



Federal Communications Commission
Washington, D.C. 20554

October 30, 2017

WMCN License Holdings, LLC
565 East Swedesford Road
Suite 303
Wayne, PA 19087

Re: Request for Waiver of Deadline to
Implement Shared Channel Operations
WMCN-TV, Atlantic City, NJ
Facility ID No. 9739
LMS File No. 0000034126

Dear Licensee,

On October 24, 2017, WMCN License Holdings, LLC (WMCN), submitted the above-captioned request for waiver for television station WMCN-TV, Atlantic City, New Jersey (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, WMCN notes that it was a winning reverse auction bidder in the incentive auction and will be sharing with Class A television station WPHY-CD, Trenton, NJ. WMCN's channel sharing application was granted on August 17, 2017. WMCN states that the parties are working diligently to implement the channel sharing arrangement pursuant to the construction permit, but recognize that additional time may be necessary.

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

WMCN 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.

WMCN also argues that grant of its waiver request will not adversely affect the Commission's post-auction transition timeline. WMCN 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, WMCN 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 WMCN'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 the WMCN to implement its shared channel operations by the January 23, 2018 deadline. WMCN 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.

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.*

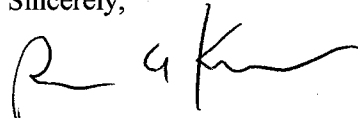
⁵ See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1072 (1972); 47 CFR § 1.3 (waiver for good cause shown).

⁶ *Id.*

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

The above facts considered, WMCN License Holdings, LLC's request for waiver of the January 23, 2018 deadline to implement shared channel operations for WMCN-TV, Atlantic, City, New Jersey, 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 'B A Kreisman', written in a cursive style.

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc: John M. Burgett, Esq.