

## Justification for Extension of Construction Permit and Waiver Request

Wilderness Communications, LLC (“Licensee”), licensee of Station KLWB(TV), News Iberia, LA, Fac. ID 82476 (“Station”), hereby submits this request for Extension of Construction Permit (Schedule 2100, FCC Form 337) and requests a waiver of the deadline for seeking an extension of its post-Incentive Auction facilities construction permit, File No. 0000034171 (the “Channel 17 CP”).

### CP Extension Request:

Licensee of Station, was repacked to Channel 14 in the Incentive Auction in the *Incentive Auction Closing and Channel Reassignment Public Notice* (“CCRPN”, DA 17-317, released April 13, 2017) and scheduled for transition in Phase I (9/14-18-11/30/18). Licensee’s Channel 14 CP issued on June 30, 2017 (File No 0000025239). In the second filing window<sup>1</sup>, Licensee filed to change its post-Incentive Auction channel from Channel 14 to Channel 17 (File No. 0000034171) due to issues related to Channel 14 being first-adjacent to Land Mobile operations in the adjacent spectrum (460-470 MHz) and the fact that there is no guard band between Land Mobile spectrum and television Channel 14. The Channel 17 CP was not granted until March 30, 2018.

Licensee moved promptly to submit orders for all of the equipment, including a new transmitter and antenna, required to implement the Channel 17 CP by mid-to late April. Licensee scheduled a tower crew to rig the tower, remove and lower the existing Channel 50 antenna, remove nearly 1100 feet of waveguide from the tower and ice bridge and install the new Channel 17 antenna and new transmission line. Licensee was given a tentative arrival date of November 5, 2018. Licensee was recently advised by the tower company (after Hurricane Michael) that as a result of weather events in Texas (major flooding) and Florida (Hurricane Michael among others) and other pre-scheduled installations, that the new arrival date for the tower crew is November 19<sup>th</sup>. As the FCC is aware, there are only a few tower climbing companies (perhaps 9) able to do the tall tower work that is required to implement the Station’s Channel 17 CP. Given the geographical location of the Station, Phase I transition window timed with hurricane season, and the scarcity of tower crews able to do the necessary work on tall towers, the timing delays are beyond Licensee’s control.

In addition, Licensee has been advised by Hitachi Comark, manufacturer of Licensee’s new transmitter, that production and delivery of the transmitter is backed up due, in part, to backups by Dielectric Communications (which makes the required RF filter). At this time, Hitachi Comark has indicated that the transmitter will not be delivered until the week of the 19<sup>th</sup> of November.

Further, Licensee was advised at the time it submitted the order for its new antenna that it would be at least 4 months before delivery could be made. While the antenna is now ready, due to the size and weight of the high power UHF TV and the need to ensure that the antenna is not

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<sup>1</sup> Public Notice “*Incentive Auction Task Force and Media Bureau Announce the Opening of the Second Filing Window for Eligible Full Power and Class A Television Station—October 3 Through November 2, 2017*” DA 17-911, released September 20, 2017.

damaged in the off-loading process, Licensee is endeavoring to coordinate timing of the antenna delivery with the new arrival date of the tower crew.

Licensee has sent letters to all medical facilities and MVPDs. On-air notifications are running on the Station as well as Licensee's other television station and the radio stations of its sister company. Posts are up on the website of the Station the websites of the sister company stations. However, to date, such notifications have specified a November 30, 2018 transition. Licensee understands that it will need to re-run notifications with its new transition date.

In light of the foregoing equipment delivery and tower crew delays, Licensee cannot ensure that it will complete implementation by November 30, 2018. Licensee plans to take the Station off the air on Channel 50 when the tower crew arrives to begin work. Licensee will air its programming on an HD channel of a sister station until the transition is completed. Licensee will file a silent notice when operation on Channel 50 ceases and, if necessary, file a request for silent STA. Licensee respectfully requests tolling or an extension of its Channel 17 Repack CP while it diligently works to complete installation.

#### Waiver of CP Extension Filing Deadline:

The Commission's Rules specify that a CP extension request was to have been filed not less than ninety (90) days prior to the Channel 17 CP's expiration date. 47 CFR § 73.3700(b)(5)(iv). However, Licensee in good faith thought that it might be able to complete construction and transition to its new channel and has been diligently working toward the transition date. Licensee has pushed for prompt delivery of equipment and to schedule the tower company to rig the tower and remove the old antenna and handle the new one. The equipment manufacturing delays are totally beyond Licensee's control as are the tower crew delays. Tower crew delays have been exacerbated by major weather events in recent months. Licensee cannot control weather events that could further delay the tower crew. If the "stars" align properly, there is still a small chance that Licensee could meet the current CP deadline but to be safe it respectfully requests and extension of the Channel 17 CP.

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. *N.E. Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); 47 CFR § 1.3. As demonstrated herein, unforeseeable circumstances precluded Licensee the ability to seek an extension in a timely fashion. Waiver of the deadline for extension of construction permit is in the public interest as it will allow the Commission to grant the requested Extension of a Construction Permit, which comports with the intent of the Commission to allow each repacked station a single extension of time where the delay is caused by circumstances beyond the Licensee's control and where the extension will not delay or disrupt the overall transition. Therefore, good cause exists and this waiver should be granted.