

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Requests for Extension of Silent Authority and)	
Extension/Reinstatement of License Under Section)	
312(g))	
)	
KYAN-LD, Los Angeles, California (FID 128585)	)	STA File No. 0000072592
	)	License File No. 0000090975
)	
KVTU-LD, Agoura Hills, California (FID 130176)	)	STA File No. 0000072586
	)	License File No. 0000094153
)	
W21DA-D, Dublin, Georgia (FID 181477)	)	STA File No. 0000067868
	)	License File No. 0000080614
)	
WBKH-LD, Tampa, Florida (FID 191138)	)	STA File No. 0000069756
	)	License File No. 0000102927
)	
KFJK-LD, Santa Fe, New Mexico (FID 183555)	)	STA File No. 0000072575
	)	License File No. 0000013406

**PETITION FOR RECONSIDERATION AND EMERGENCY
REQUEST FOR SPECIAL TEMPORARY AUTHORITY**

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Dated: November 30, 2020

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SUMMARY

HC2 Broadcasting Holdings, Inc. (“HC2”) seeks reconsideration of the Video Division’s October 29, 2020 decision (“Letter Decision”) denying requests for reinstatement of five low power television licenses under Section 312(g) of the Communications Act of 1934, as amended, and cancelling the licenses for those stations (the “Stations”). HC2 requests that the Media Bureau (“Bureau”) rescind that decision and reinstate each of the canceled licenses, granting relief under Section 312(g) to the extent necessary. Specifically, the Bureau should rescind its cancellation of the licenses for four of the Stations because the Bureau granted licenses to cover for each of them, grants that are now final and, under applicable Commission precedent, may not be set aside as the Letter Decision purports to do.

In addition, and in the alternative, the Bureau should grant all five Stations’ Section 312(g) requests and reinstate each of the licenses. In analyzing those requests, the Video Division incorrectly assessed the extent to which the construction delays at issue were beyond HC2’s control under applicable Commission precedent, and failed properly to credit the significant public interest benefits of allowing the Stations to remain operational.

Finally, HC2 requests that the Bureau grant emergency special temporary authority for the Stations to resume operations pending resolution of this petition for reconsideration.

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**PETITION FOR RECONSIDERATION AND EMERGENCY
REQUEST FOR SPECIAL TEMPORARY AUTHORITY**

Pursuant to Section 1.106 of the Commission’s rules,¹ HC2 Broadcasting Holdings, Inc. (“HC2”) seeks reconsideration of the Video Division’s October 29, 2020 decision denying five requests for reinstatement of licenses under Section 312(g) of the Communications Act of 1934, as amended (the “Act”) and cancelling the licenses for the above-captioned stations (the “Stations”).² For the reasons set forth below, HC2 requests that the Media Bureau (“Bureau”) rescind the *Letter Decision* and reinstate each of the canceled licenses, granting relief under

¹ 47 C.F.R. § 1.106.

² Letter from Barbara A. Kreisman, Chief, Video Division, Media Bureau, Federal Communications Commission to Renee Ilhardt, HC2 (Vid. Div., MB Oct. 29, 2020) (“*Letter Decision*”), ruling on requests for extension of silent authority and extension/reinstatement of license under Section 312(g) filed for the above-captioned stations, which are held by various licensee subsidiaries of HC2; *see also* 47 U.S.C. § 312(g).

Section 312(g) to the extent necessary. Specifically, the Bureau should rescind its cancellation of the licenses for four of the Stations because the Bureau granted licenses to cover for each of them, grants that are now final and may not be set aside as the *Letter Decision* purports to do. In addition, and in the alternative, the Bureau should grant all five Stations' Section 312(g) requests and reinstate each of the licenses. In analyzing those requests, the Video Division incorrectly assessed the extent to which the construction delays at issue were beyond HC2's control under applicable Commission precedent, and failed properly to credit the significant public interest benefits of allowing the Stations to remain operational.

Finally, HC2 requests that the Bureau grant emergency special temporary authority for the Stations to resume operations pending resolution of this petition for reconsideration.

I. THE VIDEO DIVISION IMPERMISSIBLY CANCELLED FOUR LICENSE GRANTS THAT HAD ALREADY BECOME FINAL DECISIONS OF THE COMMISSION

The Video Division improperly cancelled the licenses for stations KYAN-LD, KVTU-LD, W21DA-D, and WBKH-LD. Each of these stations was, at the time of the decision, operating pursuant to a granted license to cover application, the grant of which was a final decision and not subject to rescission.³ Specifically, the Bureau issued a license to KYAN-LD on November 25, 2019;⁴ to W21DA-D on September 9, 2019;⁵ to KVTU-LD on January 14, 2020;⁶ and to WBKH-LD on February 6, 2020.⁷ Copies of those licenses are attached hereto as

³ Given the Bureau's decision to issue licenses for these four stations, none of these stations actually requires Section 312(g) relief because those requests were mooted by the license grants.

⁴ HC2 Station Group, Inc., License to Cover Application, LMS File No. 0000090975 (filed Nov. 25, 2019).

⁵ HC2 Broadcasting License Inc., License to Cover Application, LMS File No. 0000080614 (filed Aug. 27, 2019).

⁶ DTV America Corporation, License to Cover Application, LMS File No. 0000094153 (filed Dec. 27, 2019).

⁷ HC2 Broadcasting License Inc., License to Cover Application, LMS File No. 0000102927 (filed Jan. 30, 2020).

Exhibit A.⁸ The *Letter Decision* acknowledges that the Bureau granted these licenses but asserts that they were erroneously granted and had no legal effect, and purports to cancel them without citing any legal authority to do so.⁹ Each of these license grants is final, however, and cannot be set aside.

The Bureau may modify or set aside an action taken on delegated authority only within 30 days, and the full Commission may review a Bureau's action on its own motion only within 40 days.¹⁰ Those deadlines had expired months earlier for the four license grants. The Commission has made clear, and the Bureau has acknowledged, that the agency's authority to reverse or set aside a decision beyond these strictly delineated timetables is highly constrained. As the Commission stated in *County of San Mateo, California*, the authority to revisit actions once they are final "extends only to the correction of clerical or administrative errors that underlie or occur in the process of taking an action, such as a mathematical miscalculation, or a license that omits or misstates a frequency, or a document that omits an intended party or provision."¹¹ The Commission explicitly found that "[t]he taking of an erroneous action, itself,

⁸ The fact that the Bureau has subsequently modified its licensing system to reflect these Stations as canceled is immaterial because the licenses for these four Stations were clearly issued and have become final decisions of the Commission.

⁹ See *Letter Decision* at 3, n.12.

¹⁰ 47 C.F.R. § 1.113(a) ("Within 30 days after public notice has been given of any action taken pursuant to delegated authority, the person, panel, or board taking the action may modify or set it aside on its own motion."); *id.* § 1.117(a) ("Within 40 days after public notice is given of any action taken pursuant to delegated authority, the Commission may on its own motion order the record of the proceeding before it for review.").

¹¹ *County of San Mateo, California*, Memorandum Opinion and Order, 16 FCC Rcd 16501, 16503 ¶ 8 (2001) (citations omitted) (finding that the Bureau erred in rescinding license grants more than five months after granting them). See also, e.g., *California Water Service Co.*, Memorandum Opinion and Order, 18 FCC Rcd 11609, 11619 ¶ 18 (2003) (finding that the Bureau could set aside erroneously granted licenses after the applicable period had expired "only where the grants occur because of, or contain, a ministerial error. The Commission's authority to revisit final actions is limited to the correction of clerical errors that underlie or occur in the process of taking action, such as a mathematical miscalculation, or a license that omits or misstates a frequency, or a document that omits an intended party or provision.") (citations omitted).

is not generally a ministerial error that can be corrected after the 30-day period has elapsed under 47 C.F.R. §1.113(a).”¹²

The Bureau is bound by and has followed the ministerial error doctrine set out in *County of San Mateo*. For example, in *Sun Radio Foundation*, the Video Division acknowledged that after 30 days it may revisit a final action only under limited circumstances.¹³ Here, however, the Video Division attempted to do precisely what the Commission has said it cannot—the Video Division attempted to rescind the licensing action itself.

In addition, the Bureau’s attempt to nullify the four license grants conflicts with the Commission’s long-established rule of finality. As the Commission has noted, “[I]t is well settled that we do not re-open proceedings that are final unless there has been fraud on our processes or the challenged result is unconscionable.”¹⁴

Despite the unambiguous deadlines in the Commission’s rules, the Video Division has attempted to set aside the four license grants many months after the window to do so closed. The Video Division offers very little to justify this action, stating only that the grants were erroneous (which is irrelevant once the Section 1.113 deadline has passed) and stating that “the grant of the license applications had no legal effect.”¹⁵ It was far too late for the Video Division to attempt to undo these four license grants by mere assertion. The only potential remedy for these allegedly erroneous, but now final, license grants would be to initiate a formal license revocation

¹² *County of San Mateo, California*, 16 FCC Rcd at 16501 ¶ 8.

¹³ *Assignment of Call Sign KCTI-FM Sun Radio Foundation, Licensee of KCTI-FM, Gonzales, Texas*, Memorandum Opinion and Order, 32 FCC Rcd 7676, 7679 ¶ 8 (Vid. Div., MB 2017).

¹⁴ *Birach Broadcasting Corp.*, Memorandum Opinion and Order, 16 FCC Rcd 5015, 5018 (2001), citing *Radio Para La Raza*, 40 F.C.C. 2d 1102, 1104 (1973).

¹⁵ *Letter Decision* at n.12. The Bureau premises this conclusion only on its finding that the Stations’ licenses expired pursuant to Section 312(g) of the Act. The better reading, however, is that grant of the licenses effectively granted HC2’s requested 312(g) relief and reinstated its licenses.

proceeding pursuant to Section 312(c) of the Act—after issuing an order to show cause why an order of revocation should not be issued, conducting a hearing in which the burden of proceeding with the introduction of evidence and the burden of proof is placed on the Commission, and issuing a revocation order—if the Commission were able to find substantive grounds for such actions.¹⁶ HC2 submits that no such grounds exist, and that it diligently constructed and was operating each Station in compliance with its licenses prior to the issuance of the *Letter Decision*, notwithstanding delays in construction that were beyond HC2’s control.

Because the Video Division lacked the legal authority to unilaterally cancel the licenses for stations KYAN-LD, KVTU-LD, W21DA-D, and WBKH-LD, the Bureau should reconsider the *Letter Decision* and reinstate those licenses.

II. THE BUREAU SHOULD RESCIND THE LETTER DECISION BECAUSE THE STATIONS HAVE DEMONSTRATED THAT SECTION 312(G) RELIEF IS WARRANTED

If the Bureau does not reverse the *Letter Decision* with respect to the licenses for stations KYAN-LD, KVTU-LD, W21DA-D, and WBKH-LD for the reasons set forth above, it should alternatively reconsider the *Letter Decision* and reinstate those licenses, along with the license for station KFJK-LD, pursuant to Section 312(g) of the Act.

HC2 acquired four of the Stations (along with other stations) after the Bureau approved the license assignments as part of a consent decree in 2017.¹⁷ As acknowledged in the *Letter Decision*, HC2 had to determine at that time which of the stations it was acquiring would require

¹⁶ See 47 U.S.C. § 312(a) (specifying the grounds upon which the Commission may revoke a license); *id.* § 312(c) (requiring order to show cause before Commission may revoke a license and specifying that the Commission may issue an order of revocation after a hearing); *id.* § 312(d) (establishing the burden of proof for such a hearing).

¹⁷ See *DTV America Corporation*, Order, 32 FCC Rcd 9129 (MB 2017) (approving the assignment of the licenses for KVTU-LD, W21DA-D, KFJK-LD, and WBKH-LD). In approving the assignment of the licenses to HC2 as part of this consent decree, the Bureau expressly acknowledged that HC2 was not aware of, and not involved in, any of the apparent rule violations at issue in the consent decree. *Id.* at 9235 ¶ 11 (Consent Decree).

modification to return to licensed operation.¹⁸ Since then, HC2 has worked diligently to make the necessary modifications for the Stations. Under Section 312(g) of the Act, if a broadcasting station is silent for 12 consecutive months its license will expire, but the Commission has the authority to extend or reinstate a license for any reason to promote equity and fairness.¹⁹ Despite its best efforts, HC2 encountered construction delays, primarily relating to the Incentive Auction repacking process, that caused the Stations to miss their Section 312(g) deadlines, by as little as 11 to 14 days. HC2 has satisfied the required factors for relief under Section 312(g), and the Bureau should rescind the *Letter Decision* in order to promote equity and fairness.

A. The Video Division Incorrectly Assessed the Extent to Which the Delays that HC2 Faced Were Beyond Its Control

In the *Letter Decision*, the Video Division failed properly to credit the extent to which the delays in resuming Station operations were beyond HC2's control, particularly the effect of the Incentive Auction repacking process. For instance, the Video Division asserts that equipment delivery and construction delays "could have been foreseen" in light of the repack and are common.²⁰ The impact of the repack, however, was far from common.

HC2, in its earlier pleadings, emphasized that the repacking process had put unprecedented strains on every part of the television station construction process, and pointed to a number of ways in which resource constraints caused by the repack affected its ability to get the Stations back on the air quickly. Indeed, the *Letter Decision* noted that the Stations' filings pointed out, for instance, that WBKH-LD's construction was delayed because other stations that were repacked were given priority by the tower owner;²¹ that low power stations bore the brunt

¹⁸ See *Letter Decision* at 10.

¹⁹ 47 U.S.C. § 312(g).

²⁰ *Letter Decision* at 9.

²¹ *Id.* at 7.

of the scarcities caused by the repack;²² that antenna riggers were unavailable for KYAN-LD and KVTU-LD because of the repack;²³ and that W21DA-D was unable to obtain a transmitter because of the repack.²⁴

The magnitude of the delays faced by HC2 was not common; rather, it was entirely out of the ordinary and directly related to the Commission-mandated repack. Nevertheless, the Stations proceeded with construction as quickly as these unusual circumstances allowed. As HC2 explained with respect to W21DA-D, it ordered a transmitter well in time for a delivery date that would have allowed installation before the applicable Section 312(g) deadline, but the manufacturer pushed back the delivery date multiple times.²⁵ Despite this setback, which HC2 could not control, it continued efforts to locate another transmitter. Once it managed to obtain a transmitter, W21DA-D became operational within only 11 days.²⁶ Similarly, although KYAN-LD had diligently arranged all aspects of construction for timely completion, the tower rigger who committed to install the antenna arrived a month later than agreed to. Nevertheless, the antenna was installed and the station was operational only 11 days after the applicable Section 312(g) deadline.²⁷

WBKH-LD, in turn, was faced with a tower owner's decision to decommission its tower only two months before the relevant Section 312(g) deadline. As an LPTV, the station was

²² *Id.* at 3.

²³ *Id.* at 6.

²⁴ *Id.*

²⁵ W21DA-D Supplemental Request for Waiver of 47 U.S.C. § 312(g) at 1, attachment to HC2 Broadcasting License Inc., Request to Extend a Silent Authority of a LPTV Station Application, LMS File No. 0000067868 (filed Apr. 15, 2020).

²⁶ *Id.*

²⁷ KYAN-LD Supplemental Request for Waiver of 47 U.S.C. § 312(g) at 1, attachment to HC2 Station Group, Inc., Request to Extend a Silent Authority of a LPTV Station Application, LMS File No. 0000072592, at 1 (filed Apr. 15, 2020).

assigned a low priority for new tower space behind repacked stations and full power stations. HC2 was nonetheless able to commence operations on WBKH-LD only a few months late because of its diligent efforts despite these construction difficulties that were beyond its control.²⁸ Finally, KVTU-LD became operational only 38 days late despite an antenna rigger that failed to meet the originally agreed upon installation date, combined with customs delays in obtaining a replacement for defective equipment, and the need to resolve an issue with the transmitter's RF power.²⁹

The Commission elsewhere considered repack-related resource constraints as “beyond a licensee’s control,” and was flexible in addressing problems faced by those stations directly affected by the incentive auction.³⁰ Indeed, in a situation analogous to that faced by HC2, the Incentive Auction Task Force (“IATF”) and the Bureau took a very different approach to assessing whether the types of delays that hindered HC2’s ability to get the Stations operational more quickly were beyond a licensee’s control. In a January 27, 2017 Public Notice, the Bureau and IATF discussed the availability of extensions for stations that were unable to complete construction of their post-auction channel facilities by their deadlines.³¹ The public notice required that any application for such an extension include a demonstration that “despite all

²⁸ WBKH-LD Supplemental Request for Waiver of 47 U.S.C. § 312(g) at 1, attachment to HC2 Broadcasting License Inc., Request to Extend a Silent Authority of a LPTV Station Application, LMS File No 0000069756, at 1 (filed Apr. 15, 2020).

²⁹ KVTU-LD Supplemental Request for Waiver of 47 U.S.C. § 312(g) at 1, attachment to DTV America Corporation, Request to Extend a Silent Authority of a LPTV Station Application, LMS File No 0000072586, at 1 (filed Apr. 15, 2020).

³⁰ *E.g.*, *Initial Allocation for FM Stations from TV Broadcaster Relocation Fund and Report on the Status of the Post-Incentive Auction Transition, the Reimbursement Program, and the Consumer Education Program*, Public Notice, 34 FCC Rcd 11942, 119476-47 ¶ 16 (IATF & MB 2019) (stating that the Transition Scheduling Plan had anticipated resource constraints and included flexibility to work with individual stations dealing with unforeseen challenges, noting that over 200 waivers had been granted to accommodate repacked stations).

³¹ *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition*, Public Notice, 32 FCC Rcd 858 (IATF & MB 2017) (“*Post-Incentive Auction Public Notice*”).

reasonable efforts, the station is unable to complete construction of its new facility on time due to circumstances that were either *unforeseeable or beyond its control*.”³² The public notice then described circumstances that could justify an extension due to circumstances beyond the licensee’s control (some of the very same factors that HC2 identified in its requests for relief): delays in construction due to the unavailability of equipment or workers, tower lease disputes, and delays caused by the need to obtain government approvals.³³ If such circumstances are unforeseeable or beyond the licensee’s control for one purpose, they were equally unforeseeable or beyond the licensees’ control when the Stations encountered the same circumstances when attempting to become operational.³⁴ The Video Division thus was arbitrary and capricious in acknowledging that Section 312(g) relief may be granted when a station’s failure to transmit is due to compelling circumstances beyond the licensee’s control, but then finding that the delays faced by the Stations were not beyond their control despite what the Bureau and IATF had stated in the January 27 public notice.³⁵

More fundamentally, in its emphasis on the fact that the Stations were not displaced by

³² *Id.* at 871 ¶ 41 (emphasis added) (citation omitted).

³³ *Id.*

³⁴ The *Letter Decision* similarly conflicts with Commission precedent with respect to WBKH-LD’s loss of its tower site. In *Universal Broadcasting of New York Inc. Application for Special Temporary Authority Station WTAE(AM), Mineola, New York*, Memorandum Opinion and Order 34 FCC Rcd 10319, 10322 ¶ 11 (2019), the Commission found that loss of a transmitter site due to another party’s exclusive lease of that site was a factor beyond the licensee’s control that supporting relief under the “equity and fairness” provision of section 312(g).

³⁵ The *Letter Decision* was also in tension with precedent in its treatment of station KFJK-LD. Similar to the licensee in *Universal Broadcasting of NY*, KFJK-LD was unable to resume operations because of a lack of government action over which the station had no control—that is, the United States Forest Service’s approval for which the station was dependent on the tower owner. In addition, HC2 notes that the *Letter Decision* incorrectly states that KFJK-LD was silent at the time of the decision. *Letter Decision* at 3. In fact, the station had resumed operations, filed an application for license to cover, and had withdrawn its request to extend silent authority shortly before the *Letter Decision* was issued. See DTV America Corporation, License to Cover Application, LMS File Nos. 0000125045 (filed Oct. 26, 2020); Withdrawal of Request to Extend a Silent Authority of a LPTV Station Application, and LMS File No. 0000072575 (filed Oct. 26, 2020).

the incentive auction, the Bureau impermissibly treats similarly-situated licensees differently.³⁶ The Bureau and IATF anticipated that the repacking process might cause some stations to remain silent for more than 12 months, and explained that Section 312(g) relief was available if that silence was the result of compelling reasons beyond the station's control, "including facts that relate to the post-auction transition process."³⁷ The Video Division acknowledges in the *Letter Decision* that Section 312(g) relief has, in fact, been granted to stations that were displaced by the repacking.³⁸ Having acknowledged that delays caused by the repack are beyond a licensee's control where the licensee's station was displaced,³⁹ the Video Division may not also conclude that such delays were not beyond the Stations' control simply because they were not displaced. Resource constraints resulting from the unprecedented repack of hundreds of television stations affected all licensees attempting to construct or modify stations; whether those stations were displaced is irrelevant to the analysis of whether the delays were beyond their control, and the Video Division's focus on this factor was arbitrary and capricious.⁴⁰

B. The Video Division Failed Properly to Credit the Public Interest Reasons for Granting Section 312(g) Relief

The Video Division also failed properly to consider the public interest benefits of reinstating the licenses. Prior to the abrupt cancellation of the Station licenses on October 29,

³⁶ See *Letter Decision* at 10 & n.86. See also *Melody Music, Inc. v. FCC*, 345 F.2d 730 (1965) (Commission's failure to explain disparate treatment of similarly situated parties found to be reversible error).

³⁷ *Post-Incentive Auction Public Notice*, 32 FCC Rcd at 874-74 ¶ 43.

³⁸ *Letter Decision* at 1-2.

³⁹ See, e.g., KFKY-LD, Joplin, Missouri, Request for Extension of License and Silent Authority Under Section 312(g), File No. 0000068580 ("KFKY was forced off the air as a result of being displaced by the incentive auction and repacking process . . . [D]ue to circumstances beyond its control, KFKY has been unable to return to the air prior to the one-year anniversary of going silent.").

⁴⁰ The only attempt to address this disparity in the *Letter Decision* is the assertion that all problems the Stations encountered can be traced back to the original decision to modify them (*Letter Decision* at 10 & n. 86) but the decision to modify the Stations does not mean that every subsequent event was within HC2's control.

2020, each of the Stations was providing free over-the-air programming in the public interest. The Letter Decision appears to downplay the importance of that programming, seemingly concluding that this benefit to the community was not relevant.⁴¹ But viewpoint diversity and programming that reflects the diversity of the population are important public interest goals, and low power television stations have an important role to play in bringing such programming to their audiences. Congress has specifically recognized that “[i]t is in the public interest to promote diversity in television programming such as that currently provided by low-power television stations to foreign-language communities.”⁴²

As HC2 explained in earlier filings, the Stations were offering multiple streams of free, over-the-air programming including, notably, Spanish-language channels that included news of interest to the Hispanic community, children’s educational programming, and general entertainment. At the time of the *Letter Decision*, the stations also offered a business news network, a lifestyle channel, and other general entertainment channels. The continued loss of this free and valuable programming to the public, when weighed against the minimal additional time the Stations needed to become operational after their applicable Section 312(g) deadlines, warrants reconsideration of the *Letter Decision*.

HC2 also emphasized that allowing the Stations to remain operational could help play a critical role in assisting the broadcast industry in the speedy adoption of the new ATSC 3.0 transmission standard, with benefits including advanced emergency alerts, better accessibility features, localized content, and interactive educational children’s content. The Commission

⁴¹ *Letter Decision* at 10.

⁴² Pub. L. 106-113, Sec. 5008(b)(5), Nov. 29, 1999 (quoting from the findings of Congress in adopting the Community Broadcasters Protection Act of 1999).

earlier this year emphasized the benefits of transitioning to that new standard in a proceeding titled *Promoting Broadcast Internet Innovation Through ATSC 3.0*:

This new technology promises to expand the universe of potential uses of broadcast spectrum capacity for new and innovative services beyond traditional over-the-air video in ways that will complement the nation's burgeoning 5G network and usher in a new wave of innovation and opportunity...Broadcasters will not only be able to better serve the information and entertainment needs of their communities, but they will have the opportunity to play a part in addressing the digital divide and supporting the proliferation of new, IP-based consumer applications or voluntarily entering into arrangements to allow others to invest in achieving those goals.⁴³

In the *Letter Decision*, however, the Video Division dismissed implementation of ATSC 3.0 as a potential benefit, “plac[ing] little weight on any pledge of future ATSC 3.0 service to the public.”⁴⁴ The decision failed to appropriately consider the Commission’s stated interest in promoting ATSC 3.0 implementation, or the required cooperation among broadcast stations in each market in order to successfully complete the transition to ATSC 3.0. The Bureau should reconsider this issue in light of the Commission-recognized public interest benefits of this new technology, and HC2’s stated intent to participate in those public benefits.

III. EMERGENCY REQUESTS FOR SPECIAL TEMPORARY AUTHORIZATION

Given that the *Letter Decision* purported to cancel the Stations’ licenses, the Stations were forced to cease operation and did so on October 29, 2020. Because this circumstance beyond the Stations’ control has made it impossible for them to continue operating, the Stations hereby request special temporary authority (“STA”), pursuant to 47 C.F.R. § 73.1635, to resume operations with the parameters set forth in the Station licenses (and in the case of KFJK-LD, the

⁴³ *Promoting Broadcast Internet Innovation through ATSC 3.0*, Notice of Proposed Rulemaking, Declaratory Ruling and Notice of Proposed Rulemaking, 35 FCC Rcd 5916, 5916-17 (2020). Highlighting the importance of ATSC 3.0 as a policy matter, the Commission is tentatively scheduled to issue a *Report and Order* in this proceeding at its next monthly open meeting. See *Promoting Broadcast Internet Innovation through ATSC 3.0, Draft Report and Order*, FCC-CIRC2012-05, MB Docket No. 20-145 (draft rel. Nov. 19, 2020).

⁴⁴ *Letter Decision* at 11.

parameters set forth in its pending license to cover application), pending the Bureau's ruling on this petition for reconsideration.⁴⁵ The same compelling public interest reasons described above support this request for permitting these stations to resume operations pursuant to STA while this matter remains pending.⁴⁶

* * *

For the reasons set forth above, HC2 requests that the Bureau reconsider and rescind the *Letter Decision* and reinstate the license for each Station, granting Section 312(g) relief and the waivers requested herein to the extent necessary.

Respectfully submitted,

/s/ David A. O'Connor

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Its Counsel

Dated: November 30, 2020

⁴⁵ To the extent necessary, HC2 is willing to remit appropriate application filing fees for these five STA requests in accordance with appropriate procedures. Undersigned counsel is also authorized to certify on behalf of HC2 that neither HC2 nor any other party to HC2 is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862, because of a conviction for possession or distribution of a controlled substance.

⁴⁶ HC2 also notes that the deadline for filing a license renewal application for W21DA-D, Dublin, Georgia is December 1, 2020. Because the license for W21DA-D is currently listed as canceled in the Commission's Licensing and Management System ("LMS"), LMS will not permit HC2 to submit a timely renewal application for W21DA-D. To the extent necessary, HC2 requests a waiver to submit a late-filed renewal application for this station promptly once the license has been reinstated, and once LMS permits such an application to be filed. For similar reasons, HC2 requests that the dismissed license renewal application for WBKH-LD, Tampa, Florida be reinstated.

EXHIBIT A

Federal Communications Commission

LOW POWER TELEVISION BROADCAST STATION LICENSE

Licensee/Permittee

HC2 STATION GROUP, INC.
450 PARK AVENUE
30TH FLOOR
NEW YORK, NY, 10022

Call Sign	File Number
KYAN-LD	0000090975

Facility ID: 128585**NTSC TSID:****Digital TSID:****This License Covers Construction
Permit No.**

0000025103

Grant Date 11/25/2019		Expiration Date 12/01/2022
Hours of Operation Unlimited		
Station Location City LOS ANGELES State CA	Frequency (MHz) 54.0 - 60.0	Station Channel 2

Antenna Structure Registration Number 1018937	
Transmitter Type Accepted. See Sections 74.750 of the Commission's Rules.	Transmitter Output Power(kW) As required to achieve authorized ERP.
Antenna Coordinates Latitude 33-57-41.8 N Longitude 117-16-50.3 W	Antenna Type Directional
Description of Antenna Make KAT Model Kathrein Scala CL-24/HRM/50N	Major Lobe Directions 236.0
Antenna Beam Tilt (Degrees Electrical) Not Applicable	Antenna Beam Tilt (Degrees Mechanical @ Degrees Azimuth) Not Applicable

Maximum Effective Radiated Power (Average) 0.9 kW -0.46 DBK	
Height of Radiated Center Above Ground (Meters) 35	Height of Radiated Center Above Mean Sea Level (Meters) 975.0
Out-Of-Channel Emission Mask Stringent	Overall Height of Antenna Structure Above Ground (Meters) See the registration for this antenna structure.

Waivers/Special Conditions

Subject to the provisions of the Communications Act of 1934, as amended, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions set forth in this permit, the permittee is hereby authorized to construct the radio transmitting apparatus herein described. Installation and adjustment of equipment not specifically set forth herein shall be in accordance with representations contained in the permittee's application for construction permit except for such modifications as are presently permitted, without application, by the Commission's Rules.

Equipment and program tests shall be conducted only pursuant to Sections 73.1610 and 73.1620 of the Commission's Rules.

Federal Communications Commission

LOW POWER TELEVISION BROADCAST STATION LICENSE

Licensee/Permittee

DTV AMERICA CORPORATION
450 PARK AVENUE
30TH FLOOR
NEW YORK, NY, 10022

Call Sign	File Number
KVTU-LD	0000094153

Facility ID: 130176**NTSC TSID:****Digital TSID:****This License Covers Construction
Permit No.**

0000082104

Grant Date 01/14/2020		Expiration Date 12/01/2022
Hours of Operation Unlimited		
Station Location City AGOURA HILLS State CA	Frequency (MHz) 60.0 - 66.0	Station Channel 3

Antenna Structure Registration Number 1264995	
Transmitter Type Accepted. See Sections 74.750 of the Commission's Rules.	Transmitter Output Power(kW) As required to achieve authorized ERP.
Antenna Coordinates Latitude 34-19-26.6 N Longitude 118-34-53.7 W	Antenna Type Directional
Description of Antenna Make KAT Model Kathrein Scala CL-24/HRM/50N	Major Lobe Directions 138.0
Antenna Beam Tilt (Degrees Electrical) 1.0	Antenna Beam Tilt (Degrees Mechanical @ Degrees Azimuth) Not Applicable

Maximum Effective Radiated Power (Average) 3.0 kW 4.77 DBK	
Height of Radiated Center Above Ground (Meters) 24.8	Height of Radiated Center Above Mean Sea Level (Meters) 1080.0
Out-Of-Channel Emission Mask Full Service	Overall Height of Antenna Structure Above Ground (Meters) See the registration for this antenna structure.

Waivers/Special Conditions

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Federal Communications Commission

LOW POWER TELEVISION BROADCAST STATION LICENSE

Licensee/Permittee

HC2 BROADCASTING LICENSE INC.
450 PARK AVENUE
30TH FLOOR
NEW YORK, NY, 10022

Call Sign	File Number
W21DA-D	0000080614

Facility ID: 181477**NTSC TSID:****Digital TSID:****This License Covers License No.**

0000005517

Grant Date 09/09/2019		Expiration Date 04/01/2021
Hours of Operation Unlimited		
Station Location City DUBLIN State GA	Frequency (MHz) 512.0 - 518.0	Station Channel 21

Antenna Structure Registration Number 1019786	
Transmitter Type Accepted. See Sections 74.750 of the Commission's Rules.	Transmitter Output Power(kW) As required to achieve authorized ERP.
Antenna Coordinates Latitude 32-44-58.4 N Longitude 83-33-34.5 W	Antenna Type Non-Directional
Description of Antenna Make ERI Model AL12-21-PLC	Major Lobe Directions N/A
Antenna Beam Tilt (Degrees Electrical) Not Applicable	Antenna Beam Tilt (Degrees Mechanical @ Degrees Azimuth) Not Applicable

Maximum Effective Radiated Power (Average) 10 kW 10.00 DBK	
Height of Radiated Center Above Ground (Meters) 114	Height of Radiated Center Above Mean Sea Level (Meters) 204.8
Out-Of-Channel Emission Mask Full Service	Overall Height of Antenna Structure Above Ground (Meters) See the registration for this antenna structure.

Waivers/Special Conditions

Subject to the provisions of the Communications Act of 1934, as amended, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions set forth in this permit, the permittee is hereby authorized to construct the radio transmitting apparatus herein described. Installation and adjustment of equipment not specifically set forth herein shall be in accordance with representations contained in the permittee's application for construction permit except for such modifications as are presently permitted, without application, by the Commission's Rules.

Equipment and program tests shall be conducted only pursuant to Sections 73.1610 and 73.1620 of the Commission's Rules.

Federal Communications Commission

LOW POWER TELEVISION BROADCAST STATION LICENSE

Licensee/Permittee

HC2 BROADCASTING LICENSE INC.
450 PARK AVENUE
30TH FLOOR
NEW YORK, NY, 10022

Call Sign	File Number
WBKH-LD	0000102927

Facility ID: 191138

NTSC TSID: 9888

Digital TSID: 9889

**This License Covers Construction
Permit No.**

0000084392

Grant Date 02/18/2020		Expiration Date 02/01/2021
Hours of Operation Unlimited		
Station Location City TAMPA State FL	Frequency (MHz) 548.0 - 554.0	Station Channel 27

Antenna Structure Registration Number 1057473	
Transmitter Type Accepted. See Sections 74.750 of the Commission's Rules.	Transmitter Output Power(kW) As required to achieve authorized ERP.
Antenna Coordinates Latitude 27-49-10.8 N Longitude 82-15-38.0 W	Antenna Type Directional
Description of Antenna Make KAT Model 4x2 7500000044	Major Lobe Directions 190.0 240.0 290.0
Antenna Beam Tilt (Degrees Electrical) .5	Antenna Beam Tilt (Degrees Mechanical @ Degrees Azimuth) Not Applicable

Maximum Effective Radiated Power (Average) 15 kW 11.76 DBK	
Height of Radiated Center Above Ground (Meters) 149.1	Height of Radiated Center Above Mean Sea Level (Meters) 172.0
Out-Of-Channel Emission Mask Full Service	Overall Height of Antenna Structure Above Ground (Meters) See the registration for this antenna structure.

Waivers/Special Conditions

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Equipment and program tests shall be conducted only pursuant to Sections 73.1610 and 73.1620 of the Commission's Rules.