



Federal Communications Commission
Washington, D.C. 20554

April 22, 2022

Edge Spectrum, Inc.
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Hurst, TX 76054
randy@crosstalk.org
(via electronic mail)

Re: Requests for Reinstatement and
Extension of License and Silent
Authority Under Section 312(g)
and Tolling Waivers

Dear Licensee:

This letter concerns the requests to reinstate and extend license, extend silent authority, and provide waiver of the tolling rules, as amended (Requests), filed by Edge Spectrum, Inc. (Edge) licensee of the low power television (LPTV) stations listed in the attached Appendix.¹ For reasons set forth below, we grant Edge's Requests, waive all applicable rules, reinstate and extend the Stations' licenses and silent authority, and toll the Stations' digital construction permits to September 6, 2022.²

Background. Section 312(g) of the Communications Act of 1934 (the Act) 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.”³ 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

¹ A list of the stations covered by this action (referred to herein collectively as “Stations”) and the LMS file numbers of the Requests and related digital construction permits are contained in the Appendix to this letter.

² Edge anticipates that the stations will be completed at varying times between May 1, 2022 and September 1, 2022. In furtherance of administrative convenience and to provide the flexibility to complete construction in light of the documented delays, we will extend the Stations' licenses and construction permits through September 6, 2022, which is also the reimbursement invoice filing deadline. See *infra* pg. 4 and note 17.

³ 47 U.S.C. § 312(g). The Bureau's discretion under that provision of section 312(g) is severely limited. See e.g., *A-O Broad. Corp.*, Memorandum Opinion and Order, 23 FCC Rcd 603, 617, para. 27 (“This limited, discretionary provision is phrased as an exception to the general rule that most affected licenses will be forfeited”). The Commission has exercised its authority to reinstate an expired license to “promote equity and fairness” only where the station failed to provide service for 12 consecutive months due to compelling reasons beyond the licensee's control. See, e.g., *V.I. Stereo Communications Corp.*, Memorandum Opinion and Order, 21 FCC Rcd 14259 (2006); *Community Bible Church*, Letter, 23 FCC Rcd 15012, 15014 (MB 2008); *Mark Chapman, Court-Appointed Agent*, Letter, 22 FCC Rcd 6578 (MB 2007). The Commission has declined to reinstate licenses where the failure to transmit a broadcast signal was due to the licensee's own actions, finances, and/or business judgment. See, e.g., *A-O Broadcasting*, 23 FCC Rcd at 617, para. 27; *ETC Communications, Inc.*, Letter, 25 FCC Rcd 10686 (MB 2010); *Kirby Young*, Letter, 23 FCC Rcd 35 (MB 2008).

reinstatement and a waiver.”⁴ Further, in the *Post-Incentive Auction Procedures PN* the Media Bureau (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.”⁵ 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 result of the Incentive Auction and repacking process.⁶ The Bureau stated that, if a conditional grant would require a 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, it would “consider a request for extension or reinstatement pursuant to section 312(g) of the Act and a request for waiver of the Commission rule.”⁷

Requests for additional time to construct LPTV facilities are subject to the Commission’s tolling provisions of section 73.3598(b) of the Rules.⁸ The Commission’s tolling provisions provide that a construction permit deadline may be tolled under specific circumstances such as acts of God, delays due to administrative or judicial review, or construction that is delayed by any cause of action pending before a court of competent jurisdiction relating to any necessary local, state, or federal requirement for the construction or operation of the station, including any zoning or environmental requirement.⁹ If a station does not qualify for tolling under these criteria, good cause may exist to waive the Commission’s tolling provisions and tolling may still be warranted where the licensee can demonstrate that “rare and exceptional circumstances” prevented construction by the station’s construction permit expiration date.¹⁰

⁴ *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, GN Docket No. 12-268 et al., 29 FCC Rcd 6567, 6806-07, para. 585 (2014) (*Incentive Auction R&O*).

⁵ *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition*, MB Docket No. 16-306 and GN Docket No. 12-268, 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*, MB Docket No. 16-306 and GN Docket No. 12-268, 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)).

⁶ 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*, MB Docket No. 16-306 and GN Docket No. 12-268, Public Notice, 33 FCC Rcd 1234, 1237, para. 7 (IATF/MB 2018) (*Special Displacement Window PN*).

⁷ *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).

⁸ See 47 CFR § 73.3598(b).

⁹ *Id.*

¹⁰ See *1998 Biennial Regulatory Review -- Streamlining of Mass Media Applications, Rules, and Processes*, Memorandum Opinion and Order, 14 FCC Rcd 17525, 17542, para. 42 (1999) (*Streamlining MO&O*) (recognizing that there may be “rare and exceptional circumstances” beyond the control of the licensee that do not fall under the tolling provisions, but “which would warrant the tolling of construction time.” The Commission concluded that in such “limited circumstances,” it would entertain requests for waiver of its “strict tolling provisions”); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1072 (1972); 47 CFR § 1.3 (waiver for good cause shown).

Requests. As part of the Incentive Auction and repacking process, each of the Stations' pre-auction operating channels were displaced. Some of the Stations were operating in analog mode at the time and some had already transitioned to digital facilities. Each of the Stations filed a displacement application requesting a new digital channel in the Commission's displacement application filing window for LPTV stations that were displaced by the Incentive Auction and repacking process.¹¹ Each of the Stations were granted digital construction permits for their displacement channels (Displacement CPs). The expiration dates of the Displacement CPs were previously extended or tolled in July 2021 to January 3, 2022.¹² In addition, in preparation for moving to their displacement channels, the Stations all went silent on July 3, 2020.¹³ The Stations' licenses were previously reinstated and their licenses and silent authority extended to January 3, 2022, pursuant to the equity and fairness provision of section 312(g) of the Act.¹⁴

In its Requests, Edge notes that the Stations remain silent and construction of their digital displacement facilities is not yet complete. In its showing, Edge outlines its efforts to complete construction of the Displacement CPs and of the delays that it has encountered preventing the Stations from resuming operations on their digital displacement channels. Edge maintains that grant of its Requests is in the public interest as it will permit the Stations to resume operations.

Since the grant of the extensions and tolling in July 2021, Edge states that it has encountered two primary delays that have prevented completion of the Stations displacement facilities. First, failed tower negotiations forced Edge to change the Stations' tower sites.¹⁵ In March 2020, Edge began negotiating an agreement for Crown Castle to serve as the primary tower vendor for the Stations. In March 2021, Edge was preparing to move all of its facilities to Crown Castle sites. However, in August 2021, the commercial negotiations failed and Edge had to transition to negotiated agreements for space on American Tower sites. Edge contends that the change in tower site has also required an extensive effort on the part of its consulting engineers to prepare for transmission from the American Tower sites. Once the engineering consultants complete their engineering, Edge states that it is taking approximately three to four weeks per site to obtain the necessary approvals of the engineering plans from American Tower. These facts are supported by a letter from American Tower.

Second, Edge has been awaiting delivery of the Stations' digital transmitters, which have been delayed due to supply chain issues. As documented in correspondence from its transmitter manufacturer, manufacturing and delivery of stations' transmitters were delayed due supply chain issues. As of February 28, 2022, the manufacturer reports that all transmitters have now been manufactured and have been shipped to Edge or are being held in storage. Edge has entered into arrangements with multiple vendors to expedite the installation process once the necessary equipment is received. Edge has also

¹¹ See *Special Displacement Window PN; Incentive Auction Task Force and Media Bureau Extend Post Incentive Auction Special Displacement Window Through June 1, 2018*, MB Docket No. 16-306 and GN Docket No. 12-268, Public Notice, 33 FCC Rcd 3794 (IATF/MB 2018).

¹² See Letter to Edge Spectrum, Inc. from Barbara A. Kreisman, Chief, Video Division (Jul. 13, 2021), copies of which are available at each of the Stations' main LMS facility numbers.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Counsel for Edge has informed Media Bureau staff that it is in the process of preparing minor modification applications as engineering work on the new tower sites is completed and once Edge is ready to proceed with final construction.

acquired 250 antennas and obtained bulk coaxial cable from Dielectric. Edge states that it expects to be able to complete construction of all the Stations' displacement facilities by September 2022.

Discussion. Upon review of the facts and circumstances presented, we find that Edge's Requests for reinstatement and extension of the Stations' licenses satisfy 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 are, therefore, in the public interest. Consistent with the public interest and prior Bureau actions, we will provide section 312(g) relief to displaced LPTV and TV translator stations that were displaced by the Incentive Auction and pursued new displacement channels. The Stations were displaced by the Incentive Auction and repacking process. Edge's efforts to construct the displacement facilities were hindered by documented tower siting and equipment manufacturing and installation delays. For similar reasons, we find that Edge has met the standard for waiver of the tolling rules, tolling, and for extension of silent authority. Grant of Edge's requests will permit the Stations to once again serve their viewers, some for the first time in digital.

We remind Edge that, pursuant to the Reimbursement Expansion Act, most of the Stations are eligible for reimbursement from the TV Broadcast Relocation Fund (Fund) of costs reasonably incurred as a result of the reorganization of broadcast television spectrum.¹⁶ Please note, however, that additional expenses incurred, such as those resulting from changes in a Station's plans to construct its displacement facilities that are unrelated to the displacement, may not be eligible for reimbursement from the Fund.

We further remind Edge of the deadline for submitting final expense documentation for reimbursement for the Stations is September 6, 2022.¹⁷ **We caution the Stations that we do not anticipate allowing extensions of the final September 6, 2022 invoice filing deadline. A station's failure to complete any remaining construction in a timely manner and to make final submissions by the assigned invoice filing assignment deadline could preclude that station from receiving full reimbursement.** Unobligated amounts in the Fund must be rescinded to Treasury and the Commission staff (with the support of the Fund Administrator) must have sufficient time to fully process all reimbursement requests and complete close-out procedures prior to July 3, 2023.¹⁸ The Fund Administrator will initiate close out procedures for any entity that has failed to initiate interim close-out procedures by the September 6, 2022 invoice filing deadline. Any unused allocations made to that entity's account will be returned to the Fund and made available for allocation to other program

¹⁶ See *Consolidated Appropriations Act, 2018*, Pub. L. 115-141, at Division E, Title V, § 511, 132 Stat. 348 (2018) (codified at 47 U.S.C. § 1452(j)-(n)). See also 47 CFR § 73.3701 (Reimbursement Under the Reimbursement Expansion Act); *LPTV, TV Translator, and FM Broadcast Station Reimbursement; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 34 FCC Rcd 1690 (2019); and *LPTV, TV Translator, and FM Broadcast Station Reimbursement; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Notice of Proposed Rulemaking and Order, 33 FCC Rcd 7855 (2018).

¹⁷ See *Invoice Filing Deadlines for TV Broadcaster Relocation Fund*, MB Docket No. 16-306 and GN Docket No. 12-268, Public Notice, 35 FCC Rcd 11273, 11277, paras. 10-11 (IATF/MB 2020) (setting three filing deadlines for submission of all remaining repack invoices: for eligible entities assigned repack transition completion dates in the first half of the 39-month post-auction transition period, the deadline for submitting all remaining invoices is October 8, 2021; the deadline for entities assigned completion dates in the second half of the transition period is March 22, 2022; and the deadline for all other participants in the reimbursement program is September 6, 2022).

¹⁸ See *id.* at 11277-78, para 13.

participants or rescinded to Treasury. Thus, we strongly encourage Edge to diligently pursue satisfaction of the current deadlines and we encourage Edge to submit eligible invoices as soon as practicable.

Accordingly, we find that in order to promote fairness and equity, the requests filed by Edge Spectrum, Inc. and listed in the Appendix, **ARE HEREBY GRANTED**, the applicable Commission rules **ARE WAIVED**,¹⁹ and the licenses of the low power television stations set forth in the Appendix **ARE REINSTATED AND EXTENDED** to September 6, 2022. In addition, the requests for waiver of the tolling rules listed in the Appendix **ARE GRANTED** and the expiration date of the construction permits **ARE TOLLED** to September 6, 2022.

We also require that on July 15, 2022, Edge provide Media Bureau staff with a written status update relating to the construction of the Stations. The status update should indicate which stations have been completed, the target completion date for any remaining unbuilt stations, work that remains for any unbuilt stations, and an explanation as to any delays encountered if Edge does not anticipate a station will be complete by September 6, 2022. The status update should be sent via electronic e-mail to Evan Morris at evan.morris@fcc.gov and Shaun Maher at shaun.maher@fcc.gov.

Finally, we note that additional requests for extension of any of the Stations' licenses under section 312(g)²⁰ or tolling of the Stations' construction permits under section 73.3598(b) of the Commission's rules²¹ will not be favorably viewed unless accompanied by a showing that completion of the station's permanent displacement facilities was prevented by additional compelling circumstances. Edge must also include with any such request(s) a detailed plan for completing construction and returning the station to operation.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division

cc (via electronic mail): Ari Meltzer, Esq.

¹⁹ 47 CFR §§ 74.15(f) and 74.763(c).

²⁰ 47 U.S.C. § 312(g).

²¹ 47 CFR § 73.3598(b). A station may also seek a waiver of the tolling rule to receive a additional time to construct in the case where "rare or exceptional circumstances" prevent construction. See *Streamlining MO&O*, 14 FCC Rcd at 17536, para. 42.

APPENDIX

Call Sign	FAC Id.	City	ST	Silent STA LMS File No.	Tolling Waiver LMS File No.	Construction Permit File No.
K48GC-D	477	FLORENCE	OR	0000150302	0000178173	0000029589
K22HS-D	11137	EUREKA SPRINGS	AR	0000149675	0000178069	0000051803
K40KC-D	14883	TULSA	OK	0000149683	0000155984	0000051831
K27JP-D	14884	LITTLE ROCK	AR	0000149684	0000178144	0000051762
K39EO-D	17401	CRESCENT CITY	CA	0000149647	0000178153	0000029580
W14CX-D	17784	KNOXVILLE	TN	0000149685	0000159208	0000051769
W50CO	24569	JACKSONVILLE	FL	0000149498	0000178164	0000149468
W42CK	25042	HAGERSTOWN	MD	0000149513	0000178166	0000054340
KCTL-LD	28943	LIVINGSTON	TX	0000149689	0000178168	0000051766
KIBN-LD	28961	LUFKIN	TX	0000149650	0000178169	0000051785
WFYW-LP	33955	FAIRFIELD/WATERVILLE	ME	0000149489	0000178170	0000030286
K42FE-D	40192	SHREVEPORT	LA	0000150311	0000178171	0000150148
K38IM	40743	ALBUQUERQUE	NM	0000149501	0000178172	0000054589
WCNT-LP	49239	CHATTANOOGA	TN	0000149496	0000178174	0000051756
W39CV-D	57592	MINOCQUA	WI	0000149717	0000178175	0000035957
WCTU-LD	57865	PENSACOLA	FL	0000178209	0000159253	0000150184
W48CL	67010	GRAND RAPIDS	MI	0000149470	0000178176	0000052038
W41BQ	67015	ASHEVILLE	NC	0000149511	0000178177	0000052015
K43JV	67023	PROVO	UT	0000149504	0000178179	0000049057
W32DJ-D	71240	MELBOURNE	FL	0000149633	0000178180	0000150182
W18DS-D	72218	CHATTANOOGA	TN	0000150254	0000178181	0000150181
K20KF-D	74376	DAVENPORT	IA	0000149720	0000159224	0000051752
W24DL-D	74379	SAGINAW	MI	0000149163	0000178182	0000051774
K40IJ-D	125157	TOPEKA	KS	0000149721	0000178074	0000030155
W45DN-D	125165	WASHINGTON	DC	0000151572	0000178076	0000052029
K49KT-D	125279	BEND	OR	0000149651	0000178077	0000051823
K42IQ-D	125496	FLAGSTAFF	AZ	0000149654	0000168607	0000029581
KHGS-LD	126700	GLENWOOD SPRINGS	CO	0000149472	0000178081	0000052045
K43LK-D	127216	LAWTON	OK	0000150323	0000178084	0000029550
W48DP-D	127219	ATLANTIC CITY	NJ	0000151575	0000178089	0000045666
WHOB-LD	127496	BUXTON	NC	0000177337	0000177240	0000029488

Call Sign	FAC Id.	City	ST	Silent STA LMS File No.	Tolling Waiver LMS File No.	Construction Permit File No.
KHFD-LD	127785	DALLAS	TX	0000149656	0000156638	0000054780
K40MT-D	130171	BONNERS FERRY	ID	0000149722	0000168611	0000042866
K47JK-D	130174	POCATELLO	ID	0000149465	0000178093	0000052033
K18HQ-D	130175	SANDPOINT	ID	0000149723	0000178098	0000051896
KMSX-LD	130178	SACRAMENTO	CA	0000149725	0000159231	0000164978
K44GH-D	130185	ALEXANDRIA	MN	0000150291	0000156010	0000053422
K48KJ-D	130199	GENEVA	MN	0000149726	0000156640	0000051972
K38MM-D	130207	INTERNATIONAL FALLS	MN	0000149727	0000168615	0000051966
K43JE-D	130209	LAKE CRYSTAL	MN	0000149728	0000178104	0000178697
K47JE-D	130213	OLIVIA	MN	0000149729	0000156641	0000053426
K43MH-D	130215	VESTA	MN	0000150293	0000178105	0000054341
K47JC-D	130216	WADENA	MN	0000149730	0000156643	0000053425
W28DQ-D	130222	WINDSOR	VT	0000149731	0000159236	0000051758
KHVM-LD	130940	MINNEAPOLIS	MN	0000149732	0000156648	0000052068
KTCJ-LD	130941	MINNEAPOLIS	MN	0000149733	0000178132	0000052074
K51KR	131137	BILLINGS	MT	0000149768	0000178135	0000051843
K45KS-D	131138	BILLINGS	MT	0000149735	0000178136	0000051841
K43JQ-D	131348	BISMARCK	ND	0000149737	0000156651	0000051834
K38JX-D	167269	GRAND JUNCTION	CO	0000149480	0000178145	0000052006
K39JC-D	167489	BUTTE	MT	0000149657	0000178146	0000051817
K42IM-D	167526	MINOT	ND	0000149658	0000178149	0000029548
KHTX-LD	168805	HUNTSVILLE	TX	0000149739	0000178154	0000052730
K21KJ-D	182493	MINERAL WELLS	TX	0000149740	0000159245	0000054783
K31MU-D	183206	LINGLEVILLE-CROWLEY	TX	0000149664	0000179879	0000051796
K44KG-D	184021	REDDING	CA	0000149743	0000178160	0000034990
K42JQ-D	184022	REDDING	CA	0000150284	0000178161	0000034998
K49LJ-D	184717	CASPER	WY	0000150301	0000178162	0000035784
K49LK-D	184723	NORTH PLATTE	NE	0000149667	0000178163	0000051839
WFRW-LD	187829	ENTERPRISE	AL	0000149673	0000156012	0000054045