



Federal Communications Commission
Washington, D.C. 20554

May 20, 2020

WPSD-TV, LLC
201 South 4th Street
Paducah, KY 42002

Re: Request for Waiver of Consumer
Education Requirements
WPSD-TV, Paducah, KY
Facility ID No. 51991
LMS File No. 0000113985

Dear Licensees,

On May 19, 2020, WPSD-TV, LLC (Licensee), licensee of WPSD-TV, Paducah, Kentucky (WPSD-TV or Station) filed the above captioned request for waiver of the Commission's post-incentive auction consumer education requirements.¹ For the reasons below, we grant the Station's request for waiver, as conditioned herein.

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 (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.³ Waivers 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.⁴ 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.⁵

Due to the impacts of the COVID-19 pandemic,⁶ the Station was granted a modification of its phase assignment from Phase 9 to Phase 10.⁷ Phase 10 had a testing period start date of May 2, 2020 and

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*, MB Docket No. 16-306 and GN Docket No. 12-268, Public Notice, 33 FCC Rcd 8240, 8245, para. 15, n.41 (IATF & MB 2018) (*Transition Reminder Public Notice*).

⁴ *Id.*

⁵ See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); 47 CFR § 1.3 (waiver for good cause shown).

⁶ The World Health Organization has classified COVID-19 as a pandemic and the President of the United States has declared the COVID-19 pandemic a national emergency.

⁷ LMS File No. 0000111523. See *Guidance for Stations in Phase 9 of the Post-Incentive Auction Transition as a Result of the Novel Coronavirus (COVID-19) Pandemic*, MB Docket No. 16-306 and GN Docket No. 12-268, Public Notice, DA 20-282 (IATF & MB, Mar. 17, 2020).

has phase completion date of July 3, 2020. Due to recent relaxations of stay-at-home orders, the Station has been informed by its tower company that it is able to begin installation of the Station's permanent post-Incentive Auction transmitter and top antenna in late May (currently May 21, 2020). In order to complete the necessary antenna work, the Station will need to cease operation on its pre-auction channel facility and transition to an interim facility on its post-auction channel. As a result of this last minute development, the Station will be unable to provide the required consumer education for 30 days prior to ceasing operation on its pre-auction channel. In order to ensure viewers are fully informed about the Station's transition, the Licensee has committed to undertake consumer education and outreach efforts beyond what are required by Commission rules, including but not limited to: (1) additional public service announcements and crawls; (2) the use of digital and social media; and (3) transition-related information aired during the Station's local newscast. The Licensee has been undertaking these consumer outreach efforts since May 15, 2020.

Discussion. Upon review of the facts and circumstances presented, we find that the Licensee's request for waiver is in the public interest. In order to ensure that viewers are fully informed about the Station's transition, the Licensee has committed to undertake expanded consumer education efforts. Cumulatively, the notice and outreach efforts proposed by the Licensee will likely result in more consumer education than would have occurred if the Station had commenced their notices thirty days prior to their planned transition date. As a result, we find that granting the Station's request for waiver of the post-incentive auction consumer education requirements will ensure that the Station is able to leverage the immediate availability of its tower company to complete its transition by its Phase 10 deadline and the expanded consumer education efforts committed to by the Station will ensure viewers are fully informed about the transition.

Accordingly, we **GRANT** WPSD-TV, LLC's request for waiver of the Commission's post-incentive auction consumer education requirements, 47 CFR § 73.3700(c)(3), for station WPSD-TV, Paducah, Kentucky, subject to all the commitments made in the Station's waiver request and compliance with all other Commission rules applicable to transitioning stations.⁸

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

⁸ See generally 47 CFR § 73.3700 and *Transition Reminder Public Notice*, 33 FCC Rcd 8240. We remind the licensees that if a Station must commence operations on its post-auction channel at variance from the parameters authorized in its construction permit, it must file for and be granted special temporary authority prior to commencing operations. See 47 CFR § 73.1635. A station that needs additional time to complete construction of its post-auction facility beyond its construction permit expiration date must file for a 180-day extension of its construction permit in accordance with Section 73.3700(b)(5)(iv). Stations needing additional time to construct after a 180-day extension is granted, will be subject to the Commission's tolling provisions. 47 CFR § 73.3700(b)(5)(iv). Grant of an extension of time to construct does not relieve a station of the requirement that it ceases operation on its pre-auction channel by its assigned phase completion date.