

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

KRCA License LLC, licensee of WASA-LD, Port Jarvis, New York (Fac ID 167320), hereby requests an extension of its current Silent STA and its license for an additional 180 days.

On March 7, 2018, Fox Television Stations, LLC transitioned full power television station WWOR-TV to channel 25, displacing WASA-LD. See LMS File No. 0000048531. KRCA License LLC received only limited advance notice of this displacement date and, due to the lack of available channels in the market for interim operations, went silent on March 7, 2018. KRCA License LLC has temporarily transitioned WASA-LD's programming to WEPT-CD until it can resume programming on WASA-LD.

KRCA License LLC timely filed a displacement application on May 10, 2018 seeking to authorization to operate on Channel 31. See LMS File No. 0000053954. That application, however, was mutually exclusive with applications filed by HC2 LPTV Holdings, Inc. and Venture Technologies Group, LLC and assigned to MX Group 76. After entering into a settlement agreement approved by the Commission, on May 24, 2019, KRCA License LLC submitted an application for a construction permit to channel share with WKOB-LD, which the Commission granted on May 31, 2019. See File No. 0000073241. WKOB-LD, however, has not completed construction of its displacement facilities on channel 13, so WASA-LD has been unable to begin channel sharing with WKOB-LD.

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).

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> Most recently, in a public notice reminding repacked 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

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<sup>1</sup> *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)

<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).

compelling reasons beyond the station's control, including facts that relate to the post-auction transition process."<sup>3</sup>

The Commission previously granted KRCA License LLC's request for a waiver of Section 312(g) and an extension of WASA-LD's license. See File No. 0000059940. In finding that KRCA License LLC's prior request was in the public interest, the Video Division explained:

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.

The same circumstances that that Video Division found relevant in the prior request remain present today. WASA-LD's silence is fully attributable to circumstances beyond its control relating to the post-Incentive Auction transition. Although WASA-LD was authorized to operate on an in-core channel in a market that is not transitioning until Phase 4, the Commission granted Fox Television Stations, LLC authority to transition WWOR-TV to channel 25 in "phase zero," displacing WASA-LD earlier than KRCA License LLC had initially anticipated.

KRCA License LLC intends for WASA-LD to resume operations no later than May 2020. KRCA License LLC has made diligent efforts to resume operations sooner, but has been unable to do so for reasons beyond its control. As explained above, KRCA License LLC timely filed a displacement application for WASA-LD to operate on channel 13. However, due to the scarcity of channels in the New York area, two other displaced stations filed for the same channel. KRCA License LLC entered into a settlement agreement to resolve the mutual exclusivity pursuant to which WASA-LD will channel share with WKOB-LD once WKOB-LD commences operations on channel 13 – which cannot occur until Phase 9 due to upstream dependencies. KRCA License LLC is working with the licensee of WKOB-LD to ensure a timely transition to channel 13 once it becomes available. In the meantime, WASA-LD continues to serve its viewers in the New York market through its arrangement with WEPT-CD.

Accordingly, a further extension of WASA-LD's silent authority and license would promote fairness and equity and should be granted.

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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)).