Request for Waivers of Deadlines to Discontinue Operations on Pre-Auction Channel and File Construction Permit Applications to Channel Share

Onda Capital, Inc. ("Onda") hereby respectfully requests the FCC to extend the deadline, for 90 days, for Class A television station WZDC-CD, Washington, D.C. (FIN 50347) ("Station") to discontinue operations on its current channel and implement shared channel operations. As a result of a winning reverse auction bid for the Station in the Incentive Auction, Onda will relinquish its spectrum usage rights on the Station's current channel.[1] Onda is in the process of negotiating a transaction involving the Station. The extensions requested herein will provide Onda with time needed to comply with all FCC licensing and channel sharing requirements as well as to implement a channel sharing arrangement for the Station.

Pursuant to the FCC's incentive auction channel sharing rules, a channel sharee station must implement shared channel operations and a sharee station must discontinue operations on its pre-auction channel within 180 days after the sharee receives its share of auction proceeds.[2] A sharee station also must file an application for a construction permit to channel share no later than 60 days prior to its deadline for discontinuing operations on its pre-auction channel.[3] This application must specify the same technical facilities as the sharer station and include a copy of the channel sharing agreement.[4]

In recognition that some stations may encounter difficulties meeting these deadlines, the FCC permits a sharee station to request an additional 90 days to discontinue operations and commence shared operating by requesting a waiver pursuant to Section 1.3 of the FCC's rules.[5] The FCC stated that it would view such requests "favorably."[6] The FCC also permits a sharee station to request an extension of the deadline to file construction permit applications to channel share by requesting a waiver pursuant to Section 1.3 of the FCC's rules.[7]

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[1] See *Incentive Auction Closing and Channel Reassignment Public Notice: The Broadcast Television Incentive Auction Closes; Reverse Auction and Forward Auction Results Announced; Final Television Band Channel Assignments Announced; Post-Auction Deadlines Announced*, Public Notice, 32 RCD 2786 (MB & WTB, 2017).

[2] 47 CFR §§ 73.3700(b)(4)(ii). *See also Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Broadcast Transition*, Public Notice, 32 FCC Rcd 858, 878-89, paras. 63-66 (MB 2017) ("Procedures Public Notice"); *Incentive Auction Task Force and Media and Wireless Telecommunications Bureaus Announce the Commission is Ready to Pay Reverse Auction Winning Bids*, Public Notice, DA 17-702 (MB & WTB, rel. Jul. 20, 2017) (for purposes of calculating post-auction deadlines a relinquishment bidder is considered to have received its incentive payment five (5) business days after the release date of this Public Notice).

[3] 47 CFR § 73.3700(b)(1)(vii).

[4] *Id*.

[5] 47 CFR § 1.3.

[6] *See Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567, 6803, para. 578 (2014), *aff'd, Nat'l Assoc. of Broadcasters, et al v. FCC*, 789 F.3d 165 (D.C. Cir. 2015) (*Incentive Auction R&O*); Second Order on Reconsideration, 30 FCC Rcd 12016, 12020, para. 11 (2015) (*Third Reconsideration*); *see also* 47 CFR § 1.3.

[7] Procedures Public Notice, 32 FCC Rcd 879, para. 66.

Absent a grant of the instant waiver requests, the Station would be required to file its construction permit application to channel share by November 24, 2017, and discontinue operations on its pre-auction channel by January 23, 2018.

Onda is currently in the midst of negotiating a transaction involving the Station, the terms of which include a channel sharing arrangement for the Station, among other things. Once the parties complete their negotiations and the transaction documents are finalized, Onda plans to file a construction permit application for the Station to channel share ("Channel Share CP Application"). As the parties have not yet completed their negotiations, Onda respectfully requests the FCC to grant the instant request for waivers and extend the deadline for the Station to discontinue operations on its current channel and implement shared channel operations for an additional 90 days to April 23, 2018. Onda also requests the FCC to extend the deadline for the Station to file its construction permit application to channel share to February 22, 2018. Grant of the waivers will serve the public interest by facilitating the implementation of the contemplated shared channel operations.