



Federal Communications Commission  
Washington, D.C. 20554

November 28, 2017

Morning Star Broadcasting, LLC  
1971 University Boulevard  
Lynchburg, VA 24515

Re: Request for Waiver of Deadline to  
Implement Shared Channel Operations  
WFFP-TV, Danville, VA  
Facility ID No. 15507  
LMS File No. 0000035592

Dear Licensee,

On November 22, 2017, Morning Star Broadcasting, LLC (Morning Star), submitted the above-captioned request for waiver for television station WFFP-TV, Danville, Virginia (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).<sup>1</sup> 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 stations<sup>2</sup> must implement shared channel operations, and a sharee station must discontinue operations on its pre-auction channel by January 23, 2018.<sup>3</sup> 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.<sup>4</sup>

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<sup>1</sup> 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).

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> 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.*

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.<sup>5</sup> 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.<sup>6</sup>

In support of its waiver request, Morning Star notes that Station was a successful relinquishment bidder in the reverse auction, and that Station will channel share WDBJ, Roanoke, Virginia. Morning Star further notes that it only recently executed a channel sharing agreement and filed a minor modification application seeking a construction permit for shared operations. Morning Star states that it hopes to transition to shared operations by the channel sharing implementation deadline of January 23, 2018. However, Morning Star demurs, its host station WDBJ is working on a significant capital upgrade to its newsroom that includes installation of new fiber, which is expected to take at least 60 days. Moreover, Morning Star states that WDBJ is relying on several third parties to complete the upgrade. Morning Star continues that, although it believes that WDBJ will diligently work to avoid any delays due to the upcoming holidays and supply issues, there remains potential for delays caused by the third parties and winter weather that are beyond WDBJ's control. In light of these facts, Morning Star believes that a waiver of the channel sharing implementation deadline will ensure Station's ability to successfully channel share and to do so without disruption to its viewers.

Morning Star further argues that grant of the waiver request is in and will serve the public interest. Morning Star argues that a 90-day waiver of the channel sharing implementation deadline will cause no delay or disruption to the post-auction transition schedule. Morning Star notes that the first testing period for Phase 1 of the repack does not begin until September 14, 2018, and therefore Morning Star concludes that extending the channel sharing implementation deadline by 90 days in order to ensure a smooth transition to channel sharing operations will not adversely affect other transitioning stations' schedules.

*Discussion.* Upon review of the facts and circumstances presented, we find Morning Star'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 Morning Star to implement its shared channel operations by the January 23, 2018 deadline. Morning Star 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,<sup>7</sup> we find that waiver of the channel sharing implementation deadline will not adversely impact the post-incentive auction transition schedule.

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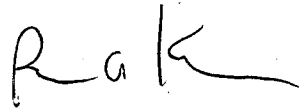
<sup>5</sup> See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1072 (1972); 47 CFR § 1.3 (waiver for good cause shown).

<sup>6</sup> *Id.*

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

The above facts considered, Morning Star Broadcasting, LLC's request for waiver of the January 23, 2018 deadline to implement shared channel operations for WFFP-TV, Danville, Virginia, 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 'Bak' with a stylized flourish at the end.

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

cc: Timothy G. Nelson, Esq.