

**REQUEST FOR WAIVER**

Pursuant to Section 1.3 of the Commission's Rules,<sup>1</sup> Nassau Broadcasting III, L.L.C. ("Nassau"), hereby requests a waiver of the 90-day deadline for filing its minor change construction permit applications to effectuate the changes in the FM Table of Allotments adopted by the Commission in its Report and Order dated June 2, 2006 ("Order")<sup>2</sup> as a result of an oversight in a contested matter.

In the Order, the Commission amended the FM Table of Allotments to change the community of license for stations WWEG(FM), Facility ID 39806, from Hagerstown to Myersville, Maryland (the "Station"), licensed to Nassau. To effectuate the change, Nassau was instructed to file minor change construction permit applications on FCC Form 301 specifying the new community of license for the Station (the "Application") within 90 days of the effective date of the Order, which was June 21, 2006.<sup>3</sup> Accordingly, the Applications would ordinarily have been due to be filed with the Commission no later than September 19, 2006.

The Rulemaking proceeding which terminated with the Order, was a contested proceeding. Nassau expended significant resources during the rulemaking to ensure that it would be able to provide service to Myersville, Maryland. Notwithstanding the objections, the Commission determined that Nassau's proposed arrangement for the FM Table of Allotments was in the public

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<sup>1</sup> 47 C.F.R. § 1.3.

<sup>2</sup> Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Hagerstown and Myersville, Maryland), 21 FCC Rcd. 5829 (2006).

<sup>3</sup> The effective date of the Order is determined by its publication in the Federal Register. The Order was published in the Federal Register on June 21, 2006. 71 Fed. Reg. 35,556 (June 21, 2006).

interest. It is Nassau's intent to complete the change in community of license for its Station adopted by the Commission in the Order.

Although Nassau participated in the rulemaking, Nassau itself was never served and did not receive a copy of the Order, so Nassau did not become aware of the approval of the change in community of license until after the passage of the filing date.

A waiver is appropriate because it will allow Nassau to provide a first local aural transmission service at Myersville, Maryland, a transmission service that the Commission has already determined serves the public interest.<sup>4</sup> Nassau's delay in filing its Applications resulted from an inadvertent oversight. This oversight will not cause harm to any other applicants because no other applicant may file an application for a station on the channel allocated for Nassau's Station. Furthermore, the new allocation for the Station cannot be changed without a new rulemaking proceeding to change the FM Table of Allotments so that the Station may continue to operate on its currently authorized channel and community of license. Such a rulemaking could be avoided by the granting of a waiver to Nassau in order to late-file the Application.

Any provision of the Commission's rules may be waived by the Commission if "good cause" is shown.<sup>5</sup> The Commission must review waiver requests with a "hard look" and grant such requests when the waiver is in the public interest and does not compromise the policy objectives of the underlying rules.<sup>6</sup> In the instant case, the Commission has good cause to grant a waiver, and

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<sup>4</sup> Order, ¶ 6.

<sup>5</sup> 47 C.F.R. § 1.3.

<sup>6</sup> TVX Broadcast Group, Inc. et. al 2 FCC Rcd 1534 (1987); Act III Broadcasting License, Corp., 10 FCC Rcd 12175 (1995).

such a waiver is in the public interest, because a waiver will allow Nassau to continue prosecuting the change to the community of license for the Station granted by the Commission in the Order and which the Commission has, by definition, determined to serve the public interest. Nassau is the licensee of the Station and a delay in the filing of the Application will not cause an inconvenience to another applicant. In the Order, the Commission adopted Nassau's proposed change to the FM Table of Allotments because a new first local aural transmission service would be added to Myersville, Maryland.<sup>7</sup> The grant of a waiver will allow Nassau to file the Application required for the Station to effectuate the change to the community of license for Nassau's Station that was granted in the Order.

Therefore, good cause is shown for this request and Nassau respectfully requests the Commission grant its Request for Waiver of the filing deadline for filing the Application.

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<sup>7</sup> Order, ¶ 6.