

**CHANNEL SHAREE REQUEST FOR EXTENSION OF TIME  
TO APPLY FOR CONSTRUCTION PERMIT AND  
TO COMMENCE SHARED-CHANNEL OPERATIONS**

WVPY, LLC (“Licensee”), licensee of television station WVPY(TV), Front Royal, Virginia (“WVPY”), respectfully requests pursuant to Section 1.3 of the Commission’s Rules<sup>1</sup> and Paragraphs 66 and 69 of the *Transition Procedures Public Notice*<sup>2</sup> that the Media Bureau extend by 90 days WVPY’s respective deadlines for applying for a shared-channel construction permit and commencing shared-channel operations.<sup>3</sup> If this request is granted, Licensee accordingly would file its construction permit application by February 22, 2018, and would cease operations on WVPY’s pre-Auction channel by April 23, 2018.

Licensee won its Incentive Auction bid for WVPY to become a channel sharee, indicating on its Form 177 that it intended to enter into a post-Auction channel sharing agreement (“CSA”).<sup>4</sup> Licensee was included in the Incentive Auction Task Force’s *Ready to Pay Public Notice* released on July 20, 2017, meaning that it is deemed to have received its Incentive Auction proceeds on July 27, 2017.<sup>5</sup> Accordingly, absent an extension, WVPY is required to file its application for a shared-channel construction permit by November 24, 2017,

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<sup>1</sup> 47 C.F.R. § 1.3.

<sup>2</sup> *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition*, Public Notice, 32 FCC Rcd 858, 879-80 (MB 2017) (“*Transition Procedures Public Notice*”).

<sup>3</sup> See 47 C.F.R. §§ 73.3700(b)(1)(vii) (channel sharee construction permit application deadline), 73.3700(b)(3) (channel sharee license application deadline), and 73.3700(b)(4)(ii) (channel sharee deadline to relinquish pre-Auction channel).

<sup>4</sup> *Incentive Auction Closing and Channel Reassignment Public Notice*, Public Notice, 32 FCC Rcd 2786, 2869 (IATF, MB, & WTB 2017).

<sup>5</sup> See *Incentive Auction Task Force and Media and Wireless Telecommunications Bureaus Announce the Commission is Ready to Pay Reverse Auction Winning Bids*, Public Notice, 32 FCC Rcd 5715, 5716, 5721 (IATF, MB & WTB 2017) (“*Ready to Pay Public Notice*”).

and to cease operations on its pre-Auction channel by January 23, 2018.<sup>6</sup> However, the public interest would best be served by allowing Licensee additional time to enter into a channel sharing agreement so that it may preserve WVPY's service to the public.

Section 1.3 of the Commission's Rules provides that a waiver may be granted for good cause shown,<sup>7</sup> allowing the Commission to "exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest."<sup>8</sup> With respect to extension requests by channel sharees such as WVPY, the *Transition Procedures Public Notice* provides that a sharee may request, pursuant to Section 1.3, a waiver of its construction permit application deadline and/or of its deadline for discontinuing operations on its pre-Auction channel,<sup>9</sup> and that the Media Bureau will look favorably on requests "that are otherwise compliant with our rules and have little or no impact on other stations' transition schedule."<sup>10</sup> The Commission held, in particular, that it would look "most favorably" on a sharee's initial request for an extension of up to three months of the deadline for relinquishing the sharee's pre-Auction channel.<sup>11</sup>

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<sup>6</sup> *Transition Procedures Public Notice*, 32 FCC Rcd at 878-79 (channel sharee must file construction permit application within 120 days after receiving Auction proceeds, and must discontinue operations on pre-Auction channel within 180 days after receiving Auction proceeds); 47 C.F.R. §§ 73.3700(b)(1)(vii), (b)(4)(ii).

<sup>7</sup> 47 C.F.R. § 1.3.

<sup>8</sup> *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1116 (D.C. Cir. 1990).

<sup>9</sup> *Transition Procedures Public Notice*, 32 FCC Rcd at 879-80.

<sup>10</sup> *Id.* at 882 (citing *Incentive Auction Task Force and Media Bureau Adopt Post-Incentive Auction Transition Scheduling Plan*, Public Notice, 32 FCC Rcd 890, 912-13 & n.163 (MB 2017) ("Transition Schedule Adoption Public Notice")).

<sup>11</sup> *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Second Order on Recon., 30 FCC Rcd 12016, 12020 (2015) ("Channel Sharing Second Recon Order").

Here, there is good cause to grant Licensee the extensions requested herein, which will not affect any other station's post-Auction transition. The Commission's goal in providing channel-sharing bidders with the option to enter into a post-Auction CSA was to enable stations interested in a channel sharing bid "to participate in the auction even if they do not find a channel sharing partner before the auction begins."<sup>12</sup> Such was the case for WVPY, which was able to bid successfully in the Incentive Auction thanks to the Commission's decision to grant channel sharing bidders the flexibility to seek post-Auction CSAs. As the Commission noted, the process of negotiating such CSAs is simplified by the fact that fewer variables remain after the conclusion of the Incentive Auction,<sup>13</sup> and Licensee is in serious, active discussions with multiple potential hosts for WVPY. Nonetheless, Licensee anticipates that it may not reach a final agreement with a channel sharing partner prior to the deadline for WVPY to apply for a shared-channel construction permit. Granting the extensions requested herein would provide Licensee with additional time to enter into a CSA and complete the subsequent transition to shared-channel operations, thus serving the public interest in preserving WVPY's service to the public.

Moreover, granting the requested waivers would not result in any countervailing public interest harms. Licensee's engineering analysis, attached hereto as Attachment A, confirms that granting 90-day extensions of WVPY's deadlines for filing a shared-channel construction permit application and discontinuing operations on its pre-Auction channel will have no impact on any other station's transition schedule. WVPY requests that it be permitted to

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<sup>12</sup> *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, First Order on Recon. & NPRM, 30 FCC Rcd 6668, 6673 (2015) ("Channel Sharing Recon Order").

<sup>13</sup> *Id.*

continue operating on its current channel until April 23, 2018. WVPY's existing operations would conflict with only three stations' post-Auction facilities, and none of these stations is scheduled to begin testing on its post-Auction channel prior to June 22, 2019 — 14 months later. Licensee's request thus qualifies for favorable treatment under the standard set forth in the *Channel Sharing Second Recon Order*,<sup>14</sup> as well as in the *Transition Procedures Public Notice* and *Transition Schedule Adoption Public Notice*.<sup>15</sup>

### CONCLUSION

For the reasons set forth herein, the deadline extensions Licensee requests will serve the public interest in preserving WVPY's service to the public, without in any way affecting the post-Auction transition process. The requests therefore should be promptly granted.

Respectfully submitted,

WVPY, LLC

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<sup>14</sup> See n.11, *supra*.

<sup>15</sup> See n.10, *supra*.