Request for Waiver of Deadline to Discontinue Operations on Pre-Auction Channel and Commence Shared Channel Operations

NBC Telemundo License LLC ("Licensee") is the licensee of full-power television station WWSI, Atlantic City, New Jersey (FIN 23142) ("Station"). As a result of a winning reverse auction bid for the Station in the Incentive Auction, Licensee will relinquish its spectrum usage rights on the Station's current channel and the Station will channel share with commonly owned full-power television station WCAU, Philadelphia, Pennsylvania (FIN 63153) ("Sharer Station").[1]

Due to timing conflicts between the current deadline for the Station to discontinue operations on its pre-auction channel and the upcoming 2018 PyeongChang Winter Olympic Games, which will be broadcast on the Station and the Sharer Station, the Licensee hereby respectfully requests that the FCC extend the deadline, for 90 days, for the Station to discontinue operations on its current channel and implement shared channel operations. The requested extension will enable the Licensee to mitigate the risk of any disruption of service to over-the-air viewers of the Station during the Olympic Games as well as facilitate plans for the broadcast of the Olympic Games and ultimately the transition to shared channel operations. As will be demonstrated below, grant of this waiver request is warranted.

Pursuant to the FCC's incentive auction channel sharing rules, a channel sharee station must implement shared channel operations and a sharee station must discontinue operations on its pre-auction channel within 180 days after the sharee receives its share of auction proceeds.[2] In recognition that some stations may encounter difficulties meeting this deadline, the FCC permits a sharee station to request an additional 90 days to discontinue operations and commence shared operating by requesting a waiver pursuant to Section 1.3 of the FCC's rules.[3] The FCC stated that it would view such requests "favorably."[4]

A channel sharee station must also comply with viewer and MVPD notice requirements by airing viewer notices for 30 days prior to terminating operations on its pre-auction channel,

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[1] See *Incentive Auction Closing and Channel Reassignment Public Notice: The Broadcast Television Incentive Auction Closes; Reverse Auction and Forward Auction Results Announced; Final Television Band Channel Assignments Announced; Post-Auction Deadlines Announced*, Public Notice, 32 RCD 2786 (MB & WTB, 2017).

[2] 47 CFR §§ 73.3700(b)(1)(vii) and (b)(4)(ii). *See also Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Broadcast Transition*, Public Notice, 32 FCC Rcd 858, 878-89, paras. 63-66 (MB 2017); *Incentive auction Task Force and Media and Wireless Telecommunications Bureaus Announce the commission is Ready to Pay Reverse Auction Winning Bids*, Public Notice, DA 17-702 (MB & WTB, rel. Jul. 20, 2017) (for purposes of calculating post-auction deadlines a relinquishment bidder is considered to have received its incentive payment five (5) business days after the release date of this Public Notice).

[3] 47 CFR § 1.3.

[4] *See Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567, 6803, para. 578 (2014), *aff'd, Nat'l Assoc. of Broadcasters, et al v. FCC*, 789 F.3d 165 (D.C. Cir. 2015) (*Incentive Auction R&O*); Second Order on Reconsideration, 30 FCC Rcd 12016, 12020, para. 11 (2015) (*Third Reconsideration*); *see also* 47 CFR § 1.3.

and sending letters to affected MVPDs not less than 30 days prior to terminating operations and not less than 30 days prior to initiation of shared channel operations.[5]

Absent a grant of the instant waiver request, the Station would be required to discontinue operations on its pre-auction channel by January 23, 2018 and provide notice to viewers, starting at least December 24, 2017, for 30 days (and also provide notice to MVPDs). Over-the-air viewers of the Station will need to rescan their receivers in order to continue viewing the Station on its new shared channel.

The 2018 PyeongChang Winter Olympic Games will be exclusively broadcast on the NBC (and commonly owned Telemundo) Networks in the United States, including on the Station and the Sharer Station. The Games will commence in February 2018 in PyeongChang, South Korea, with competition starting February 8 and running through February 25. Significant planning and operational activities will take place in the time period prior to the Games.

One aspect of NBC's planning for all Olympic Games televised on the NBC and Telemundo Networks, including the upcoming Winter Olympic Games, involves instituting lockdown procedures, the purpose of which is to minimize, as much as possible, disruption of service to the public during the Olympic Games. A "soft" lockdown at the stations will be implemented four weeks prior to the first air date and a "hard" lockdown will be implemented two weeks prior to the first air date. Once the "soft" lockdown is in place, non-essential engineering builds, IT and facilities projects are restricted. During the "hard" lockdown period, all engineering builds, IT and facilities projects are on hold, except for emergency repairs and maintenance.

The January 23, 2018 deadline to discontinue operations on the Station's pre-auction channel and begin channel shared operations directly conflicts with this challenging period immediately prior to the Games. In order to ensure that (1) there is a smooth transition of the Station to shared channel operations, (2) preparations for the broadcast of the Winter Olympic Games are not impeded, (3) viewer confusion is minimized, and (4) over-the-air service to viewers is not interrupted, an extension of the deadline is needed.

A grant of the instant waiver request will not adversely affect the Commission's post-auction transition timeline. The shared channel operations will utilize existing facilities and thus will not divert resources otherwise needed for the post-auction transition. Further, since the testing period for transition phase 1 repacked stations does not begin until September 14, 2018, a 90 day extension of the deadline for the Station to cease operations on its pre-auction channel and implement shared channel operations will not affect other stations' transition schedules. For these reasons, there is good cause for the FCC to grant the instant request for waiver of the deadline for the Station to discontinue operations on its pre-auction channel and commence shared operations.

[5] 47 CFR §§ 73.3700(c)(1) and 47.3700(d)(1)(i)-(iii).