

## **Master Waiver Exhibit / Reason for Extension of Construction Permit**

Nexstar Broadcasting, Inc. (“Nexstar”), per FCC Rule 1.3, hereby requests an additional waiver of Rule 73.3700(b)(4)(ii) to provide the channel sharing Sharee Stations listed below additional time to cease operations on their pre-auction channel. In addition, Nexstar requests identical extensions of the Sharee Stations’ shared television broadcast station construction permits (“CPs”).

### ***Stations for Which Nexstar Seeks Waiver (all Sharee Stations licensed to Nexstar)***

<b>Sharee Stations</b>	<b>Sharer Stations</b>	<b>Proposed Date to Cease Broadcasting on Pre-Auction Channel</b>
WTTA St. Petersburg, FL	WFLA-TV Tampa, FL	On or before July 15, 2018
WCTX New Haven, CT	WTNH New Haven, CT	On or before July 15, 2018
WNDY-TV Marion, IN	WISH-TV Indianapolis, IN	On or before July 15, 2018
WIVB-TV Buffalo, NY	WNLO Buffalo, NY	On or before June 1, 2018
WKBN-TV Youngstown, OH	WYTV Youngstown, OH	On or before June 1, 2018
WLNS-TV Lansing, MI	WLAJ Lansing, MI	On or before July 15, 2018

### ***Background and Summary of Argument***

The Sharee Stations were winning bidders in the broadcast incentive auction with bid options to go off-air. The Sharee Stations have executed channel sharing agreements (“CSAs”), but they require additional time to implement the arrangements. The Commission previously granted Nexstar’s requests to extend the channel sharing implementation deadlines for the Sharee Stations until April 23, 2018. Subsequently, the Commission granted CPs for the Sharee Stations, also with an expiration of April 23, 2018.

Nexstar has worked cooperatively with T-Mobile to find mutually agreeable dates for certain of its low power and translator stations to cease broadcasting on their pre-auction channels after receiving notices of T-Mobile’s intent to commence 600 MHz mobile operations. Nexstar proactively contacted T-Mobile about its intent to seek waivers to extend the transition dates for the Sharee Stations, and T-Mobile agreed to the extensions except for stations WIVB-TV and WKBN-TV.

In the interim, the vendor of the encoders chosen to effectuate the channel shares informed Nexstar of an equipment malfunction that makes the encoders unsuitable for installation and operation. The vendor is aware of the issue and is diligently working on a solution.

With these circumstances beyond its control in mind, Nexstar proposes the schedule above to balance the need to protect its public interest mission to remain on-the-air with T-Mobile's desire to deploy its network. Specifically, WIVB-TV and WKBN-TV would transition first, requiring an extension of just 39 days (or less). The remaining stations would then follow to allow for the efficient distribution of engineering resources. The public interest benefits of granting the instant waivers to allow this transition schedule outweigh any countervailing harm.

### ***Standard of Review***

The FCC may grant a waiver for good cause shown. 47 C.F.R. § 1.3. The agency typically grants a waiver where the particular facts make strict compliance inconsistent with the public interest.<sup>1</sup> The *Incentive Auction Order* stated that “[t]he Media Bureau will view favorably applications/requests that are otherwise compliant with our rules and have little or no impact on other stations' transition schedule.”<sup>2</sup> As the agency has acknowledged, “the availability of waiver of up to an additional six months is unlikely to adversely affect the Commission's post-auction transition timeline.”<sup>3</sup>

### ***Argument***

Here, grant is in the public interest. First, these waivers will have no impact on other stations' transition schedule as the testing period for Phase 1 of the repack does not begin until September 14, 2018. Moreover, the CSAs will utilize existing facilities, and grant of this waiver will not divert any additional engineering resources otherwise needed for the post-auction transition. In fact, grant of the waiver will help maximize the efficiency of Nexstar's limited engineering resources needed to organize and implement the repack of 90 full-power and Class A stations.

Second, the proposed transition schedule above with an extension of just 39 days (or less) for WIVB-TV and WKBN-TV mitigates the impact on T-Mobile's 600 MHz operations. These extensions will also facilitate the stations' 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>4</sup>

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<sup>1</sup> *N.E. Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>2</sup> *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition*, 32 FCC Rcd 858, ¶ 73. (2017).

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

<sup>4</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 extend the “important benefits to the public” of broadcast television); *In the Matter of Expanding the Econ. &*

Finally, permitting the Sharee Stations to utilize a full 6 MHz channel for additional time will allow both the Sharee and Sharer Stations to provide the best over-the-air experience to their viewers by providing a better-quality signal (with increased bandwidth and lower compression), including the continued broadcast of free multicast streams on both stations. As indicated in its prior 90-day waiver requests, Nexstar has attempted to obtain the highest-possible quality encoders and then configure those encoders as optimally as possible. These encoders have experienced a malfunction, and the vendor is diligently working on making them operational. Once the vendor delivers working encoders, Nexstar will require time to optimize the configuration with live programming so that viewers will experience the best possible experience when the CSA implements.

Accordingly, the Media Bureau should provide the Sharee Stations additional time per the table above to terminate operations on their pre-auction channel and to extend their CPs.

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*Innovation Opportunities of Spectrum Through Incentive Auctions*, 30 FCC Rcd. 6668 (2015) (recognizing public interest benefits of flexible, post-auction channel sharing).

## **ATTACHMENT A**



February 6, 2018

To Whom It May Concern:

By this letter, T-Mobile License LLC (T-Mobile) has no objection to the waiver of Rule 73.3700(b)(4)(ii) sought by Nexstar Broadcasting, Inc. that would extend the deadline from April 23, 2018 to July 15, 2018 for full-power broadcast station WCTX (New Haven, Conn.) to cease operations on its pre-auction channel 39.

WCTX filed a construction permit to implement a channel sharing agreement with WTNH, but the station has indicated it needs more time to implement the arrangement. T-Mobile agrees that this limited extension will not divert engineering resources otherwise needed for the post-auction transition, nor will it have an adverse effect on its deployment of its 600 MHz licenses.

Very truly yours,

T-MOBILE USA, INC.

By: /s/

Steve Sharkey, VP, Government Affairs, Technology and Engineering Policy

AGREED AND ACCEPTED:

[Nexstar Media Group, Inc.]

By: \_\_\_\_\_

Name: Brett Jenkins

Title: EVP, Chief Technology Officer



February 6, 2018

To Whom It May Concern:

By this letter, T-Mobile License LLC (T-Mobile) has no objection to the waiver of Rule 73.3700(b)(4)(ii) sought by Nexstar Broadcasting, Inc. that would extend the deadline from April 23, 2018 to July 15, 2018 for full-power broadcast station WLNS-TV to cease operations on its pre-auction channel 36.

WLNS-TV filed a construction permit to implement a channel sharing agreement with WLAJ, but the station has indicated it needs more time to implement the arrangement. T-Mobile agrees that this limited extension will not divert engineering resources otherwise needed for the post-auction transition, nor will it have an adverse effect on its deployment of its 600 MHz licenses.

Very truly yours,

T-MOBILE USA, INC.

By: /s/

Steve Sharkey, VP, Government Affairs, Technology and Engineering Policy

AGREED AND ACCEPTED:

[Nexstar Media Group, Inc.]

By: \_\_\_\_\_

Name: Brett Jenkins

Title: EVP, Chief Technology Officer



February 6, 2018

To Whom It May Concern:

By this letter, T-Mobile License LLC (T-Mobile) has no objection to the waiver of Rule 73.3700(b)(4)(ii) sought by Nexstar Broadcasting, Inc. that would extend the deadline from April 23, 2018 to July 15, 2018 for full-power broadcast station WNDY-TV (Marion, Ind.) to cease operations on its pre-auction channel 32.

WNDY-TV filed a construction permit to implement a channel sharing agreement with WISH-TV, but the station has indicated it needs more time to implement the arrangement. T-Mobile agrees that this limited extension will not divert engineering resources otherwise needed for the post-auction transition, nor will it have an adverse effect on its deployment of its 600 MHz licenses.

Very truly yours,

T-MOBILE USA, INC.

By: /s/

Steve Sharkey, VP, Government Affairs, Technology and Engineering Policy

AGREED AND ACCEPTED:

[Nexstar Media Group, Inc.]

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February 6, 2018

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By this letter, T-Mobile License LLC (T-Mobile) has no objection to the waiver of Rule 73.3700(b)(4)(ii) sought by Nexstar Broadcasting, Inc. that would extend the deadline from April 23, 2018 to July 15, 2018 for full-power broadcast station WTTA (St. Petersburg, Fla.) to cease operations on its pre-auction channel 32.

WTTA filed a construction permit to implement a channel sharing agreement with WFLA-TV, but the station has indicated it needs more time to implement the arrangement. T-Mobile agrees that this limited extension will not divert engineering resources otherwise needed for the post-auction transition, nor will it have an adverse effect on its deployment of its 600 MHz licenses. Very truly yours,

T-MOBILE USA, INC.

By: /s/

Steve Sharkey, VP, Government Affairs, Technology and Engineering Policy

AGREED AND ACCEPTED:

[Nexstar Media Group, Inc.]

By: \_\_\_\_\_

Name: Brett Jenkins

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