

REQUEST FOR WAIVER OF SECTION 312(G)
OF THE TELECOMMUNICATIONS ACT

George S. Flinn, Jr. ("Flinn"), licensee of WFBI-LD, South East Memphis, TN, hereby respectfully requests a waiver of Section 312(g) of the Telecommunications Act of 1934 (as amended). In support thereof, the following is shown:

As a consequence of the FCC's station repack, WFBI-LD, South East Memphis, Tennessee (Facility ID 23844) was forced off the air (i.e., displaced) on October 23, 2018 by full power station WPXX-TV, Memphis, Tennessee (Facility ID 21726). As noted in its initial STA Request, October 23, 2018 is the date that WFBI-LD went silent.

WFBI-LD was granted a construction permit on September 27, 2018 whereby WFBI-LD will move to digital Channel 34 (from its previous Channel 33). That construction permit expires on September 27, 2021.

As noted in his previous STA Requests (including the most recent one granted on April 8, 2020), Flinn initially experienced difficulty obtaining firm quotes and timelines from equipment vendors in light of their other commitments to full power stations working through the various Phases. While Flinn was finally able to obtain preliminary equipment quotes for submission in conjunction with his FCC Form 399 Reimbursement Request (filed on November 14, 2019 and ultimately approved on March 26, 2020), he and his local engineer have experienced significant issues with the general contractor chosen to effectuate the repack rebuild, specifically as it relates to the establishment of firm schedules and the receipt of final invoices (not least of which are critical to Flinn receiving FCC reimbursement for the WFBI-LD repack rebuild).

The general contractor is also a third-party representative and installer for Rohde & Schwarz, the manufacturer of the equipment that will be used in connection with the WFBI-LD repack rebuild. Flinn representatives and his local engineer have repeatedly sought orally and in writing to have the general contractor provide build-out clarity. Flinn recently found out that the general contractor has been diagnosed with cancer and this has understandably exacerbated the WFBI-LD build-out problems.

Due to the COVID-19 pandemic which has increasingly raged during the most recent WFBI-LD STA period and the health issues pertaining to Flinn's former general contractor, build-out plans (the control of which are substantially in the hands of the equipment manufacturers and technical installers) have to date been thwarted and delayed.

In light of the continuing COVID-19 pandemic and the inability of Flinn to get the WFBI-LD repack rebuild effectuated through use of its previous general contractor, Flinn has decided to work directly with Rohde & Schwarz in obtaining the transmitter, combiner, mask filter, etc. necessary for the WFBI-LD rebuild. Rohde & Schwarz has indicated that a 6-8 week delivery time is reasonable given the current circumstances. Once on-site delivery of the equipment to Memphis, Tennessee occurs (i.e., on or

before December 7, 2020), local installation (requiring third-party tower site owner authorization and coordination) will immediately commence. The local engineer is cautiously optimistic that the installation can (weather permitting) be finalized before December 31, 2020.

As noted in the FCC's August 27, 2018 Public Notice (DA 18-884) at footnote 25:

We remind stations that the license of any station that remains silent for any consecutive 12-month period expires automatically at the end of that period, by operation of law, except that the Commission can extend or reinstate such a license “to promote equity and fairness.” 47 U.S.C. § 312(g). In considering requests to extend or reinstate a license, we will examine whether the station has demonstrated that its silence is the result of compelling reasons beyond the station’s control, see, e.g., *Christian Broadcasting of East Point, Inc.*, 30 FCC Rcd 13975, 13976-77, para. 4 (2015), including facts that relate to the post-auction transition process.

In the case at hand, WFBI-LD's silence has been solely the consequence of FCC's transition process and for no other reason. If WFBI-LD had not been forced off the air, it would still be broadcasting.

As noted in Flinn's previous STA Request, it had been hoped that WFBI-LD would have been back on the air and again serving the public by now. Unfortunately, unforeseen delays (and a global pandemic) have impacted supply chains and have massively taxed a very limited subset of equipment vendors, tower climbers, engineers, installers, and general contractors existing in the U.S. to handle both the full and low power television repack.

As noted hereinabove, while the exact date that WFBI-LD will be able to resume broadcasting will be subject to factors beyond Flinn's control, Flinn's engineer responsible for the coordination and effectuation and rebuild of the WFBI-LD facility on Channel 34 is cautiously optimistic that WFBI-LD will be operational on its new Channel 34 on or before December 31, 2020.

In sum, WFBI-LD's initial (and continued) silence is due to reasons beyond its control. 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”. Flinn respectfully submits that the facts at hand, as well as equity and fairness, support the conclusion that the subject waiver and STA extension is in the public interest; that it in no way negatively impacts any repacking or existing broadcaster; grant of relief will allow WFBI-LD to return to the air and once again serve its viewers; and, as such should be granted.