



Federal Communications Commission
Washington, D.C. 20554

September 17, 2019

NPG of Idaho
825 Edmond Street
St. Joseph, MO 64501

Re: Request for Waiver of
Post-Incentive Auction
Consumer Education Requirements
K49NG-D, Fish Creek, Etc., ID
Facility ID No. 66257
LMS File No. 0000078712

Dear Licensee,

On July 26, 2019, NPG of Idaho, Inc. (NPG) submitted the above-referenced request for waiver for K49ND-D, Fish Creek, Etc., Idaho (Station), of the post-incentive auction consumer education requirements.¹ For the reasons set forth below, we grant NPG's request for waiver.

Background. Pursuant to section 73.3700(c)(3) of the Commission's rules (Rules), repacked stations must air sixty (60) seconds per day of on-air crawls or public service announcements (PSAs) beginning 30-days prior to discontinuing operations on their pre-auction channel.² The Media Bureau has stated that to the extent a station is not able to comply with its consumer education requirements, it must file a request for waiver. All waiver requests will be evaluated on a case-by-case basis in accordance with the Commission waiver standard and must include the following information: (1) an explanation describing why the station is unable to comply with the existing consumer education requirements; (2) an alternative but comparable means the station will use to notify viewers of the station's new channel; and (3) why grant of the waiver request complies with the Commission's general waiver standard.³ A waiver is appropriate where the particular facts would make strict compliance inconsistent with the public interest and deviation from the general rule would relieve hardship, promote equity, or produce a more effective implementation of overall policy on an individual basis.⁴

In the *Closing and Channel Reassignment Public Notice*,⁵ the Station was assigned to transition phase 7, which has a testing period start date of October 19, 2019, and has a phase completion date of

¹ 47 CFR § 73.3700(c)(3).

² *Id.*

³ *Incentive Auction Task Force and Media Bureau Remind Repacked Stations of Certain Post-Auction Transition Requirements and Deadlines*, Public Notice, 33 FCC Rcd 8240, 8245, para. 15, n.41 (IATF & MB 2018).

⁴ See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1072 (1972); 47 CFR § 1.3 (waiver for good cause shown). *Incentive Auction Task Force and Media Bureau Remind Repacked Stations of Certain Post-Auction Transition Requirements and Deadlines*, Public Notice, 33 FCC Rcd 8240, 8245, para. 15, n.41 (IATF & MB 2018).

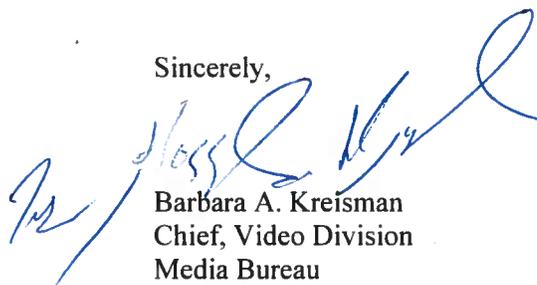
⁵ See *Incentive Auction Closing and Channel Reassignment Public Notice: The Broadcast Television Incentive Auction Closes; Reverse Auction and Forward Auction Results Announced; Final Television Band Channel Assignments Announced; Post-Auction Deadlines Announced*, Public Notice, 32 FCC Rcd 2786 (MB & WTB 2017) (*Closing and Channel Reassignment Public Notice*).

January 17, 2020. NPG has filed a request for waiver explaining that on June 6, 2019, the Station went silent as the result of damage to its pre-auction channel facility caused by a lightning strike. Instead of repairing its pre-auction channel equipment, the Station will remain silent and NPG will focus on meeting its Phase 7 deadline and resuming operation on its post-auction channel by January 17, 2020. Therefore, the Station will be unable to air the required on-air consumer notifications required by section 73.3700(c)(3). Instead NPG requests a waiver of the viewer notification rule and has proposed to undertake alternative means of notifying its viewers of its channel change. Specifically, NPG proposes to provide notification of its channel change to viewers and consumers through: (i) its website, and (2) other in market low power and full power television stations, including KIFI-TV, Idaho Falls, ID; KXPI-LD, Pocatello, ID; and KIDK, Idaho Falls, ID. NPG will provide, in the aggregate, at least as much on-air consumer education across these other broadcast stations as it would have been required to provide on K49ND-D and will commence providing these notices at least 30 days prior to the Station's transition.

Discussion. Upon review of the facts and circumstances presented, we find that grant of NPG's request meets the standard for a waiver and is in the public interest. We believe that NPG has every incentive to ensure viewers are fully informed about the Station's transition plan. Given the facts and circumstances, including the alternative efforts NPG plans to undertake to ensure its viewers are notified of the Station's channel change, we grant NPG's waiver request.

Accordingly, NPG's request for waiver of the post-incentive auction consumer education requirements, 47 CFR § 73.3700(c)(3), for K49ND-D, Fish Creek, Etc., Idaho, **IS GRANTED**, condition upon the commitments made in its waiver request.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Barbara A. Kreisman', is written over the typed name and title.

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc:
Stephen Hartzell, Esq.