



Federal Communications Commission
Washington, D.C. 20554

October 29, 2019

George S Flinn , Jr .
6080 Mt. Moriah Ext.
Memphis, TN 38115

Re: Request for Extension of
License and Silent Authority Under
Section 312(g)
WFBI-LD, South East Memphis, TN
LMS File No. 0000072135
Facility ID No. 23844

Dear Licensee:

This concerns the above-referenced request to extend license and silent authority (Request), as amended, filed by George S. Flinn, Jr. (Flinn), licensee of low power television station WFBI-LD, South East Memphis, Tennessee (WFBI or Station). For reasons set forth below, we grant the request, waive all applicable rules, and extend the Station's license and silent authority 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 stations' 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, WFBI’s channel 33 was displaced by WPXX-TV, Memphis, Tennessee, which was placed in Phase 1 of the post-auction transition forcing WFBI to discontinue operations and go silent on October 23, 2018.⁶ WFBI’s displacement application for channel 34 was granted on May 15, 2018.⁷ Flinn states that he has 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 of the post-incentive auction transition and other displaced LPTV stations seeking similar quotes and commitments. Flinn believes that construction of the Station’s displacement facility can be completed by March 1, 2020. Therefore, Flinn requests a waiver of Section 312(g) and extension of its license and silent authority for an additional 180 days.

Discussion. Upon review of the facts and circumstances presented, we find that Flinn’s request for waiver of Section 312(g) and extend the WFBI’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.⁸ WFBI was forced off the air as a result of being displaced by the incentive auction and repacking process and Flinn took steps to build its displacement facilities in a timely manner. Therefore, due to circumstances outside its control, WFBI has been unable to return to the air prior to the one-year anniversary of going silent. Flinn pledges to resume operations on the Station’s new channel by March 1, 2020. Grant of a waiver of Section 312(g) will allow WFBI to return to the air and once again serve its viewers.

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. 0000063974.

⁷ See LMS File No. 0000054142.

⁸ See *V.I. Stereo Communications Corp.*, 21 FCC Rcd. 14259 (2006) (granting a request to reinstate a station’s license when the station’s tower had been destroyed by a hurricane and after it was rebuilt, again sustained substantial damage from three more hurricanes); *Community Bible Church, Letter*, 23 FCC Rcd 15012, 15014 (MB 2008) (reinstatement warranted where licensee took all steps needed to return to air, but remained off air to promote air safety after discovering and reporting that FCC and FAA records contained incorrect tower information); *Mark Chapman, Court-Appointed Agent, Letter*, 22 FCC Rcd 6578 (MB 2007) (reinstatement warranted where extended silence resulted from licensee’s compliance with a court order).

Accordingly, we find that in order to promote fairness and equity the request filed by George S. Flinn, Jr. **IS HEREBY GRANTED**, the applicable Commission rules ARE WAIVED,⁹ and the license for WFBI-LD, South East Memphis, Tennessee **IS EXTENDED** for 180 days from the date of this letter.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Bara Kreisman', with a stylized flourish at the end.

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc: Stephen C. Simpson, Esq.

⁹ 47 CFR §§ 74.15(f) and 74.763(c).