



June 12, 2017

VIA LMS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **Nexstar Broadcasting, Inc.**
FRN: 0009961889
Request for Legal STA
WFFF-TV, Burlington, VT, FAC ID 10132

Dear Ms. Dortch:

Pursuant to 47 CFR §73.3700(b)(1)(iv)(A), Nexstar Broadcasting, Inc. ("Nexstar"), licensee of television station WFFF-TV, Burlington, Vermont, FAC ID 10132, seeks waiver of the July 12, 2017 filing deadline for construction permits for stations assigned to new channels. As detailed below, circumstances beyond Nexstar's control render it unable to construct the WFFF-TV post-auction channel 16 facility mandated by the *Closing and Reassignment Public Notice*.¹ Grant of the waiver serves the public interest and will allow Nexstar to file an application during the first priority window.

The Federal Communications Commission (the "Commission") has provided that "[r]eassigned stations . . . that determine they are unable to construct facilities that meet the technical parameters specified in the *Closing and Reassignment Public Notice* . . . may seek waiver of the [July 12, 2017] deadline."² The Commission may grant a waiver for good cause shown.³ The Commission typically grants a waiver where the particular facts make strict compliance inconsistent with the public interest.⁴ In granting a waiver, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.⁵ A waiver is therefore appropriate if special circumstances warrant a deviation from the general rule and such a deviation serves the public interest. In the context of the deadline to apply for a construction permit for a station's post-auction facilities, the Commission has said that it "will look most favorably on requests demonstrating" that construction is impossible "due

¹ *Incentive Auction Closing and Channel Reassignment Public Notice*, 32 FCC Rcd 2786 (rel. April 13, 2017) ("*Closing and Reassignment Public Notice*").

² *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition, Public Notice*, 32 FCC Rcd 858, 861, para. 10 (MB 2017) ("*Broadcast Transition Procedures Public Notice*").

³ 47 C.F.R. §1.3.

⁴ *N.E. Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) ("*Northeast Cellular*").

⁵ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at p. 1166.

to extraordinary technical or legal issues beyond the station's control."⁶ Specifically, "[t]his could occur . . . if a station is unable to construct a compliant facility on its current tower and a replacement tower cannot be constructed from which the station would be able to meet the specified technical parameters."⁷

WFFF-TV shares a relatively short 42.2-meter tower with WVNY(TV), Burlington, Vermont, FAC ID 11259, a high-VHF station licensed to Mission Broadcasting, Inc., at the summit of Mt. Mansfield in Vermont. The Commission has assigned both stations new channels and separate transition phases. WFFF-TV has been assigned to transition phase 7, which must be completed by January 17, 2020, and WVNY(TV) has been assigned to transition phase 10, which must be completed by July 3, 2020. Due to the existing sharing arrangement, the repack process will require a coordinated transition by both stations. As such, Nexstar seeks to amend its current phase assignment and respectfully requests that the Commission reassign WFFF-TV transition phase 10 in order to coordinate with WVNY(TV)'s repack transition.

The current WFFF/WVNY antenna stack on the shared Mt. Mansfield tower is subject to vortexing and must withstand excessive winter temperatures, ice, snow, and wind that persists in that geographic location. As part of the repack, the Commission reassigned WVNY(TV) from high-VHF channel 13 to high-VHF channel 7. While that channel positioning change is innocuous on its face, it carries significant implications for the shared tower. Specifically, the new antenna equipment needed for WVNY(TV) to broadcast on channel 7 combined with the new antenna for WFFF-TV's change to channel 16 will add more than five (5) tons to the stack weight and increase the tower's wind load by approximately 100%. This increased load will compound existing issues on the shared tower.

Grant of the above requests will allow WFFF-TV sufficient time to analyze alternative antenna designs as well as alternate channel allotments that may reduce the structural impact on the shared tower.⁸ Accordingly, grant of the requested waiver of the July 12, 2017 construction permit filing deadline and request to amend WFFF-TV's transition phase assignment from phase 7 to phase 10 serves the public interest by allowing WFFF-TV and WVNY(TV) to continue uninterrupted broadcasts and conserving valuable engineering resources.

⁶ Broadcast Transition Procedures Public Notice, at p. 866.

⁷ *Id.*

⁸ Mission Broadcasting, Inc. has submitted a separate request for waiver of the deadline for WVNY.

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If there are any questions concerning this matter, please do not hesitate to contact the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Elizabeth Ryder", with a long horizontal flourish extending to the right.

Elizabeth Ryder
EVP & General Counsel