



Federal Communications Commission
Washington, D.C. 20554

November 3, 2017

Maranatha Broadcasting Company, Inc.
300 E Rock Rd
Allentown, PA 18103

Re: Request for Waivers of Deadlines
To File Application For Construction
Permit and Implement Shared Channel
Operations
WFMZ-TV, Allentown, Pennsylvania
Facility ID No. 39884
LMS File No. 0000033961

Dear Licensee,

On October 23, 2017, Maranatha Broadcasting Company, Inc. (MBC) submitted the above-captioned request for waiver for WFMZ-TV, Allentown, Pennsylvania (Station) of the November 24, 2017, deadline for incentive auction winning channel sharing stations to file an application for construction permit for their shared channel operations (channel sharing application filing deadline).¹ MBC also requests a waiver of the January 23, 2018, deadline for incentive auction winning channel sharing stations to implement shared channel operations and discontinue operations on their pre-auction channels (channel sharing implementation deadline).² For the reasons set forth below, we grant the requests for waiver, extend the channel sharing application filing deadline to February 22, 2018, and channel sharing implementation deadline to April 23, 2018.

Background. The Commission instructed that channel sharee stations³ must file an application for construction permit for their shared channel operations by November 24, 2017.⁴ A channel sharee station

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 FCC Rcd 2786, 2813, para. 76 (MB & WTB 2017) (*Closing and Channel Reassignment Public Notice*); see also *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition*, Public Notice, 32 FCC Rcd 858, 880, para. 64 (MB 2017) (*Broadcast Transition Procedures Public Notice*); 47 CFR §§ 73.3700(b)(1)(vii).

² See *Closing and Channel Reassignment Public Notice*, 32 FCC Rcd at 2813, para. 76; *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 879, para. 63; 47 CFR §§ 73.3700(b)(3), 73.3700(b)(4)(ii).

³ Absent any contrary information from the station, any station that indicated it had a pre-auction CSA and/or an intent to channel share on its reverse auction FCC Form 177 is considered a channel sharee station until the station fails to meet or obtain a waiver of the channel sharing application filing deadline.

⁴ See *Closing and Channel Reassignment Public Notice*, 32 FCC Rcd at 2813, para. 76; *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 880, para. 64; 47 CFR §§ 73.3700(b)(1)(vii). As noted previously, some of the post incentive auction transition-related deadlines set forth in the Commission's rules are referred to in months. For the sake of clarity and to provide greater ease of calculation, the Media Bureau refers to such deadlines in days.

may request a waiver of the channel sharing application filing deadline specifying the date by which the sharee anticipates filing its construction permit application.⁵

The Commission also instructed that channel sharing stations must implement shared channel operations, and a sharee station must discontinue operations on its pre-auction channel by January 23, 2018.⁶ A channel sharee may request an additional 90 days to discontinue operations on its pre-auction channel and commence shared operations by requesting a waiver pursuant to section 1.3 of the Commission's rules.⁷ All such requests for waiver of the deadline to commence shared operations will be evaluated to determine whether grant will delay or disrupt the post-auction transition schedule.⁸

A waiver is appropriate where the particular facts would make strict compliance inconsistent with the public interest and deviation from the general rule would relieve hardship, promote equity, or produce a more effective implementation of overall policy on an individual basis.⁹

In support of its requests for waiver, MBC notes that it was a successful bidder in the reverse auction and is a party to a CSA with Sonshine Family Television, Inc. (Sonshine) the licensee of WBPH-TV, Bethlehem, Pennsylvania, which will be the host station, and Lehigh Valley Public Telecommunications Corp., and the licensee of WLVT-TV, Allentown, Pennsylvania, which will be another sharee station. MBC states that the parties are currently engaged in planning the implementation of that sharing arrangement, but MBC needs additional time to finalize the details of Station's shared use of the WBPH-TV channel.

MBC states that it owns a broadcast tower in close proximity to that currently leased by Sonshine, and consideration is being given to using that tower for shared operations under the CSA, instead of the nearby tower leased by Sonshine. MBC states that the CSA parties are currently conducting technical assessments to determine the feasibility of shared operations under the CSA from the Station tower site. MBC argues that the use of the Station site could offer substantial public interest benefits. MBC notes that the Station's tower is situated at the its studio location, which MBC states is fully-staffed during normal business hours, so MBC argues that the site affords better opportunities to address any issues that may arise with the operations of the shared facilities. MBC also notes that the Station tower site has a generator capable of powering full operations for several days when power to the site fails. MBC states that all of these stations are located in the Lehigh Valley of Pennsylvania, where severe winter weather is common. MBC states that both Station and WBPH-TV transmit from a mountain where power fails frequently. In addition, MBC notes that Station also has back-up antennas, transmitters, and studio sites to maintain operations during emergency conditions. It would take time to replicate these capabilities from shared facilities at the WBPH-TV site, MBC argues. MBC concludes that the public may be better served if shared operations can feasibly be conducted from a site that can remain in operation during winter weather and other emergency conditions. While the plans are being finalized to implement the

⁵ *Id.*

⁶ See *Closing and Channel Reassignment Public Notice*, 32 FCC Rcd at 2813, para. 76; *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 879, para. 63; 47 CFR §§ 73.3700(b)(3), 73.3700(b)(4)(ii).

⁷ See *Closing and Channel Reassignment Public Notice*, 32 FCC Rcd at 2814, para. 81; *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 881, para. 69. Channel sharee stations may request an additional 90 days (for a total of 180 additional days) using the same procedure. *Id.*

⁸ *Id.*

⁹ See *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).

CSA, potentially at the Station site, MBC states that it wishes to assure the continuity of its service to the residents of the Lehigh Valley during the upcoming winter months.

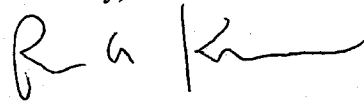
MBC also argues that the grant of the waiver of the channel sharing implementation deadline will not delay the implementation of the repacking of the television band as the testing period for stations in Phase 1 of the repacking does not even begin until September 14, 2018, after any extension requested by it.

Discussion. Upon review of the facts and circumstances presented, we find MBC's request to extend the channel sharing application filing deadline until February 22, 2018, satisfies the requirements for a waiver. In this case, we find that it would not be consistent with the public interest to require MBC to file its application for construction for shared channel operations by the November 24, 2017 deadline given that it is in the process of determining the optimal configuration of its shared facilities.

We also find that MBC's request to extend the channel sharing implementation deadline until April 23, 2018, satisfies the requirements for a waiver. We find that it would not be consistent with the public interest to require Station to implement its shared channel operations by the January 23, 2018 deadline. We find that the public interest will be served by waiver of the deadline because it will allow MBC and its sharing partners to optimize the configuration of its shared facility, resulting in a better viewing experience for its viewers. Further, given that MBC will be sharing with existing facilities, it is not likely that a delay will result in resources being diverted from the post-auction transition. Further, given that the first phase is not set to begin until September 14, 2018, we find that there will be no adverse impact on the post-incentive auction transition schedule as a result of a grant of the 90-day waiver.¹⁰

The above facts considered, Maranatha Broadcasting Company, Inc.'s request for waiver **IS GRANTED** and the November 24, 2017 deadline to file an application for construction permit for shared channel operations for WFMZ-TV, Allentown, Pennsylvania **IS EXTENDED** for 90 days to February 22, 2018; and its request for waiver of the January 23, 2018 deadline to implement its shared channel operations and to discontinue operations on its pre-auction channel for WFMZ-TV, Allentown, Pennsylvania, **IS EXTENDED** for 90 days to April 23, 2018.

Sincerely,



Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc: David D. Oxenford, Esq.

¹⁰ On October 6, 2017, WWOR-TV, Secaucus, New Jersey (WWOR-TV), was granted a waiver of its phase assignment and permitted to transition to its post-auction channel on or before February 15, 2018. According to the grant letter, if WTVE is still operating at the time WWOR-TV completes construction, WWOR-TV may not commence operation on its post-auction channel until it has first filed a request for special temporary authority to operate at reduced power sufficient to prevent pairwise interference in excess of two percent to WTVE. *See Letter from Barbara A. Kreisman, Chief Video Division to Fox Television Stations, LLC at 2-3 and 4 (Oct. 6, 2017) available LMS File No. 0000030007.*