



Federal Communications Commission  
Washington, D.C. 20554

April 6, 2018

NRJ TV Boston License Co, LLC  
722 S. Denton Tap Road  
Suite 130  
Coppell, TX 75019

Re: Request for Waiver of Deadline to  
Implement Shared Channel Operations  
WMFP, Foxborough, MA  
Facility ID No. 41436  
LMS File No. 0000049506

Dear Licensee,

On April 3, 2018, NRJ TV Boston License Co, LLC (NRJ) submitted the above-captioned request for waiver for WMFP, Foxborough, MA (the Station) of its April 23, 2018, deadline to implement shared channel operations and discontinue operations on its pre-auction channel (channel sharing implementation deadline).<sup>1</sup> 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 stations<sup>2</sup> must implement shared channel operations and discontinue operations on their pre-auction channels by January 23, 2018.<sup>3</sup> A channel sharee station may request a waiver of the channel sharing implementation deadline.<sup>4</sup> All such requests for waiver will be evaluated to determine whether grant will delay or disrupt the post-auction transition schedule.<sup>5</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 (MB 2017) (*Broadcast Transition Procedures Public Notice*); 47 CFR §§ 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 obtain 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 879-80, paras. 63-64.

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

<sup>5</sup> *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>6</sup>

NRJ was previously granted a waiver extending its channel sharing implementation deadline to April 23, 2018.<sup>7</sup> In support of its second request for waiver of the deadline, NRJ notes that it will be sharing with WWDP, Norwell, Massachusetts. In support of its second request for waiver, NRJ states that it intended to commence channel sharing on April 23, 2018 and timely sent letters to multichannel video programming distributors (MVPDs) serving the Boston Designated Market Area to notify them thereof. NRJ represents that, in response to those letters, at least one MVPD has advised that, notwithstanding predicted coverage from WWDP, it does not receive a good quality signal at its receive site. Although NRJ states that it and the licensee of WWDP are working to deliver a good quality signal to that MVPD using an alternate delivery method, the timeline for installation of the required fiber-optic circuits is outside NRJ's control and could take up to three months, which would be well past the April 23, 2018 channel sharing implementation deadline.

NRJ argue that grant of its waiver will serve the public interest. NRJ maintains that grant will facilitate the Station's ability to channel share successfully and without disruption serving the Commission's longstanding policy goals for broadcast television, including localism, viewpoint diversity, and competition. NRJ argues, if the Station commences channel sharing with WWDP before it has established a good quality signal to the MVPD in question, the MVPD's subscribers will temporarily lose the ability to view the Station. NRJ argues that delaying the commencement of channel sharing until the alternate signal is established, therefore, will minimize viewer disruption.

NRJ argues further that the Station to utilize a full 6 MHz channel for an additional 90 days 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). Moreover, NRJ maintains, a grant of 90 additional days will not adversely affect the Commission's post-auction transition timeline. NRJ notes that the channel sharing arrangement under consideration will utilize existing facilities, and grant of its waiver will not divert any engineering resources otherwise needed for the post-auction transition. Furthermore, NRJ continues, as the testing period for Phase 1 of the repack 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. Finally, NRJ concludes that providing the Station with 90 additional days also will not delay the launch of service by winning 600 MHz bidders given that the Station's pre-auction channel (18) is within the post-auction broadcast television band.

*Discussion.* Upon review of the facts and circumstances presented, we find NRJ'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 the 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, and the fact that the Station's pre-auction channel is in the broadcast television band, we find that waiver of the channel sharing implementation deadline will not adversely impact the post-incentive auction transition.

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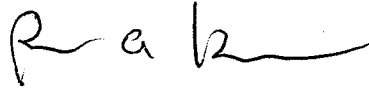
<sup>6</sup> See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1072 (1972); 47 CFR § 1.3 (waiver for good cause shown).

<sup>7</sup> See LMS File No. 0000034064.

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

The above facts considered, NRJ TV Boston 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 WMFP, Foxborough, Massachusetts, **IS EXTENDED** to July 23, 2018.<sup>9</sup>

Sincerely,

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

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

cc: Ari M. Meltzer, Esq.

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<sup>8</sup> 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).

<sup>9</sup> Because the requested 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.