

**JUSTIFICATION FOR SPECIAL TEMPORARY AUTHORITY**

WGBH Educational Foundation (“WEF”), licensee of full power noncommercial educational television station WGBY-TV, Springfield, MA (Fac. ID 72096) (“WGBY”) hereby seeks authority to operate using a power level in excess of that permitted by the Commission’s Rules to alleviate interference that WGBY’s viewers are experiencing as a result of WGBY’s transition from UHF channel 22 to VHF channel 13 as part of the post-Incentive Auction transition. Specifically, WEF requests a waiver of Section 73.622(f)(6)(ii) to allow WGBY to increase its power to 62.4 kW ERP.

The FCC long has recognized the problems with DTV broadcast operations in the VHF part of the RF spectrum. As the Commission has stated, “VHF channels have certain characteristics that have posed challenges for their use in providing digital television service.”<sup>1</sup> In further explanation, the Commission said, “the propagation characteristics of these channels allow undesired signals and noise to be receivable at relatively farther distances, nearby electrical devices tends to emit noise in this band that can cause interference, and reception of VHF signals requires physically larger antennas ... relative to UHF channels.”<sup>2</sup>

In recognition of the challenges facing VHF stations (and to encourage stations to consider the UHF-to-VHF bid option), the FCC, in its Incentive Auction Report and Order, explained that it would “afford favorable consideration to post-incentive auction requests for waivers of the VHF power and height limits for winning UHF-to-VHF bidders that may be necessary to resolve coverage problems on their new channels.”<sup>3</sup> As the Commission recognized, this is consistent with the Media Bureau’s approval of similar waivers following the DTV transition.<sup>4</sup>

WEF submitted a successful bid in the Incentive Auction to move from a channel in the UHF band to a channel in the VHF band. On August 2, 2019, WGBY completed its transition from RF Channel 22 to RF Channel 13.<sup>5</sup> Almost immediately, WEF began receiving complaints from viewers who no longer were able to receive WGBY’s educational and informational programming over-the-air. Attached hereto is a log of the names and addresses of more than 50 viewers who have submitted complaints to date.

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<sup>1</sup> *Matter of Innovation in the Broadcast Television Bands: Allocations, Channel Sharing and Improvements to VHF*, Notice of Proposed Rulemaking, 25 FCC Rcd. 16498 ¶ 42 (2010).

<sup>2</sup> *Id.*

<sup>3</sup> *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd. 6567 ¶ 371 (2014), *aff’d*, *Nat’l Ass’n of Broadcasters v. FCC*, 789 F.3d 165 (D.C. Cir. 2015).

<sup>4</sup> *Id.* (citing Letter from Barbara A. Kreisman, Chief, Video Division, Media Bureau, to ABC, Inc. and Freedom Broadcasting of New York Licensee, LLC (dated Mar. 16, 2011) ([http://licensing.fcc.gov/cgi-bin/prod/cdbs/forms/prod/getimportletter\\_exh.cgi?import\\_letter\\_id=24963](http://licensing.fcc.gov/cgi-bin/prod/cdbs/forms/prod/getimportletter_exh.cgi?import_letter_id=24963))).

<sup>5</sup> See FCC File No. 0000079844.

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.<sup>6</sup>

Here, waiver of the operating levels for VHF stations operating in Zone I is “necessary to resolve coverage problems” on WGBY’s new channel and, therefore, is presumptively in the public interest. WEF’s mission statement calls for “enrich[ing] people’s lives through programs and services that educate, inspire, and entertain, fostering citizenship and culture, the joy of learning, and the power of diverse perspectives.” WEF fulfills this mission, in part, by delivering rich content on its over-the-air broadcast stations. Like many noncommercial television stations, WGBY’s over-the-air viewing demographic includes young viewers and families, older viewers, and families with limited budgets.

As a result of its transition to a VHF channel, WGBY has experienced a diminution in the reach of its over-the-air broadcast signal. Although WEF has worked with viewers who have experienced disruptions to ensure that they have successfully rescanned their receivers and performed any necessary upgrades to their antennas, a significant number of viewers remain unable to receive WGBY’s content.

Given the importance of public television to educate and bring together members of the community, it is in the public interest to allow WEF to take all reasonable steps necessary to restore service to WGBY’s viewers. The instant request will allow WEF to determine whether increasing WGBY’s power will resolve the reception issues created by WGBY’s transition to a VHF channel.

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<sup>6</sup> *N.E. Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); 47 CFR § 1.3.