

JUSTIFICATION FOR EXTENSION OF SPECIAL TEMPORARY AUTHORITY

WGBH Educational Foundation (“WEF”), licensee of full power noncommercial educational television station WGBY-TV, Springfield, MA (Fac. ID 72096) (“WGBY”) hereby seeks an extension of its authority to operate using a power level in excess of that permitted by the Commission’s Rules to alleviate interference that WGBY’s viewers experienced as a result of WGBY’s transition from UHF channel 22 to VHF channel 13 as part of the post-Incentive Auction transition. Specifically, WEF requests a waiver of Section 73.622(f)(6)(ii) to allow WGBY continue operating at 62.4 kW ERP while its application for a minor modification to permanently increase WGBY-TV’s power remains pending.

On December 3, 2020, the FCC granted WEF’s request for special temporary authority to increase WGBY’s power. *See* File No. 0000121305. Since increasing power on May 11, 2021, WGBY has not received a single complaint about poor reception (whereas it typically receives several each month). This was not unexpected. As the Commission has stated, “VHF channels have certain characteristics that have posed challenges for their use in providing digital television service.”¹ In further explanation, the Commission said, “the propagation characteristics of these channels allow undesired signals and noise to be receivable at relatively farther distances, nearby electrical devices tends to emit noise in this band that can cause interference, and reception of VHF signals requires physically larger antennas ... relative to UHF channels.”²

In recognition of the challenges facing VHF stations (and to encourage stations to consider the UHF-to-VHF bid option), the FCC, in its Incentive Auction Report and Order, explained that it would “afford favorable consideration to post-incentive auction requests for waivers of the VHF power and height limits for winning UHF-to-VHF bidders that may be necessary to resolve coverage problems on their new channels.”³ As the Commission recognized, this is consistent with the Media Bureau’s approval of similar waivers following the DTV transition.⁴

The FCC may grant a waiver for good cause shown. The agency typically grants a waiver where the particular facts make strict compliance inconsistent with the public interest.⁵

Here, waiver of the operating levels for VHF stations operating in Zone I is “necessary to resolve coverage problems” on WGBY’s new channel and, therefore, is presumptively in the public interest. WEF’s mission statement calls for “enrich[ing] people’s lives through programs and services that educate, inspire, and entertain, fostering citizenship and culture, the joy of learning, and the power of

¹ *Matter of Innovation in the Broadcast Television Bands: Allocations, Channel Sharing and Improvements to VHF*, Notice of Proposed Rulemaking, 25 FCC Rcd. 16498 ¶ 42 (2010).

² *Id.*

³ *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd. 6567 ¶ 371 (2014), *aff’d*, *Nat’l Ass’n of Broadcasters v. FCC*, 789 F.3d 165 (D.C. Cir. 2015).

⁴ *Id.* (citing Letter from Barbara A. Kreisman, Chief, Video Division, Media Bureau, to ABC, Inc. and Freedom Broadcasting of New York Licensee, LLC (dated Mar. 16, 2011) (http://licensing.fcc.gov/cgi-bin/prod/cdbs/forms/prod/getimportletter_exh.cgi?import_letter_id=24963)).

⁵ *N.E. Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); 47 CFR § 1.3.

diverse perspectives.” WEF fulfills this mission, in part, by delivering rich content on its over-the-air broadcast stations. Like many noncommercial television stations, WGBY’s over-the-air viewing demographic includes young viewers and families, older viewers, and families with limited budgets.

As a result of its transition to a VHF channel, WGBY experienced a diminution in the reach of its over-the-air broadcast signal. Although WEF worked with viewers who experienced disruptions to ensure that they successfully rescanned their receivers and performed any necessary upgrades to their antennas, a significant number of viewers remained unable to receive WGBY’s content.

Given the importance of public television to educate and bring together members of the community, it is in the public interest to allow WGBY to continue operating at increased power while its application for a permanent power increase remains pending.