

Explanatory Exhibit for CP Extension Request and Justification for Waiver of March 15 Deadline for Filing CP Extension Requests

Hearst Properties Inc. (“Permittee”), licensee of analog translator W27BL and holder of the digital flash-cut construction permit for W27BL-D (LMS File No. [0000145086](#)) (the “CP”), respectfully requests a six month extension of time to construct the facilities authorized by the CP, up to and including January 13, 2022. The CP was granted on June 8, 2021, which makes it impractical—if not impossible—to complete construction of the digital facility by the July 13, 2021, deadline.¹ The Permittee is filing this extension (and concomitant waiver) request pursuant to the Public Notices requiring the filing of such extension requests by March 15, 2021.²

For context and background, it is important to understand that W27BL rebroadcasts co-owned full-power television station WMUR-TV, Manchester, NH, which is an ABC affiliate that produces and airs some 35 hours of live local news per week. Berlin is in the so-called “North Country” of New Hampshire in the northern-most county (Coos County) of the state, and it has been described as “the northernmost city in New Hampshire.”³ Additionally, based on a search of LMS, W27BL appears to be the only television service (full power or low power) licensed to Berlin, NH.

The Permittee didn’t file its digital flash-cut application until May 2021 because it was only at that time that a plan was conceptualized to convert the facility to digital operations; prior to that time, the Permittee was expecting to turn in the existing analog license and terminate operations in the Berlin, NH, area and rely on existing MVPD distribution of WMUR-TV to serve viewers in that area. Unfortunately, unfavorable intervening developments occurred in late 2020 with respect to MVPD carriage that caused Permittee to evolve its plans for the Berlin translator, ultimately resulting in the filing of the digital flash-cut application. Because of the shift in plans for the translator, the CP application was only filed in May 2021 and granted in June, and the Permittee has not yet ordered the equipment (including a transmitter) for the digital facility. As of this filing, it is unclear when orders for equipment might be filled and delivered. Add to the mix the geographic location of the transmitter site (northern New Hampshire), and it is not difficult to imagine that circumstances might unfavorably align in a manner that will prevent construction even by a January 2022 (extended) deadline. Realistically, Permittee reasonably believes that the digital flash-cut will occur sometime during first quarter 2022. As such, the Permittee wishes to

¹ The Permittee understands that W27BL’s analog operations must terminate on or before July 13, 2021, and we will file a separate request for silent STA to cover the period between the analog shutdown and the construction and commencement of operation of the digital facility.

² *Media Bureau Reminds Low Power Television and Television Translator Stations of July 13, 2021 Digital Transition Date*, Public Notice, 35 FCC Rcd 6977 (MB 2020); *see also Media Bureau Reminds Low Power Television and Television Translator Stations of July 13, 2021, Digital Transition Date*, Public Notice, DA 21-260 (rel. Mar. 4, 2021) (modifying filing deadline to March 15, 2021, pursuant to Rule Section 1.4) (collectively, the “CP Extension PNs”).

³ ECONOMIC & LABOR MARKET INFORMATION BUREAU, NH EMPLOYMENT SECURITY, (January 2021) at p.3, available at <https://www.nhes.nh.gov/elmi/products/cp/profiles-pdf/berlin.pdf>.

alert the Commission Staff at this early juncture that it may seek to file a tolling waiver request in an effort to further extend the CP, but we will cross that bridge if and when it becomes necessary to do so.

As noted above in the first paragraph, we are aware that the Permittee was expected by the CP Extension PNs to file its extension request by March 15. Consequently, the Permittee seeks, pursuant to Section 1.3 of the Commission's Rules,⁴ waiver of the March 15, 2021, filing CP extension filing deadline.

Pursuant to the Commission's waiver standard, the applicant must show "good cause" for granting this request.⁵ Further, the

Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *See Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *See WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166. Waiver of the Commission's rules is appropriate only if both (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest. *See id.*⁶

Consistent with these standards and in support of its waiver request, Permittee avers that the July 13, 2021, deadline for termination of analog operations—which is a unique, one-time event that will not recur—combined with the late-2020 changes in MVPD carriage (which caused Permittee to reconsider its original plan for W27BL) together constitute "special circumstances [that] warrant a deviation" from strict adherence to the March 15, 2021, CP extension filing deadline. Moreover, the deviation will serve the public interest because it will allow Permittee to make a filing that merely requests extension of a digital flash-cut CP to provide more time for construction of a facility that provides the only television service licensed to the northern-most city in New Hampshire and creates no interference issues.

For the reasons set forth above, we respectfully request an extension for fulfillment of the CP to January 13, 2022, and a waiver of the March 15, 2021, filing deadline.

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⁴ 47 C.F.R. § 1.3.

⁵ *See* 47 C.F.R. § 1.3. *See also, e.g., Broadcast Transition Procedures Public Notice*, 32 FCC Rcd 858, n.36.

⁶ *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd 858, n.36.