The Commission should grant the instant request for waiver because the Station’s silence is fully attributable to circumstances beyond its control relating to the post-Incentive Auction transition and concurrent and well documented disruptions in the supply chain for broadcast equipment.⁵ The Commission has already recognized, in tolling the Station’s CP, that “Edge’s efforts to construct the displacement facilities were hindered by documented tower siting and equipment manufacturing and installation delays.” Although the process of completing the Station’s facilities and resuming operations has taken longer than expected, it is directly attributable to the repacking process, and the Station should resume operations in the coming weeks.

The Commission has granted waivers of Section 312(g) under similar circumstances, and ESI respectfully requests the same consideration here.⁶

¹ 4859-5949-6227.1 ASR discrepancies); *Sumiton Broadcasting Company, Inc.*, Letter, 22 FCC Rcd. 6578 (MB 2007) (reinstating license of station where silence was to effectuate court order).

² *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567 ¶ 585 (2014), *aff’d*, *Nat’l Assoc. of Broadcasters, et al v. FCC*, 789 F.3d 165 (D.C. Cir. 2015)

³ *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).

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 Red. 1234 ¶ 7 & n.25 (IATF/MB 2017).

⁵ *See, e.g.*, Lazaro Gamio and Peter S. Goodman, *How the Supply Chain Crisis Unfolded*, The New York Times (Dec. 5, 2021), <https://www.nytimes.com/interactive/2021/12/05/business/economy/supply-chain.html>; Randy J. Stine, *Chip Shortage Hits Radio Technology Marketplace*, Radio World (Aug. 25, 2021), *available at* <https://www.radioworld.com/news-and-business/headlines/chip-shortage-hits-radio-technology-marketplace>.

⁶ *See e.g.*, Letter from Barbara A. Kreisman, Chief, Video Division, Media Bureau to KRCA License LLC, LMS File No. 0000059940 (Mar. 15 2019).