

**WCFE-TV – Request for Extension of Time to Construct**  
**LMS File No. 34025**

Mountain Lake Public Telecommunications Council, licensee of noncommercial educational TV station WCFE-TV, Plattsburgh, New York (“WCFE”), requests an extension of time to complete construction of its permanent post-auction facilities. *See* 47 C.F.R. Section 73.3700(b)(5)(iv).<sup>1</sup> WCFE requests an additional 180 days to construct, *i.e.*, until December 30, 2020.

WCFE was assigned to transition from Channel 38 to Channel 36 in Phase 7 of the repack pursuant to the Closing and Reassignment Public Notice, with a completion date of January 17, 2020.<sup>2</sup> WCFE requested and was granted re-assignment to Transition Phase 10, with a construction deadline of July 3, 2020. WCFE plans to meet the 39-month repack deadline for vacating its pre-transition channel using an interim transmitter, but it needs the construction permit for the main transmission facility extended.<sup>3</sup>

WCFE’s repack plan called for, among other things, replacement of the station’s main transmitter at the station’s mountaintop tower site near the top of Averill Peak on Lyon Mountain in the Adirondack Mountains, approximately 3700 feet above sea level. The site is remote; it is accessible by a single rough “hiking” trail and cannot be accessed by highway vehicles. There is a small helicopter pad near the site. Knowing the site access issues, WCFE began working with vendors on plans to use the trail for site access for repack work back in 2018. Unfortunately, the trail is extremely treacherous to navigate, even for a UTV, and especially for heavy vehicles or with heavy equipment. As an alternative to using parts of the existing trail, WCFE attempted to secure an easement from an adjoining landowner to allow parts of a new trail (with switchbacks) for WCFE to access its tower site, but the landowner would not grant such easement. Even if it had secured an easement, in order to access its tower site WCFE would also have needed to secure approval from Adirondack Park, part of the New York Forest Preserve. Moreover, the snowpack on the mountain trail in the past few winters has not been sufficient to allow site access using a snow cat. Therefore, WCFE revised its repack plan to accommodate a combination of trail improvement and helicopter use to bring equipment and work crews to the remote mountaintop site to ensure safe and reliable access to the site for the necessary repack work.

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<sup>1</sup> This request has been filed fewer than 90 days before WCFE’s current construction deadline. WCFE’s repack situation has been rapidly evolving since March 2020 due to winter building damage at the site, questions from the repack fund administrator and because of COVID-19 and other resource constraints; for all those reasons, WCFE was not able to file this request until now. WCFE thus respectfully requests a waiver of 47 C.F.R. § 3700(b)(5)(iv). WCFE has noted these issues in its recent repack progress reports and through informal contacts with FCC staff, so the FCC staff has been aware of WCFE’s circumstances.

<sup>2</sup> *Incentive Auction Closing and Channel Reassignment Public Notice: The Broadcast Television Incentive Auction Closes; Reverse Auction and Auction Results Announced; Final Television Band Channel Assignments Announced; Post-Auction Deadlines Announced*, Public Notice, 32 FCC Rcd 2786 (WTB & MB 2017).

<sup>3</sup> *See* LMS File No. 87629.

After being reassigned to Phase 10, WCFE updated its Form 399 and sought funds to improve the trail so that the repack work could occur in Spring/Summer 2020. However, in late February 2020, the reimbursement fund administrator questioned WCFE's main transmitter size, its building size and building plans for the new transmitter, its plans to improve the trail for better site access for repack purposes, and its rationale for not using helicopter access to the site for all repack-related work. WCFE attempted to work with the reimbursement fund administrator to resolve these matters and meet WCFE's repack obligations for the July 3 transition deadline and its permanent facilities. Those efforts, however, reached an impasse in early March when the fund administrators requested additional written documentation to justify WCFE's approach to its repack and WCFE sought assistance from its engineering consultant to respond to those questions. A world-wide pandemic (COVID-19) intervened, and WCFE was able to provide the requested information to the fund administrators during the first part of June 2020.

In the meantime, WCFE has been forced to find a way to transition to its new channel using an interim transmitter, which will require reduced power operation. The station is working very hard to transition to its new repack channel before the July 3, 2020 Phase 10 deadline with these interim facilities, but WCFE will not be able to install its permanent post-repack facilities until the fund administrator is satisfied with the site access plans for constructing the permanent, main facility and provides the necessary funds. While the fund administrators approved the main transmitter costs last week (on or about June 19<sup>th</sup>), the fund administrators have not yet approved the other necessary costs to complete the main transmitter project on the mountaintop.

For all these reasons, WCFE will not be able to complete buildout of its permanent post-repack facilities by the end of Phase 10 on July 3, 2020. Thus, WCFE respectfully requests that its construction permit for its post-repack facilities (LMS File No. 34025) be extended for 180 days, or until December 30, 2020. The requested extension of time will not impact the repack efforts of other stations because WCFE is not part of any linked station set. WCFE plans to cease operations on its pre-auction facilities and begin broadcasting on its post-auction channel prior to the end of the 39-month repack period..