

Amended Silent STA Extension Request and Request for Waiver of 47 U.S.C. § 312(g)

DTV America Corporation, licensee of KFKY-LD (Fac. Id. No. 186283) (the “Station”), hereby amends its Silent STA Extension Request and Request for Waiver of 47 U.S.C. § 312(g) pending request for an extension of silent special temporary authority (LMS File No. 0000068580)¹ and respectfully requests that the FCC grant a waiver extending the twelve-month off-air period of 47 U.S.C. § 312(g) for such time sufficient for the Station to finalize installation of its antenna.

On September 30, the FCC has requested an estimated date by which the Station will restore service and a description of the steps taken to do so. It is difficult for the licensee to estimate the on-air date, because the circumstances causing the delays are outside the control of the licensee. The licensee has been told by its antenna manufacturer that it is awaiting back-ordered parts, and therefore cannot ship the antenna until November 20th. It will then take approximately five days for the antenna to arrive at the site. This would be during Thanksgiving week, which will likely cause challenges in scheduling riggers for the installation. We are endeavoring to schedule a rigging crew to be on site when the antenna is delivered, but these schedules are often subject to last minute change by the riggers. We will do everything we can to have the antenna installed during the first week of December, but, out of an abundance of caution, will estimate that the Station will resume operations by the end of December, assuming no unforeseen delays, including weather.

The licensee has taken all other steps within its control to resume operations as soon as the antenna is delivered and installed. As of the date of this filing, all of the engineering, equipment and deliveries necessary to resume operation of the Station have been received and/or completed, other than installation of the antenna. We also note that, due to HVAC deficiencies at the Station’s original site, the licensee was forced to move to an alternative site, for which a minor modification request remains pending (LMS File No. 0000081821), and for which the licensee is still awaiting a grant. In an effort to resume operations as quickly as possible after this minor modification is granted, the licensee has completed all engineering and purchases in anticipation of the grant (instead of first receiving the grant, and then proceeding with the build logistics).

These conditions are beyond the control of the licensee. Given the irretrievable investments that the licensee has already made in constructing the Station, and given that the build for this Station is almost complete, the licensee respectfully submits that the Media Bureau is justified in granting this brief extension. Section 312(g) provides that “If a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then...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.”² Thus, the Media Bureau has the authority to extend the Station’s license “for any...reason to promote equity and fairness” and, the facts and circumstances faced by the Station justify the Media Bureau to use such discretion in this case.

Exercise of the Media Bureau’s discretion in this case will also advance the public interest by preserving service to viewers in the Station’s community, ensuring that this community enjoys a diversity of free, over-the-air viewing options, including the free specialty Spanish-language Azteca America programming that will be aired by the Station. It is unlikely that the Commission intends to open a window for new low power television licenses and allotments in the foreseeable future. Consequently, a failure to extend the Station’s 312(g) deadline would result in an unused television

¹ The original 312(g) extension request has been on file and pending since September 20, 2019. The FCC has a history of granting such requests, particularly where, as here, the request is supported by good cause and granting it would further the public interest. *See, e.g.*, Application 0000034182, KZSD-LP, Facility ID 57054 (granting an LPTV station an STA extension on October 26, 2017, to allow the station to address “the fact that the Station’s existing STA frequency will no longer be available in the reduced post-auction broadcast spectrum”); Application 0000030510, KDUG-LD, Facility ID 128855 (granting an LPTV station an STA extension on October 2, 2017, to accommodate its filing of a minor change application); Application 0000033847, KLFA-LD, Facility ID 13999 (granting an LPTV station an STA extension on October 17, 2017, to accommodate the station’s concern “over whether [it] will be able to have a broadcast channel to operate on following repacking”).

² 47 U.S.C. § 312(g).

allotment for the communities served by the Station, and a loss of valuable service to viewers, contrary to the public interest. For these reasons and those described above, granting this request is in the public interest.