



Federal Communications Commission
Washington, D.C. 20554

February 26, 2018

RNN Philly License Co., LLC
800 Westchester Ave.
S-640
Rye Brook, NY 19087

Re: Request for Waiver of Deadline to
Implement Shared Channel Operations
WMCN-TV, Cherry Hill, NJ
Facility ID No. 9739
LMS File No. 0000043350

Dear Licensee,

On February 23, 2018, RNN Philly License Co. LLC (RNN) submitted the above-captioned request for waiver for WMCN-TV, Cherry Hill, New Jersey (Station) of its April 23, 2018, deadline to implement shared channel operations and discontinue operations on its pre-auction channel (channel sharing implementation deadline).¹ For the reasons set forth below, we grant the request for waiver, extend the channel sharing implementation deadline to July 23, 2018.

Background. The Commission instructed that channel sharee stations² must implement shared channel operations and discontinue operations on their pre-auction channels by January 23, 2018.³ A channel sharee station may request a waiver of the channel sharing implementation deadline.⁴ All such requests for waiver will be evaluated to determine whether grant will delay or disrupt the post-auction transition schedule.⁵

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 (MB 2017) (*Broadcast Transition Procedures Public Notice*); 47 CFR §§ 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 obtain 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 879-80, paras. 63-64.

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 day waiver of the deadline (for a total of 180 additional days) using the same procedure. *Id.*

⁵ *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.⁶

RNN was previously granted a waiver extending its channel sharing implementation deadline to April 23, 2018.⁷ In support of its second request for waiver of the deadline, RNN notes that Station's previous owner was planning to share with WPHY-CD, Trenton, New Jersey. However, RNN has acquired Station and has determined that the WPHY-CD CSA does not provide technical facilities consistent with RNN's plans for Station. RNN subsequently entered into a CSA with a different station in the market – WHYI-TV, Wilmington, Delaware, for which it is in the process of obtaining Commission authorization. Although it is endeavoring to commence channel sharing with its new host prior to the April 23 deadline, RNN maintains that it still needs to obtain FCC approval to channel share, procure the required equipment to channel share, test the equipment, and provide the requisite notices to viewers and multichannel video programming distributors (MVPDs). Due to the number of factors beyond its control and the short timeframe to complete the steps required to channel share, RNN is seeking this waiver.

RNN argues that grant of its waiver is in the public interest. RNN maintains that waiver will facilitate Station's ability to channel share successfully and without disruption, which, RNN maintains, will promote the Commission's longstanding policy goals for broadcast television, including localism, viewpoint diversity, and competition. RNN states that it will utilize the additional time to procure the required equipment to channel share, test the equipment, and provide the requisite notices to viewers and MVPDs.

RNN further 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.

Moreover, RNN argues, grant of its waiver will not adversely affect the Commission's post-auction transition timeline as its CSA will utilize existing facilities, and will not divert any engineering resources otherwise needed for the post-auction transition. Furthermore, RNN continues, as the testing period for Phase 1 of the repack does not begin until September 14, 2018, providing 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. Finally, RNN concludes that grant of its waiver will not delay the launch of service by winning 600 MHz bidders. RNN notes that station's RF channel (44) corresponds to block G, for which ParkerB.com Wireless L.L.C. was the winning bidder in the Philadelphia PEA. RNN states that it is not aware of any plans by ParkerB.com Wireless L.L.C. to deploy service in the Philadelphia PEA prior to the completion of the broadcast transition.

Discussion. Upon review of the facts and circumstances presented, we find RNN's request to extend the channel sharing implementation deadline until July 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 its current deadline as it is currently completing implementation of its shared channel operations. Given that the testing period start date for transition phase 1 is not set to begin

⁶ 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).

⁷ See LMS File No. 00000.

until September 14, 2018, waiver of the channel sharing implementation deadline will not adversely impact the post-incentive auction transition.

Any further requests for waiver of the channel sharing implementation deadline will not be viewed favorably.⁸

The above facts considered, RNN Philly License Co. LLC's request for waiver **IS GRANTED** and the deadline to implement its shared channel operations and to discontinue operations on its pre-auction channel for WMCN-TV, Cherry Hill, New Jersey **IS EXTENDED** for 90 days to July 23, 2018.⁹

Sincerely,

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

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc: Ari M. Meltzer, Esq.

⁸ Further requests to waive the channel sharing implementation deadline must be filed no later than May 23, 2018. *Id.* at 880, para. 70 (requests for waiver of the channel sharing implementation deadline must be filed no later than 60 days prior to the deadline).

⁹ Because the extended channel sharing implementation deadline falls on Sunday, July 22, 2018, we set Monday, July 23, 2018, as the new deadline. *See* 47 C.F.R. § 1.4.