

**Request for Waiver of Deadline for Channel Sharing Station  
to File Construction Permit and Discontinue Operations on Pre-Auction Channel**

Pursuant to Section 1.3 of the FCC's Rules, NRJ TV Philly License Co., LLC ("Licensee"), licensee of full power television station WTVE(TV), Reading, PA (Fac. ID 55305) ("Station"), hereby requests waiver of Sections 73.3700(b)(3) and (b)(4)(ii) of the Commission's rules to provide Station with an additional 90 days to discontinue operations on its pre-auction channel (and file a license to cover its channel sharing construction permit).

On October 23, 2017, Licensee filed a Request for Special Temporary Authority in which it sought a waiver of the November 24, 2017, deadline to file its application for a construction permit to channel share and its January 23, 2018, deadline to commence channel sharing and discontinue operations on its pre-auction channel, File No. 0000034065 (the "Initial STA"). The Video Division granted the Initial STA on October 14, 2017, by letter from Barbara A. Kreisman, Chief, Video Division. As a result, Licensee now has until April 23, 2018, to discontinue operations on its pre-auction channel and file a license to cover its channel sharing construction permit.

On December 19, 2017, licensee filed an application on FCC Form 2100 for Station to channel share with commonly-owned WPHY-CD, which the Commission granted on December 28, 2017. *See* LMS File No. 0000036488. At the time, Licensee expected WMCN-TV (which is not affiliated with Licensee) to also be sharing with WPHY-CD. Accordingly, Licensee had planned to utilize telecommunications links that would have passed through WMCN-TV's main studio location. The licensee of WMCN-TV has subsequently advised Licensee that it does not intend to channel share with WPHY-CD, requiring Licensee to reconfigure the signal paths for Station and WPHY-CD, including the ordering and installation of replacement telecommunications circuits which have at least a three-month lead time, necessitating additional time to implement channel sharing.

The FCC may grant a waiver for good cause shown.<sup>1</sup> The agency typically grants a waiver where the particular facts make strict compliance inconsistent with the public interest.<sup>2</sup> In the *Second Order on Reconsideration*, the Commission recognized that certain winning channel sharing bidders may require an additional three months beyond the initial extension, declaring that it "will view the additional requests favorably as well so long as we determine that grant of the extension

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<sup>1</sup> 47 C.F.R. § 1.3.

<sup>2</sup> *N.E. Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

will not delay the post-auction transition.”<sup>3</sup> The agency went on to acknowledge that “the availability of waiver of up to an additional six months is unlikely to adversely affect the Commission’s post-auction transition timeline.”<sup>4</sup>

Here, grant of an additional 90 days is in the public interest. First, an extension will facilitate the Station’s ability to channel share successfully and without disruption, which, as the Commission has recognized, will “promote longstanding policy goals for broadcast television, including localism, viewpoint diversity, and competition.”<sup>5</sup> Licensee will utilize the additional time to reconfigure its signal paths and order and install the circuits required to deliver Station’s signal without unnecessary viewer disruption.<sup>6</sup>

Second, permitting the Station to utilize a full 6 MHz channel for an additional three months will allow it to provide the best over-the-air experience to its viewers by providing a better-quality signal (with increased bandwidth and lower compression) and additional programming on multicast streams.

Moreover, a grant of 90 additional days will not adversely affect the Commission’s post-auction transition timeline. The requested extension will not have any effect on the 39-month transition period. The channel sharing arrangement under consideration will utilize existing facilities, and grant of this waiver will not divert any engineering resources otherwise needed for the post-auction transition. Furthermore, as the testing period for Phase 1 of the repack does not begin until September 14, 2018, providing the Station with 90 additional days to cease operations on its pre-auction channel and transition to shared operations will not affect other stations’ transition schedules. Finally, to the extent it is relevant, providing the Station with 90 additional days also will not delay the launch of service by winning 600 MHz bidders given that the Station’s RF channel (25) is within the post-auction broadcast television band.<sup>7</sup>

Accordingly, the Media Bureau should provide the Station until July 23, 2018, to terminate operations on its pre-auction channel.

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<sup>3</sup> *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Second Order on Reconsideration, 30 FCC Rcd. 12016 ¶ 11 (2015) (“*Second Order on Reconsideration*”).

<sup>4</sup> *Id.*

<sup>5</sup> *In the Matter of Innovation in the Broad. Television Bands: Allocations, Channel Sharing & Improvements to VHF*, Report and Order, 27 FCC Rcd. 4616 ¶ 3 (2012); *see also id.* ¶ 22 (recognizing that channel sharing will extent the “important benefits to the public” of broadcast television); *In the Matter of Expanding the Econ. & Innovation Opportunities of Spectrum Through Incentive Auctions*, 30 FCC Rcd. 6668 (2015) (recognizing public interest benefits of flexible, post-auction channel sharing).

<sup>6</sup> *See* File No. 0000036896.

<sup>7</sup> *See* File No. 0000040617.