

STATEMENT WITH RESPECT TO 'EXTRAORDINARY CIRCUMSTANCES'

RSS Media Marketing LLC (RSS) is the licensee of Digital Class A station WHIG, Rocky Mount, North Carolina. WHIG is a Phase 10 facility with a post-auction construction deadline of July 3, 2020. As required, WHIG will cease operating on its pre-auction channel (31) and begin operating on its post-auction channel (30) by the July 3 deadline. RSS is requesting this Special Temporary Authority because its operation on Channel 30 will temporarily be at variance with the technical parameters of its transition authorization. An application to extend the construction deadline was filed earlier today (LMS File No. 0000116800).

The supporting exhibit of that application includes an explanation of the extraordinary circumstances warranting temporary operation at variance from the construction authorization and the Commission's rules, the rules and policies from which temporary relief is sought, the nature of the public interest to be served thereby, the expected duration of the temporary operation, and the licensee's plan to restore normal operation. This exhibit is reproduced beginning on the next page.

EXHIBIT SUPPORTING EXTENSION OF CONSTRUCTION DEADLINE

RSS Media Marketing LLC (RSS) the licensee of Digital Class A station WHIG, Rocky Mount, North Carolina. WHIG is a Phase 10 facility with a post-auction construction deadline of July 3, 2020.¹ As required, WHIG will cease operating on its pre-auction channel (31) and begin operating on its post-auction channel (30) by the July 3 deadline. However, RSS is requesting an extension of its DCA construction deadline because its operation on Channel 30 will temporarily be at variance from the technical parameters of its transition authorization. A request for a technical STA is being filed contemporaneously herewith.

In our informal communications with the Media Bureau over the past few weeks, we have explained that ongoing effects of the Coronavirus pandemic have severely compromised WHIG's ability to finalize its transition – both in respect of the requirement to vacate Channel 31 and to activate operation on Channel 30. Although the Commission's transition framework bifurcates these two dimensions of the transition journey – in that stations which are unable to vacate their pre-auction channels by the deadline are expected to go dark – this is not an option for WHIG. Under the bizarre dynamics of the pandemic environment, virtually all aspects of WHIG's operations, planning, scheduling, projections, and broadcasting service have been seriously damaged. Advertisers have been lost, programming has been canceled, and staff have been reduced to a skeleton crew. The station's having to go dark if it were unable to vacate Channel 31 by July 3 might well be a development the station could not sustain. The ability to activate operation on Channel 30 simultaneously and preserve business continuity is imperative. Yet, pandemic-related delays in the arrival of new equipment needed for operation on Channel 30 appeared to make that continuity impossible to achieve.

Facing this dilemma, WHIG has made extraordinary efforts to meet both July 3 deadlines. As of this moment, this undertaking appears to have yielded a path forward. Among other variables, a used antenna and transmission line were located as well as a viable repurposed transmitter. Astonishingly, tower climbers have been assembled (where only last week they were not returning phone calls, in light of the resurgence of Covid-19 cases in the Rocky Mount area). The last piece of the puzzle is the expected arrival today of a used filter overnighted from Canada. Assuming this equipment functions properly when it is installed, WHIG anticipates activating Channel 30 today (July 1) or no later than tomorrow. This configuration will enable the station to generate a solid signal on its post-transition channel, though at variance from the exact parameters of the construction permit.

An additional challenge has been a weather incident. Severe lightning struck WHIG's transmitter tower on Saturday June 20. The lightning damaged equipment on the tower and in the transmitter building. The damage was severe, causing the station to be off the air for five days. The occurrence of electrical damage of the severity experienced on June 20 suggested that the tower might lack the protective grounding and other structural elements that recent versions of the ANSI/TIA-222 Standards prescribe.² (WHIG is not the owner of the tower.) This in turn caused us to review the most recent structural engineering report relating to the tower, which had been undertaken in 2009. The report stated that "portions of the tower's structural components are stressed beyond the limits of the TIA-222-C standard when subject to the loadings [considered]."

¹ The station originally was assigned to Phase 9. On March 17, 2020, the FCC released Public Notice, *Guidance for Stations in Phase 9 of the Post-Incentive Auction Transition as a Result of the Novel Coronavirus (Covid-19) Pandemic*, (DA 20-282) ("Pandemic PN"). In the *Pandemic PN*, the Media Bureau authorized the reassignment of Phase 9 stations to Phase 10 upon a showing that construction delays were caused by factors relating to the pandemic, which was the case for WHIG. The Bureau granted WHIG's request for a Legal STA on those grounds.

² TIA-222 is a design standard for communications towers that is recognized in most United States building codes. The standard provides specifications for the structural design of new antenna-supporting structures and modifications to such structures to prevent structural failure. The standard has not been incorporated in the Commission's regulations.

WHIG at this point is not certain of the extent of modifications to the tower structure that may be deemed necessary once it is thoroughly evaluated. It will require several weeks, at a minimum, to make that determination and, in concert with the tower owner, to determine a going-forward plan. It is likely that modifications will be necessary.

In the meantime, WHIG fortuitously has been able to rent temporary space on a different tower, approximately 260 yards away. The Channel 30 operation will transmit temporarily from that location.

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In the *Broadcast Transition Procedures Public Notice*³, the Commission recognized the virtue of a proposal like the one that RSS is presenting. “[I]n order to facilitate timely construction of new facilities and to minimize any time broadcasters may be off the air, reassigned stations . . . may request an STA to operate with temporary facilities while they complete construction of their post-auction channel facilities . . . To illustrate, examples of potential temporary facilities could include: a station operating on its assigned post-auction channel with parameters at variance from its post-auction construction permit.” *Id.* at ¶¶46-47.

The virtues and conditions cited in the foregoing passage support the instant request:

- ▶ The grant of Special Temporary Authority and the extension of WHIG’s construction permit deadline will resolve unforeseen circumstances that could otherwise force the station to go dark.
- ▶ The grant of Special Temporary Authority and the extension of the construction permit deadline will not affect the transition schedule. By July 3, the WHIG expects to have ceased transmitting on its pre-auction channel and to have begun operating on its post-auction channel.
- ▶ The grant of Special Temporary Authority and the extension of the construction permit deadline will not interfere with other stations’ transition efforts. There are no technical dependencies in play with respect to WHIG’s transition from Channel 31 to Channel 30.

The overriding public interest objective of the Commission’s post-auction transition proceedings as they relate to WHIG is that the station vacate its pre-auction channel and activate its post-auction channel by the deadline for Phase 10 facilities. A grant of this application will enable the realization of that objective. A denial of the waiver request, on the other hand, would require the station to go dark.⁴

In these circumstances, we respectfully ask that the Media Bureau grant this application.

³ *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-incentive Auction Broadcast Transition*, DA 17-106, released January 27, 2017 (*Broadcast Transition procedures Public Notice*).

⁴ This application for additional time to construct is not being filed within 90 days of the July 3 construction deadline. For this reason, we respectfully request a waiver of Section 73.3700(b)(5)(iv).