

Second Request for Waivers of Deadlines to Discontinue Operations on Pre-Auction Channel and File Construction Permit Application to Channel Share

ZGS Providence, Inc. (“ZGS”) hereby respectfully requests the FCC to further extend the deadline, for 90 days, for Class A television station WRIW-CD, Providence, Rhode Island (FIN 70184) (“Station”), to discontinue operations on its current channel and implement shared channel operations.

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.¹ A sharee station also must file an application for a construction permit to channel share no later than 60 days prior to its deadline for discontinuing operations on its pre-auction channel.² This application must specify the same technical facilities as the sharer station and include a copy of the channel sharing agreement.³

In recognition that some stations may encounter difficulties meeting these deadlines, 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.⁴ The FCC stated that it would view such requests “most favorably.”⁵ Further, a sharee station may request an additional 90 days and the FCC stated that it would view the additional requests “favorably as well so long as [the FCC] determine[s] that grant of the extension will not delay the post-auction transaction.”⁶ The FCC also permits a sharee station to request an extension of the deadline to file construction permit applications to channel share by requesting a waiver pursuant to Section 1.3 of the FCC’s rules.⁷ A sharee station must file a construction permit application to channel share at least 60 days prior to the date by which it must terminate operations on its pre-auction channel.⁸

¹ 47 CFR §§ 73.3700(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) (“Procedures Public Notice”); *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).

² 47 CFR § 73.3700(b)(1)(vii).

³ *Id.*

⁴ 47 CFR § 1.3.

⁵ *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.

⁶ *Id.*

⁷ Procedures Public Notice, 32 FCC Rcd 879, para. 66.

⁸ 47 CFR § 73.3700(b)(1)(vii).

On October 20, 2017, ZGS filed a request for waivers of the channel sharing application filing deadline and the deadline to implement shared channel operations and discontinue operations on its pre-auction channel for the Station, which was amended on October 30, 2017 (LMS File No. 0000033993) (“First Waiver Request”). By letter dated November 1, 2017, the FCC granted the First Waiver Request and extended the channel sharing application filing deadline for the Station to February 22, 2018, and the deadline for the Station to implement shared channel operations and discontinue operations on its pre-auction channel to April 23, 2018.

As explained in the First Waiver Request, ZGS will relinquish its spectrum usage rights on the Station’s current channel as a result of a winning reverse auction bid for the Station in the Incentive Auction.⁹ In addition, ZGS is a party to a multi-station transaction involving the Station. *See e.g.*, FCC File No. BALCDT-20171204ACV (granted January 16, 2018) and FCC File No. BAL-20171219AEC (pending).

ZGS is currently working on a channel sharing agreement with the licensee of a sharer (host) station. Once the parties complete their negotiations and the channel sharing agreement is executed, ZGS plans to file a construction permit application for the Station to channel share.

As the parties have not yet completed their negotiations, ZGS respectfully requests the FCC to grant the instant second request for waivers and extend the deadline for the Station to discontinue operations on its current channel and implement shared channel operations for an additional 90 days to July 23, 2018. ZGS also requests the FCC to extend the deadline for the Station to file its construction permit application to channel share to May 22, 2018. Grant of the waivers will serve the public interest by facilitating the implementation of the contemplated shared channel operations. In addition, a grant of the instant waiver requests will not adversely affect the Commission’s post-auction transition timeline because the testing period for Phase 1 of the repack does not begin until September 14, 2018. Thus, granting the requested waivers will not affect other stations’ transition schedules.

⁹ 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).