



Federal Communications Commission
Washington, D.C. 20554

March 15, 2019

KRCA License LLC
1845 Empire Avenue
Burbank, CA 91504

Re: Request for Extension of License and
Silent Authority Under Section 312(g)
WASA-LD, Port Jervis, NY
LMS File No. 0000059940
Facility ID No. 167320

Dear Licensee:

This concerns the above-referenced request to extend silent authority and license (Request) filed on September 27, 2018, and supplemented on March 9, 2019, by KRCA License, LLC, Debtor-in-Possession (KRCA), licensee of low power television station WASA-LD, Port Jervis, New York (WASA or Station). For reasons set forth below, we grant the request and extend the Station's silent authority, waive all applicable rules, and extend the Station's license for a period of 180 days from the date of this letter.

Background. Section 312(g) 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."¹ 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 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 Further, in the *Post-Incentive Auction Procedures PN* the Media 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 station's control, including facts that relate to the post-auction transition process."³ 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

¹ 47 U.S.C. § 312(g).

² *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567, 6806-07, para. 585 (2014) (*Incentive Auction R&O*).

³ *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) (*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*, 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)).

result of the incentive auction and repacking process.⁴ 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, 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.”⁵

Request. As part of the incentive auction and repacking process, WWOR-TV, Secaucus, New Jersey, was reassigned to post-auction channel 25 and assigned to post-auction transition phase 4 with a phase transition completion date of August 2, 2019. WWOR-TV subsequently requested to change its transition date explaining that it would facilitate T-Mobile USA’s, an incentive auction winning 600 MHz wireless licensee, deployment of new, competitive wireless broadband service to people in New York City a full 12 months earlier than scheduled.⁶ The Media Bureau granted WWOR-TV’s request and WWOR-TV transitioned to channel 25 on March 7, 2018.

KRCA explains that WWOR-TV’s transition displaced WASA’s digital operations, that it discontinued operations, and went silent on March 7, 2018.⁷ KRCA maintains that because of the WWOR-TV phase change it had limited advance notice of the displacement date. KRCA timely filed a displacement application requesting a construction permit for channel 13 on May 10, 2018, in the Commission’s displacement application filing window for low power television stations that were displaced by the incentive auction and repacking process (Special Displacement Window).⁸ The Media Bureau determined that WASA’s displacement application for channel 13 was mutually exclusive with two other applications filed by (1) HC2 LPTV Holdings, Inc. (HC2), licensee of WKOB-LD, New York, New York (WKOB-LD) and (2) Venture Technologies Group, LLC (Venture), licensee of W28ES-D, New York, New York (W28ES-D). As a result, the Station was placed in MX Group 76 (MX 76) along with WKOB-LD and W28ES-D.⁹ A opportunity to resolve mutual exclusivity through settlement or technical modification of the engineering proposals was provided from October 30, 2018 to January 10, 2019 (the Settlement Window). KRCA submitted a settlement agreement with HC2 and Venture to resolve the mutual exclusivity among their application. Pursuant to the settlement agreement, KRCA has agreed to dismiss its application and will channel share with HC2 on WKOB-LD’s newly authorized displacement channel. HC2 has also filed an assignment application to acquire W28ES-D from Venture¹⁰ and following consummation, as part of the settlement arrangement, HC2 states that it will request that the displacement application for W28ES-D be dismissed. The settlement agreement and related actions remain under review by the Media Bureau staff. In the meantime, while WASA remains silent, KRCA

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 Rcd 1234, 1237, para. 7 (IATF/MB 2018) (*Special Displacement Window PN*)

⁵ *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).

⁶ See LMS File No. 0000048531.

⁷ See LMS File No. 0000052891.

⁸ See LMS File No. 0000053954 (request for silent authority); *Special Displacement Window PN; Incentive Auction Task Force and Media Bureau Extend Post Incentive Auction Special Displacement Window Through June 1, 2018*, Public Notice, 33 FCC Rcd 3794 (IATF/MB 2018).

⁹ *Incentive Auction Task Force and Media Bureau Announce Settlement Opportunity for Mutually Exclusive Displacement Applications Filed During the Special Displacement Window: October 30, 2018 to January 10, 2019*, Public Notice, DA 18-1108, (MB/IATF, rel. Oct. 30, 2018).

¹⁰ File No. BALDTL-20190214AAB (filed Feb. 14, 2019).

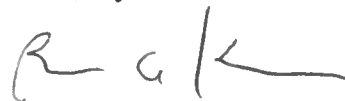
explains that it has made arrangements for WASA's programming to be carried on a multicast channel of WEPT-CD, Newburgh, New York (WEPT-CD).

In its March 9, 2019, supplement to its Request, KRCA asks that the Commission extend WASA's license pursuant to the provisions of Section 312(g) of the Communications Act of 1934 (Section 312(g)) finding that equity and fairness support such a decision. KRCA argues that WASA's continued silence is a result of circumstances beyond its control and that Commission precedent supports extension of the Station's license pursuant to Section 312(g). KRCA notes that its displacement application has been pending since May 10, 2018, during which time the Media Bureau staff determined that it was mutually exclusive, provided an opportunity for the parties to settle, KRCA did settle, and the station is awaiting action on its settlement agreement and related application. Because it will take time beyond the March 8, 2019, one-year anniversary of WASA going silent for all of these matters to be resolved and for WASA to resume operations on a shared basis with WKOB-LD, KRCA requests that the Commission find, as permitted by Section 312(g) that equity and fairness support extending WASA's license.

Discussion. Upon review of the facts and circumstances presented, we find that KRCA's Request to extend the WASA's silent authority, waive all applicable rules, and extend the Station's license for a period of 180 days from the date of this letter satisfies 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 is in the public interest. Consistent with the public interest, we will provide Section 312(g) relief to displaced LPTV and TV translator stations that are forced off the air by circumstances beyond their control related to the incentive auction and repacking. WASA was authorized to operate on an in-core channel in a market that pursuant to the Transition Scheduling Plan would have been displaced in phase 4 with a phase completion deadline in August 2019. However, WWOR-TV achieved its transition to its post-auction channel in March 2018 pursuant to the grant of a phase change request, WASA was displaced much earlier than expected. As described above, due to circumstance outside its control, KRCA has been unable to return to the air because its displacement application for a channel in New York City, a market with limited channel availability, remains mutually exclusive. Further, KRCA has taken steps to continue to serve WASA's viewers through a multicasting arrangement with WEPT-CD.

Accordingly, we find that in order to promote fairness and equity the request filed by KRCA Licensee, LLC, Debtor-in-Possession. **IS HEREBY GRANTED**, the applicable Commission rules ARE WAIVED,¹¹ and the license for WASA-LD, Port Jervis, New York **IS EXTENDED** for 180 days from the date of this letter.

Sincerely,



Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc: Ari Meltzer, Esq. – Counsel for KRCA

¹¹ 47 CFR §§ 74.15(f) and 74.763(c)