

REQUEST FOR EXTENSION OF SILENT STATION AUTHORITY AND WAIVER OF SECTION 312(g) of COMMUNICATIONS ACT

KJLA, LLC (“KJLA”), the licensee of Station KSGA-LD, San Bernardino, California (FIN: 5342), hereby requests that the Commission extend its silent station authority (LMS No. 0000130416) and, in so doing, waive the time limitations of Section 312(g) of the Communications Act owing to the circumstances affecting Station’s silent station status.

As reported in LMS Nos. 0000130416 and 0000117660, KSGA-LD went silent as it commenced a Commission approved displacement and channel sharing arrangement process. In MX Group No. 25, in the special settlement window for low-power applicants,¹ KJLA and New York Spectrum Holding Company, LLC (“Spectrum”), the licensee of Station KVHD-LD, Los Angeles, California (FIN: 67901), were mutually exclusive applicants for displacement to Channel 3 at Los Angeles, California. Rather than proceed with the uncertainties of an auction, KJLA and Spectrum agreed to settle their mutual exclusivity and engage in a channel sharing arrangement on Channel 3. Under that channel sharing arrangement, KSGA-LD is the sharer station and KVHD-LD is the sharee of the Channel 3 spectrum. Construction permits have been issued to the two parties in LMS Nos. 0000131337 and 0000052735.

On July 13, 2020, KSGA-LD, operating on a channel designated for a repacked broadcast station as a result of the reverse auction repacking, went silent as it commenced the construction process for the channel sharing arrangement on Channel 3. As it has made note of in its silent station initial and extension requests, KJLA has had to deal with impact of the Covid-19 pandemic on its ability to construct the modified facilities. Despite its reasonable efforts, KJLA, has been unable to complete the required work and restore KSGA-LD to operate within the one-year period provided by Section 312(g) and is now seeking a waiver of the statute and an extension of its silent station STA.

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.”

In the *Incentive Auction Report and Order*, 29 FCC Rcd 6567, 6806-6807 (2014), the Commission advised that it would be receptive to waivers of Section 312(g), by “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.” This policy, involving waiver of Section 312(g) in the context of low-power television station displacement applications, was ratified in later actions of the Commission.

¹ *Public Notice*, 33 FCC Rcd 10748 (IATF/MB 2018).

Public Notice, 32 FCC Rcd 858, 873-874 (IATF/MB 2017); *Public Notice*, 33 FCC Rcd 1234, 1237 (IATF/MB 2018).

KSGA-LD was forced to go silent in order to accommodate the ability of a repacked reverse auction station to make use of the Station's Channel 30 spectrum. In addition, having agreed to a channel sharing arrangement, KJLA and Spectrum have been required to work out arrangements for channel sharing, which include transmitter site leasing, equipment construction and operating protocols. The parties, facing the complications arising from the Covid-19 pandemic, have been unable to complete these arrangements in as timely a manner as they have desired. Completion of these elements of the process have required far more time and third-party coordination than in a simple license modification. While KJLA desires to complete them and commence the channel sharing service, it has found that doing so is beyond its control.

Finally, KJLA has taken note that that precedent exists for the requested relief. In this regard, KJLA has made note of the requests of Spectrum, in LMS File Nos. 0000131337, 0000117662, and 0000079920, where it has sought and received waivers of Section 312(g). In granting those waivers, the Chief of the Video Division has concluded that the public interest is served by granting Section 312(g) waivers to low-power stations, such as KVHD-LD, forced off-air by the results of the forward auction and where the licensees are pursuing displacement facilities but are unable to complete them owing to forces beyond their control and facility construction delays. *Letter to New York Spectrum Holding Company, LLC*, dated January 19, 2021.

KJLA submits that it is detrimentally affected by the same forces beyond its control that have affected KVHD-LD and, as a result, precedent and the public interest both support its requested relief in the form of a 180-day extension of the Station's license while the Station remains in silent station status.
