

Request for Waiver

New Age Media of Tennessee License, LLC (“New Age Media”), licensee of commercial Class A television station WPDP-LP, Cleveland, Tennessee (“WPDP”), hereby respectfully requests a waiver of Section §73.3598 of the rules of the Federal Communications Commission (the “FCC” or the “Commission”) to the extent necessary to allow tolling of the construction period for WPDP’s digital facilities (LMS File No. 0000001220). Grant of the requested waiver will benefit the public interest by ensuring a successful digital transition for WPDP and enabling the station to continue to serve the Cleveland, Tennessee market.

As part of the digital conversion, the Commission established September 1, 2015 as the date for all analog Class A television stations to transition to digital operation and to terminate analog operations.¹ The Commission also set September 1, 2015 as the construction deadline for all original construction permits for analog Class A stations to convert to digital. By public notice issued August 25, 2015, the Media Bureau announced that Class A television stations that did not expect to complete construction of their digital facilities by September 1, 2015 may submit a request for tolling, and that applications for extension of time would no longer be accepted.² Section §73.3598 of the Commission’s rules indicates that tolling of an original construction permit will be provided for a limited set of causes that are beyond the control of the licensee, specifically, natural disasters, legal proceedings, or international coordination issues.

Under the Commission’s rules, a waiver may be granted where “particular facts would make strict compliance with the rule inconsistent with the public interest” and “special circumstances warrant a deviation from the general rule.”³ In evaluating a request for waiver, the Commission should “take into account considerations of hardship, equity, or more effective implementation of overall policy.”⁴ In addition, the Commission should consider whether “application of the rule would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.”⁵

New Age Media is diligently working to install WPDP’s digital equipment and begin testing by the September 1, 2015 deadline. New Age Media has obtained the necessary digital equipment, arranged tower space for its new facilities, and planned for the equipment installation and transition. However, its digital equipment only was delivered on August 21, 2015. In anticipation that the equipment would arrive shortly before the digital conversion deadline, New Age Media did significant preparation work so that it could install the digital equipment as

¹ See *Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*, MB Docket No. 03-185, Second Report and Order, 26 FCC Rcd 10732 (2011).

² *Media Bureau Reminds Class A Stations of September 1, 2015 Digital Transition Date*, Public Notice, DA 15-957 (released Aug. 25, 2015); see also, 47 C.F.R. § 74.788(c) and § 73.3598(b).

³ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990), citing *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969).

⁴ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

⁵ 47 C.F.R. § 1.925(b)(3).

quickly as possible upon receipt and prior to the September 1, 2015 deadline, including inspecting the tower site, developing an installation plan, and preparing the analog equipment for removal. However, a couple of unforeseen, last minute issues that were beyond the control of New Age Media have caused delay that may prevent the station from completing its digital transition by the September 1 deadline.

In that regard, New Age Media discovered when it inspected the tower site on July 13, 2015, that the interior lighting and air conditioning systems were not functioning properly. The interior components of the digital equipment require temperature control to function properly, and lighting is needed for installation. New Age Media promptly requested Crown Castle, the tower owner, to address these issues. However, and despite its best efforts, when WPDP's engineer traveled to the tower location, which is a two hour drive from the station's main studio, to begin installation of the digital equipment on August 22, 2015 he discovered that the interior lights and air conditioning unit at the tower site were not functioning at all. A follow-up request to address the issues has been submitted to the tower owner, and WPDP has, to the best of its ability, procured back up equipment to provide the lighting and temperature controls necessary to ensure proper installation of the digital equipment. In addition to the tower site issues, the digital equipment was delivered without instructions or the proper adaptors, and procuring these items caused additional delay. The additional time required to address these issues may prevent New Age Media from timely completing its digital conversion.

New Age Media continues to work toward the September 1, 2015 deadline. However, and out of an abundance of caution, New Age Media submits this request in the event that additional time is needed to complete its digital conversion. Regardless of whether this request is granted, New Age will terminate analog operations on September 1, 2015 as required by section 74.731(1) of the Commission's rules.