



Federal Communications Commission
Washington, D.C. 20554

October 21, 2019

WLNE Providence License, LLC
Andrew C. Carington
3102 West End Avenue, Suite 400
Nashville, TN 37203

Re: Request for Waiver of
Post-Incentive Auction
Consumer Education Requirements
WLNE-TV, New Bedford, MA
Facility ID No. 22591
LMS File No. 0000086104

Dear Licensee,

On October 10, 2019, WLNE Providence Licensee, LLC (Providence Licensee) submitted the above-referenced request for waiver for WLNE-TV, New Bedford, Massachusetts (WLNE-TV or Station), of the post-incentive auction consumer education requirements.¹ For the reasons set forth below, we grant Providence Licensee's request for waiver.

Background. Pursuant to section 73.3700(c)(3) of the Commission's rules (Rules), repacked stations must air sixty (60) seconds per day of on-air crawls or public service announcements (PSAs) beginning 30-days prior to discontinuing operations on their pre-auction channel.² The Media Bureau has stated that to the extent a station is not able to comply with its consumer education requirements, it must file a request for waiver. All waiver requests will be evaluated on a case-by-case basis in accordance with the Commission waiver standard and must include the following information: (1) an explanation describing why the station is unable to comply with the existing consumer education requirements; (2) an alternative but comparable means the station will use to notify viewers of the station's new channel; and (3) why grant of the waiver request complies with the Commission's general waiver standard.³ 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.⁴

¹ 47 CFR § 73.3700(c)(3).

² *Id.*

³ *Incentive Auction Task Force and Media Bureau Remind Repacked Stations of Certain Post-Auction Transition Requirements and Deadlines*, Public Notice, 33 FCC Rcd 8240, 8245, para. 15, n.41 (IATF & MB 2018).

⁴ *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). *Incentive Auction Task Force and Media Bureau Remind Repacked Stations of Certain Post-Auction Transition Requirements and Deadlines*, Public Notice, 33 FCC Rcd 8240, 8245, para. 15, n.41 (IATF & MB 2018).

In the *Closing and Channel Reassignment Public Notice*,⁵ the Station was assigned to transition phase 7, which has a testing period start date of October 19, 2019, and has a phase completion date of January 17, 2020. Providence Licensee acquired WLNE-TV on September 5, 2019.⁶ Providence Licensee has filed a request for waiver explaining that the station is co-located with WJAR, Providence, Rhode Island (WJAR),⁷ which has been informing viewers that it will be transitioning on October 19, 2019. WJAR and WLNE-TV must transition at the same time. In addition, subsequent to acquiring the station Providence Licensee discovered that the former licensee had informed MVPDs that WLNE-TV would be transitioning on October 19, 2019. Providence Licensee also notes that construction of WLNE-TV's post-auction facility is complete. Because of anticipated severe weather conditions on October 19, WJAR and WLNE-TV decided it would be in the public interest to delay their transition until October 22, 2019.⁸

Providence Licensee commenced airing viewer notifications on October 9, 2019, and plans to continue notifying viewers of its transition through the WLNE website, social media, and the airing of at least 120 seconds of crawls each day until the Station discontinues operations on its pre-auction channel. Providence Licensee also commits to providing enhanced notification of its channel change to viewers: (1) by airing a voiceover and full-screen graphic in all newscasts alerting viewers of the need to rescan and directing viewers to WLNE's website for more information; (2) creating a "how-to" video teaching viewers the basics of rescanning, which will be available on the Station's website; (3) creating a "countdown clock" on the Station's website five days prior to the transition reminding viewers to rescan; and (4) sending out daily "countdown" reminders via Facebook and Twitter with links to the Station's website for more details. Providence Licensee also notes that viewers will benefit from the coordinated transition of WJAR on the same day and the viewer notices that WJAR has been airing.

Discussion. Upon review of the facts and circumstances presented, we find that grant of NPG's request meets the standard for a waiver and is in the public interest. We believe that Providence Licensee has every incentive to ensure viewers are fully informed about the Station's transition plan. Given the facts and circumstances, including the notice already provided to MVPDs, need to coordinate with WJAR and enhanced efforts Providence Licensee plans to undertake to ensure its viewers are notified of the Station's channel change, and the fact that WJAR has been airing notifications for the entire required period, we grant the waiver request.

We remind Providence Licensee that pursuant to the Spectrum Act the Station is eligible for reimbursement from the TV Broadcast Relocation Fund (Fund) of costs "reasonably incurred . . . in order for the licensee to relocate its television service from one channel to the other."⁹ Additional expenses incurred such as expenses resulting from changes in a Station's transition plan that are not related to the

⁵ 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 (MB & WTB 2017).

⁶ See CDBS File No. BALCDT-20190516AAF.

⁷ WJAR is licensed to WJAR Licensee, LLC, which is a subsidiary of Sinclair Broadcasting.

⁸ Providence Licensee also highlights that because the station is in the 600 MHz band, allowing its expeditious transition to its post-auction channel will help facilitate deployment of new wireless broadband services.

⁹ *Media Bureau Finalizes Reimbursement Form for Submission to OMB and Adopts Catalog of Expenses*, GN Docket No. 12-268, Public Notice, 30 FCC Rcd 11701, 11701-02 (MB 2015). See also *Incentive Auction R&O*, 29 FCC Rcd at 6821, para. 622 ("The appropriate scope of 'costs reasonably incurred' necessarily will have to be decided on a case-by-case basis.").

post-incentive auction channel change, may not be reimbursable from the Fund.

Accordingly, Providence Licensee's request for waiver of the post-incentive auction consumer education requirements, 47 CFR § 73.3700(c)(3), for WLNE-TV New Bedford, MA, **IS GRANTED**, condition upon the commitments made in its waiver request.

Sincerely,

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

Barbara A. Kreisman
Chief, Video Division
Media Bureau

Cc (via electronic mail):
Scott Flick, Esq.
Jessica Nyman, Esq.