



Federal Communications Commission
Washington, D.C. 20554

November 14, 2017

NRJ TV Boston License Co, LLC
722 S. Denton Tap Road
Suite 130
Coppell, TX 75019

Re: Request for Waiver of Deadline to
Implement Shared Channel Operations
WMFP, Lawrence, MA
Facility ID No. 41436
LMS File No. 0000034064

Dear Licensee,

On October 23, 2017, NRJ TV Boston License Co, LLC (NRJ), submitted the above-captioned request for waiver for television station WMFP, Lawrence, Massachusetts (Station) of the January 23, 2018, deadline for incentive auction winning channel sharing stations to implement shared channel operations and discontinue operations on their pre-auction channels (channel sharing implementation deadline).¹ For the reasons set forth below, we grant the request for waiver and extend the channel sharing implementation deadline to April 23, 2018.

Background. The Commission instructed that channel sharing stations² must implement shared channel operations, and a sharee station must discontinue operations on its pre-auction channel by January 23, 2018.³ A channel sharee may request an additional 90 days to discontinue operations on its

¹ 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, 2813, para. 76 (MB & WTB 2017) (*Closing and Channel Reassignment Public Notice*); see also *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition*, Public Notice, 32 FCC Rcd 858, 879, para. 63 (IATF & MB 2017) (*Broadcast Transition Procedures Public Notice*); 47 CFR §§ 73.3700(b)(3), 73.3700(b)(4)(ii).

² Absent any contrary information from the station, any station that indicated it had a pre-auction channel sharing agreement (CSA) and/or an intent to channel share on its reverse auction FCC Form 177 is considered a channel sharee station until the station fails to meet or requests a waiver of the channel sharing application filing deadline.

³ See *Closing and Channel Reassignment Public Notice*, 32 FCC Rcd at 2813, para. 76; *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 879, para. 63; 47 CFR §§ 73.3700(b)(3), 73.3700(b)(4)(ii). As noted previously, some of the post incentive auction transition-related deadlines set forth in the Commission's rules are referred to in months. For the sake of clarity and to provide greater ease of calculation, the Media Bureau refers to such deadlines in days. For example, a "6-month" deadline is referred to as a "180-day" deadline. See *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 860 n.18.

pre-auction channel and commence shared operations by requesting a waiver pursuant to Section 1.3 of the Commission's rules.⁴

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.⁵ All such requests for waiver of the deadline to commence shared operations will be evaluated to determine whether grant will delay or disrupt the post-auction transition schedule.⁶

In support of its waiver request, NRJ notes that Station was a winning reverse auction bidder in the incentive auction and has been granted an application for shared operations with WWDP(TV), Norwell, Massachusetts. NRJ states that it is seeking to obtain the highest-possible quality encoders and then configure those encoders as optimally as possible. NRJ represents that these efforts have been complicated—for reasons outside of the licensee's control—by the pending assignment of WWDP(TV). NRJ states that it has entered into an amended and restated channel sharing agreement with the assignee of WWDP(TV) that will become effective upon consummation of the WWDP(TV) assignment. Because the implementation of the amended and restated channel sharing agreement could require a reconfiguration of the shared channel, NRJ maintains that delaying implementation will allow it to provide better service to the public and reduce the number of rescans required. NRJ also notes that it is in the process of implementing changes that result from moving the Station's studio from the far north side of Boston to the extreme south, which requires establishing new telecommunications links from third party providers; planning, obtaining approval for, and installing satellite reception equipment for the new location; and hiring and training qualified staff to replace existing staff members who cannot transition to the new location. NRJ states that these efforts are directed by two NRJ corporate employees who are also responsible for the implementation of five other channel sharing arrangements and the reassignment of five stations in the post-auction transition—including three in Phase 2. Although it is working diligently to complete its transition to the shared channel, NRJ maintains that it cannot do so prior to January 23, 2018 without causing disruption for the Station and potentially jeopardizing the timeline for transition-related activities on commonly-owned stations.

NRJ argues that grant of the waiver is in the public interest. NRJ submits that waiver will facilitate the Station's ability to channel share successfully and without disruption, which, NRJ argues will promote the Commission's longstanding policy goals for broadcast television, including localism, viewpoint diversity, and competition.

NRJ also argues that permitting the Station to utilize a full 6 MHz channel for an additional three months will allow it to provide the best over-the-air experience to its viewers by providing a better-quality signal (with increased bandwidth and lower compression) and additional programming on multicast streams.

NRJ also argues that grant of its waiver request will not adversely affect the Commission's post-auction transition timeline. NRJ notes that the CSA will utilize existing facilities, and grant of this waiver will not divert any engineering resources otherwise needed for the post-auction transition. Furthermore,

⁴ See *Closing and Channel Reassignment Public Notice*, 32 FCC Rcd at 2814, para. 81; *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 881, para. 69. Channel sharee stations may request an additional 90 days (for a total of 180 additional days) using the same procedure. *Id.*

⁵ 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).

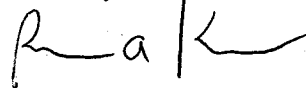
⁶ *Id.*

NRJ argues, as the testing period for Phase 1 of the post-auction transition does not begin until September 14, 2018, providing the Station with 90 additional days to cease operations on its pre-auction channel and transition to shared operations will not affect other stations' transition schedules.

Discussion. Upon review of the facts and circumstances presented, we find NRJ's request to extend the channel sharing implementation deadline until April 23, 2018, satisfies the requirements for a waiver. In this case, we find that it would be inconsistent with the public interest to require NRJ to implement its shared channel operations by the January 23, 2018 deadline. NRJ has demonstrated that additional time is needed to implement its shared operations. Further, given that the testing period start date for transition phase 1 is not set to begin until September 14, 2018,⁷ we find that waiver of the channel sharing implementation deadline will not adversely impact the post-incentive auction transition schedule.

The above facts considered, NRJ TV Boston License Co, LLC's request for waiver of the January 23, 2018 deadline to implement shared channel operations for WMFP, Lawrence, Massachusetts, and to discontinue operations on its pre-auction channel **IS GRANTED** and the January 23, 2018 deadline **IS EXTENDED** for 90 days until April 23, 2018.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bara K', with a vertical line separating the first and last names.

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc: Ari Meltzer, Esq.

⁷ See *Closing and Channel Reassignment Public Notice*, 32 FCC Rcd at 2806, para. 64.