



Federal Communications Commission
Washington, D.C. 20554

October 26, 2017

WVPY, LLC
847 Martin Luther King, Jr. Way
Harrisonburg, VA 22801

Re: Request for Waivers of Deadlines
To File Application For Construction
Permit and Implement Shared Channel
Operations
WVPY, Front Royal, VA
Facility ID No. 66378
LMS File No. 0000034069

Dear Licensee,

On October 24, 2017, WVPY, LLC (WVPY) submitted the above-captioned request for waiver for WVPY, Front Royal, 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 WVPY 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, WVPY 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). WVPY states that it is in serious, active discussions with multiple potential hosts for WVPY. Nonetheless, WVPY maintains that it may not reach a final agreement with a channel sharing partner prior to the deadline for WVPY to apply for a shared-channel construction permit. Grant of its waiver, WVPY argues, would provide it with additional time to enter into a CSA and complete the subsequent transition to shared-channel operations, thus serving the public interest in preserving Station's service to the public.

WVPY argues that grant of the waivers is in the public interest. WVPY states that it has completed an engineering analysis that shows that grant of its waiver and allowing Station to delay discontinuing operations on its pre-Auction channel will have no impact on any other station's transition schedule. WVPY maintains that Station's existing operations would conflict with only three stations' post-Auction facilities, and none of these stations is scheduled to begin testing on its post-Auction channel prior to June 22, 2019 — 14 months later.

Discussion. Upon review of the facts and circumstances presented, we find WVPY's request to extend the channel sharing application filing deadline until February 22, 2018, satisfies the requirements for a waiver. In this case, we find that it would not be consistent with the public interest to require WVPY 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 WVPY'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

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.*

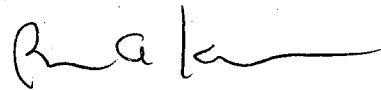
⁸ *Id.*

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).

deadline. We find that the public interest will be served by waiver of the deadline because it will allow WVPY to complete the configuration of its shared operations. 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, WVPY, LLC's request for waiver **IS GRANTED** and the November 24, 2017 deadline to file an application for construction permit for shared channel operations for WVPY, Front Royal, 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 WVPY, Front Royal, Virginia, **IS EXTENDED** for 90 days to April 23, 2018.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bara Kreisman', with a long horizontal flourish extending to the right.

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc: Michael Beder, Esq.