

**Statement in Support of Request for Extension of Post-Auction Construction Permit**

Pursuant to Section 73.3700(b)(5) of the rules of the Federal Communications Commission (“FCC”), West Virginia Educational Broadcasting Authority (“WVEBA”), licensee of non-commercial educational television station WSWP-TV, Facility ID No. 71680, Grandview, West Virginia (“WSWP”), respectfully requests a 180-day extension of the construction deadline set forth in WSWP’s post-auction construction permit, FCC File No. 0000034625 (“Channel 8 CP”). Presently, WSWP is required to complete construction of the facility specified in the Channel 8 CP by **July 3, 2020**. As explained herein, construction of the Channel 8 CP facility will likely be delayed beyond July 3, 2020 due to delays in obtaining the equipment required for the Channel 8 CP facility. Accordingly, WSWP requests that the Media Bureau extend the Channel 8 CP for 180 days, until **December 30, 2020**.<sup>1</sup>

The Media Bureau is authorized to grant an extension of a repacked station’s post-auction construction permit for up to six months to enable the station to complete construction of its post-auction facility if such an extension is necessary due to circumstances beyond the licensee’s control.<sup>2</sup> Such circumstances include “delays in construction due to the unavailability of equipment”<sup>3</sup> and “delays faced by licensees that must obtain government approvals, such as land use or zoning approvals, or that are subject to competitive bidding requirements prior to purchasing equipment or services.”<sup>4</sup> The instant request to extend the construction deadline for WSWP falls within these parameters.

First, WVEBA has been notified by GatesAir (“Gates”) that Gates will be unable to deliver the mask filter for the Station’s Channel 8 CP facility in time to enable installation of the same by the July 3 deadline. Based upon information provided by Gates, WVEBA anticipates that it should receive delivery of the mask filter by August 2020.

Second, WVEBA has not yet procured the post-auction Channel 8 antenna required for the Station. As a public benefit corporation established by the State of West Virginia (“State”), WVEBA is required to comply with the State’s rules and procedures regarding procurement of goods and services.<sup>5</sup> These rules require, *inter alia*, that equipment purchases in excess of

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<sup>1</sup> WVEBA has not yet sought a single extension of the Channel 9 CP as permitted by FCC rules. *See* 47 C.F.R. § 73.3700(b)(5)(i). To the extent required, WVEBA respectfully requests a waiver of Section 73.3700(b)(5)(iv) to permit the submission of this application after April 6, 2020. WVEBA did not file a request to extend the Channel 9 CP on April 6, 2020 because, at this time, WVEBA believed that it would be able to complete construction of the Channel 9 CP facility by the July 3, 2020 deadline. As described herein, however, WVEBA faces delays in the construction of WSWP’s Channel 9 CP that have arisen since April 6, 2020.

<sup>2</sup> 47 C.F.R. § 73.3700(b)(5)(i).

<sup>3</sup> 47 C.F.R. § 73.3700(b)(5)(ii)(B).

<sup>4</sup> 47 C.F.R. § 73.3700(b)(5)(ii)(E).

<sup>5</sup> *See* W. Va. Code § 5A-1-10 (2019) (requiring that all spending units use competitive bidding process to purchase commodities wherever possible).

\$25,000 be put out for competitive bidding.<sup>6</sup> WVEBA has submitted a requisition request to the State to purchase the Station's post-auction antenna. However, the State procurement office has been delayed in processing this request due to its focus on procuring personal protective equipment to address the COVID-19 pandemic. The State recently notified WVEBA that it has now processed the requisition request, such that the requisition request can be put out for competitive bidding. WVEBA cannot order the Channel 8 antenna until the competitive bidding process has been completed. At this time, WVEBA believes that the procurement process will be completed such that the Channel 8 antenna can be delivered in late July or early August 2020. Assuming this to be the case, and depending upon the availability of tower crews, weather permitting, WNPB likely will complete installation of the Channel 8 antenna by the end of August 2020 and file a license to cover application for the Channel 8 CP at that time.

Grant of the instant request to extend the construction deadline for the Channel 8 CP by six months will not disrupt or delay the post-auction transition because WSWP will cease operations on channel 20 no later than July 3, 2020 (i.e., the Phase 10 completion deadline). WSWP is exploring options to enable it to begin Channel 8 broadcasts at this time and, assuming it identifies such an option, will file the requisite application for special temporary authority prior to July 3, 2020.<sup>7</sup>

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<sup>6</sup> See W. Va. Code § 5A-3-11.

<sup>7</sup> If WVEBA is unable to identify an option that would enable the Station to broadcast on channel 8 after July 3, 2020, it will file the requisite application to remain silent until such time as construction of the Channel 8 CP facility is completed. In the event it is necessary for WSWP to cease broadcasts, WSWP will deliver programming to multichannel video programming distributors ("MVPDs") through alternative means (e.g., wireless delivery) such that WSWP's viewers that access the Station through MVPDs will continue to have access to WSWP.