



Federal Communications Commission
Washington, D.C. 20554

October 26, 2017

Commonwealth Public Broadcasting Corporation
23 Sesame Street
Richmond, VA 23235

Re: Request for Waivers of Deadlines
To File Application For Construction
Permit and Implement Shared Channel
Operations
WNVN, Goldvein, VA
Facility ID No. 10019
LMS File No. 0000034068

Dear Licensee,

On October 23, 2017, Commonwealth Public Broadcasting Corporation (CPBC) submitted the above-captioned request for waiver for WNVN, Goldvein, Virginia (Station) of the November 24, 2017, deadline for incentive auction winning channel sharing stations to file an application for construction permit for their shared channel operations (channel sharing application filing deadline).¹ CPBC also requests a waiver 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).² For the reasons set forth below, we grant the requests for waiver, extend the channel sharing application filing deadline to February 22, 2018, and channel sharing implementation deadline to April 23, 2018.

Background. The Commission instructed that channel sharee stations³ must file an application for construction permit for their shared channel operations by November 24, 2017.⁴ A channel sharee station

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, 880, para. 64 (MB 2017) (*Broadcast Transition Procedures Public Notice*); 47 CFR §§ 73.3700(b)(1)(vii).

² 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).

³ Absent any contrary information from the station, any station that indicated it had a pre-auction 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 obtain a waiver of the channel sharing application filing deadline.

⁴ See *Closing and Channel Reassignment Public Notice*, 32 FCC Rcd at 2813, para. 76; *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 880, para. 64; 47 CFR §§ 73.3700(b)(1)(vii). 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.

may request a waiver of the channel sharing application filing deadline specifying the date by which the sharee anticipates filing its construction permit application.⁵

The Commission also instructed that channel sharing stations must implement shared channel operations, and a sharee station must discontinue operations on its pre-auction channel by January 23, 2018.⁶ A channel sharee may request an additional 90 days to discontinue operations on its pre-auction channel and commence shared operations by requesting a waiver pursuant to section 1.3 of the Commission's rules.⁷ 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.⁸

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.⁹

In support of its request for waiver of the channel sharing application filing deadline, CPBC states that it submitted a successful bid in the incentive auction for the Station to go off air. On auction application Form 177, the Station indicated an intent to enter into a channel sharing agreement (CSA). CPBC states that it is exploring the option of channel sharing with one of its commonly-owned Richmond full power stations - WCVE-TV or WCVW(TV) which CPBC maintains would require a change in the Station's community of license and careful coordination of technical and programming matters, all of which necessitate additional time.

CPBC argues that grant of the waivers is in the public interest. CPBC argues that grant of the waivers will facilitate the Station's ability to channel share successfully and without disruption, promoting the Commission's longstanding policy goals for broadcast television, including localism, viewpoint diversity, and competition. Channel sharing will allow, CPBC maintains, will allow it to expand its mission of using the power of media to enrich the human spirit and improve the communities it serves.

Further, CPBC maintains that a grant of 90 additional days to implement its proposed channel sharing will not adversely affect the Commission's post-auction transition timeline. CPBC states that the channel sharing arrangement under consideration will utilize existing facilities, and grant of this waiver will not divert any engineering resources otherwise needed for the post-auction transition. CPBC also 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 CPBC's request to extend the channel sharing application filing deadline until February 22, 2018, satisfies the requirements

⁵ *Id.*

⁶ 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).

⁷ 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.*

⁸ *Id.*

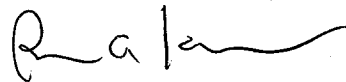
⁹ See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1072 (1972); 47 CFR § 1.3 (waiver for good cause shown).

for a waiver. In this case, we find that it would not be consistent with the public interest to require CPBC to file its application for construction for shared channel operations by the November 24, 2017 deadline as it is still in the process of finalizing its CSA.

We also find that CPBC's request to extend the channel sharing implementation deadline until April 23, 2018, satisfies the requirements for a waiver. We find that it would not be consistent with the public interest to require Station to implement its shared channel operations by the January 23, 2018 deadline. We find that the public interest will be served by waiver of the deadline because it will allow CPBC to complete the configuration of its shared operations. Further, given that CPBC will be sharing with existing facilities, it is not likely that a delay will result in resources being diverted from the post-auction transition. Further, given that the first phase is not set to begin until September 14, 2018, we find that there will be no adverse impact on the post-incentive auction transition schedule as a result of a grant of the 90-day waiver.

The above facts considered, Commonwealth Public Broadcasting Corporation's request for waiver **IS GRANTED** and the November 24, 2017 deadline to file an application for construction permit for shared channel operations for WNVT, Goldvein, Virginia **IS EXTENDED** for 90 days to February 22, 2018; and its request for waiver of the January 23, 2018 deadline to implement its shared channel operations and to discontinue operations on its pre-auction channel for WNVC, Fairfax, Virginia, **IS EXTENDED** for 90 days to April 23, 2018.

Sincerely,

A handwritten signature in black ink, appearing to read 'Barbara A. Kreisman', with a stylized flourish at the end.

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc: Ari S. Meltzer, Esq.