



Federal Communications Commission
Washington, D.C. 20554

February 28, 2018

Nexstar Broadcasting, Inc.
545 E. John Carpenter Freeway
Suite 700
Irving, TX 75062

Re: Request for Waiver of Deadline to
Implement Shared Channel Operations
WIVB-TV, Buffalo, New York
Facility ID No. 7780
LMS File No. 0000043788

Dear Licensee,

On February 26, 2018, Nexstar Broadcasting, Inc (Nexstar) submitted the above-captioned request for waiver for WIVB-TV, Buffalo, New York (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 June 1, 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

Nexstar 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, Nexstar notes that Station will be sharing with WNLO, Buffalo, New York. Since the grant of its last waiver, Nexstar states that the vendor of the encoders chosen to effectuate the channel shares informed Nexstar of an equipment malfunction that makes the encoders unsuitable for installation and operation. Nexstar states that the vendor is aware of the issue and is diligently working on a solution. Once the vendor delivers working encoders, Nexstar maintains it will require time to optimize the configuration with live programming so that viewers will experience the best possible experience when the CSA implements.

Nexstar states that it has been in contact with T-Mobile and the parties have agreed to a schedule whereby Nexstar's remaining channel sharing stations will transition to shared operations on specific dates in June and July 2018. This plan, Nexstar argues, will balance the need to protect its public interest mission to remain on-the-air with T-Mobile's desire to deploy its network.

Nexstar argues that grant of its waiver will also facilitate the Station's ability to channel share successfully and without disruption, which Nexstar argues, will promote the Commission's longstanding policy goals for broadcast television, including localism, viewpoint diversity, and competition.

Nexstar further argues that permitting Station to utilize a full 6 MHz channel for additional time will allow both Station and its host to provide the best over-the-air experience to their viewers by providing a better-quality signal (with increased bandwidth and lower compression), including the continued broadcast of free multicast streams on both stations.

Finally, Nexstar maintains that there will be no adverse impact on the post-auction transition schedule as a result of its waiver. Nexstar points out that Phase 1 of the repack does not begin until September 14, 2018, and, moreover, Nexstar contends that the CSAs will utilize existing facilities, and grant of its waiver will not divert any additional engineering resources otherwise needed for the post-auction transition.

Discussion. Upon review of the facts and circumstances presented, we find Nexstar's request to extend the channel sharing implementation deadline until June 1, 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 until September 14, 2018, waiver of the channel sharing implementation deadline will not adversely impact the post-incentive auction transition. Furthermore, Nexstar has coordinated implementation of its shared operations with T-Mobile to minimize the impact on the wireless licensee's proposed deployment in the 600 MHz band.

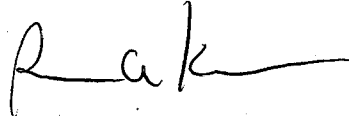
⁶ See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1072 (1972); 47 CFR § 1.3 (waiver for good cause shown).

⁷ See LMS File No. 000033908.

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

The above facts considered, Nexstar Broadcasting, Inc.'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 WIVB-TV, Buffalo, New York **IS EXTENDED** to June 1, 2018.

Sincerely,

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

Barbara A. Kreisman
Chief, Video Division
Media Bureau

⁸ Further requests to waive the channel sharing implementation deadline must be filed no later than April 2, 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).