

WAIVER REQUEST EXPLANATION

Portland (WPFO-TV) Licensee, Inc., (the “Licensee”) licensee of station WPFO, Waterville, Maine (Facility ID No. 84088) (the “Station”), hereby requests a waiver of the Federal Communications Commission’s (“FCC”) freeze of construction permit filings for full power television stations (the “Filing Freeze”),¹ so that the Station may relocate its broadcast television station facilities to the WGME-TV tower (Antenna Structure Registration No. 1024383). An Engineering Statement prepared by the Carl T. Jones Corporation is attached to this application to demonstrate that no new prohibited interference would result from a grant of this construction permit application and Filing Freeze waiver.

The Station is being repacked following the FCC’s Broadcast Incentive Auction, with a Phase 3 Completion Date of June 21, 2019. The FCC granted the Station’s initial post-Auction transition construction permit on August 7, 2017 (*see* FCC File No. 0000027647) and subsequently granted the Station’s application for expanded facilities on January 25, 2018 (*see* FCC File No. 0000034894). The Station now respectfully requests this Filing Freeze waiver so that it may relocate permanently to the WGME-TV tower.

The FCC may grant a waiver for good cause shown.² A waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest.³ In considering a waiver, the FCC may take into account considerations of hardship, equity, or more effective

¹ *See Media Bureau Announces Limitation on the Filing and Processing of Full Power and Class A Television Station Modification Applications, Effective Immediately, and Reminds Stations of Spectrum Act Preservation Mandate*, Public Notice, 28 FCC Rcd 4364, DA 13-618 (rel. Apr. 5, 2013) (“Filing Freeze Public Notice”).

² *See* 47 C.F.R. § 1.3.

³ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990)(“Northeast Cellular”).

implementation of overall policy on an individual basis.⁴ Such a waiver is appropriate if circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.⁵ Additionally, the *Transition Scheduling Adoption Public Notice* permits stations to propose “alternative transition solutions that could create efficiencies,” including those that “may reduce reimbursement costs.”⁶

Grant of the Station’s waiver request would serve the public interest and promote a more effective implementation of the post-Auction transition. Importantly, the Station’s relocation to the WGME-TV tower site is not anticipated to hinder, delay, or otherwise interfere with the post-Auction transition of the Station, WGME-TV, or any other station. Indeed, grant of this waiver will create efficiencies because the tower modifications that would have had to be accomplished at the Station’s current tower location would no longer be necessary. WGME-TV’s tower site must undergo modifications as a result of the repack transition, with or without the Station’s relocation, and permitting the Station to relocate would maximize the efficiency of the work that is already anticipated and accounted for in WGME-TV’s FCC Schedule 399.

Licensee therefore anticipates that the Station’s relocation would save the Incentive Auction Broadcaster Relocation Reimbursement Fund approximately \$500,000.00. *See* WPFO Form 399 Submissions (estimating that the Station’s tower modifications would cost approximately \$625,000.00 at the current site.). Permitting the Station to relocate to the WGME

⁴ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular*, 897 F.2d at 1166.

⁵ *Northeast Cellular*, 897 F.2d at 1166.

⁶ *Incentive Auction Task Force and Media Bureau Adopt A Post-Incentive Auction Transition Scheduling Plan*, MB Docket No. 16-306 and GN Docket No. 12-268, 32 FCC Rcd 890, 913 ¶ 50 (MB 2017) (*Transition Scheduling Adoption Public Notice*), *citing Incentive Auction Task Force and Media Bureau Seek Comment on Post-Incentive Auction Transition Scheduling Plan*, Public Notice, 31 FCC Rcd 10802 (MB 2016).

tower would also free up high-in-demand and short-in-supply post-Auction resources and tower crews for other repacked stations.

Further, granting this waiver and permitting the Station to relocate to the WGME-TV tower site would enable the Station to broadcast to an increased population. Licensee anticipates that the Station would be able to serve approximately 290,000-460,000 more viewers, depending on dBu. This ability to provide service to an increased population without causing any prohibited interference is inherently consistent with the public interest and comports with the Commission’s standard for consideration of Filing Freeze waiver requests.⁷

Finally, the coverage loss area that results from this proposed minor modification will continue to be amply served by other broadcast television stations. As shown in the Engineering Statement, the following five stations serve the area in whole or in part:

Station	Community of License
WMEB-TV	Orono, Maine
WCBB	Augusta, Maine
WABI-TV	Bangor, Maine
WVII-TV	Bangor, Maine
WGCI-LD	Skowhegan, Maine

As demonstrated herein, grant of this waiver request is in the public interest because it will allow the Station to complete its repack transition more quickly and efficiently than its current construction permit would allow, will save the finite Incentive Auction Broadcaster

⁷ See Filing Freeze Public Notice, 28 FCC Rcd at 4365 (“The Bureau will consider, on a case-by-case basis, requests for waiver of the filing limitation imposed by this *Public Notice* when a modification application is necessary or otherwise in the public interest for technical or other reasons to maintain quality service to the public.”).

Relocation Fund significant dollars and free up other resources to assist other stations with their repack transitions, and will maintain and/or expand quality service to the public. Therefore, Licensee hereby respectfully requests a waiver of the Filing Freeze so that it may apply to permanently relocate the Station to the WGME-TV tower site.