



Federal Communications Commission
Washington, D.C. 20554

August 3, 2018

Eastern Television Corporation
P.O. Box 310
Bayamon, PR 00960

Davina Sashkin, Esq.
Fletcher, Heald & Hildreth, PLC
1300 North 17th Street 11th Floor
Arlington, VA 22209

Re: Request for Extension of Time to
Construct Post-Auction Channel Facility
WRUA(TV), Fajardo, Puerto Rico
Facility ID No. 15320
LMS File No. 0000058685

Dear Licensee,

On July 31, 2018, Eastern Television Corporation (Eastern TV), the licensee of WRUA(TV), Fajardo, Puerto Rico (Station or WRUA), submitted the above-captioned request for waiver of the post-incentive auction consumer education requirements.¹ For the reasons set forth below, we grant the request for waiver.

Background. Pursuant to Section 73.3700(c) of the Commission's rules (Rules), repacked stations must complete specific consumer education requirements beginning 30-days prior to discontinuing operations on their pre-auction channel.² Eastern TV states that in September 2017, WRUA was forced to go silent because of damage to its transmission facilities suffered during Hurricane Maria. The Station continues to be silent due to that damage and will remain silent until it completes construction of its post-auction facility.³ On January 11, 2018, the Media Bureau (Bureau) modified the transition schedule for all repacked stations in Puerto Rico, including WRUA, by permitting them to transition to their post-auction channel prior to their assigned transition phase. The Bureau established a testing period start date of July 1, 2018, and a phase completion date of August 1, 2018.⁴ The Bureau also

¹ See 47 CFR § 73.3700(c); *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, 2814-2815, para. 83 (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, 880-881, para. 71 (MB 2017) (*Broadcast Transition Procedures Public Notice*).

² 47 CFR § 73.3700(c); See *Closing and Channel Reassignment Public Notice*, 32 FCC Rcd at 2814-2815, para. 83; *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 880-881, para. 71.

³ Due to a system error the station was unable to file a request for silent authority in LMS and the station is still listed in LMS as being operational. Eastern TV promptly notified staff of the Station's silence in writing, and the Station has authority to be silent. WRUA plans to commence operation on its post-auction channel using a temporary facility. See Request for Special Temporary Authority, LMS File No. 0000055348.

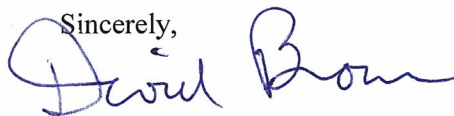
⁴ *Incentive Auction Task Force and Media Bureau Grant Waiver of the Post-Auction Transition Schedule and Modify the Transition Phase Assignments of Repacked Stations in Puerto Rico and the U.S. Virgin Islands*, Public Notice, 33 FCC Rcd 138, para. 1 (MB 2018).

recognized that as the result of damage suffered during both Hurricanes Irma and Maria, some stations may remain silent until they transition to their post-auction channel. As a result, the Bureau instructed such stations to apply for waiver of the consumer education requirements to: (1) explain why the station is unable to comply with the existing consumer education requirements; (2) propose an alternative but comparable means to notify viewers; and (3) explain why grant of the waiver complies with Section 1.3 of the Rules.⁵

Eastern TV explains that because WRUA remains silent, it is unable to broadcast the required consumer education PSAs or crawls on its pre-auction channel and requires waiver of Section 73.3700(c) of the Rules. In lieu of airing the required over-the-air announcements, Eastern TV proposes to provide viewer notice before it commences operations on its post-auction channel as follows: (i) through a commitment with T-Mobile, the carrier will notify subscribers via SMS/text alerts of WRUA's channel change and (ii) airing notices over the air on local radio stations in the area served by WRUA. Eastern TV states that "it has every incentive to ensure that viewers have ample notice of Station's return to air on its post-auction facilities and reasonably believes that these methods will reach its viewers."

Discussion. Upon review of the facts and circumstances presented, we find that grant of Eastern TV's request for waiver is in the public interest. 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 We find that deviation from the existing post-incentive auction consumer education requirements is appropriate in light of the fact that the station is unable to conduct the consumer education required under the rules due to the damage suffered to its pre-auction facility as a result of Hurricane Maria. We find that the public interest and overall policy goal underlying the Bureau's decision to permit WRUA to transition early would be advanced by permitting Eastern TV to comply with the modified consumer education requirements for Station that it has proposed in its waiver request and as outlined herein.

Accordingly, Eastern TV's request for waiver of the post-incentive auction consumer education requirements, 47 CFR § 73.3700(c), for WRUA, Fajardo, Puerto Rico, **IS GRANTED**, and the Station is required to conduct its consumer education in the manner set forth in the waiver request. Such alternative consumer education efforts must commence at least 30-days prior to commencement of operation on the Station's post-auction channel and at least 60 seconds per day of on-air announcements via its radio partners.

Sincerely,


Barbara A. Kreisman
Chief, Video Division
Media Bureau

⁵ *Id.* at 141, para. 8. 47 CFR 1.3 (waiver for good cause shown).

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.