



Federal Communications Commission  
Washington, D.C. 20554

July 2, 2020

Mountain Lake Public Telecommunications Council  
1 Sesame Street  
Plattsburgh, NY 12901  
[bmccolgan@mlpbs.org](mailto:bmccolgan@mlpbs.org)  
(via electronic mail)

Re: Request for Waiver of Consumer  
Education Requirements  
WCFE-TV, Plattsburgh, NY  
Facility ID No. 46755  
LMS File No. 0000116546

Dear Licensees,

On June 25, 2020, Mountain Lake Public Telecommunications Council (Licensee), licensee of WCFE-TV, Plattsburgh, New York (WCFE-TV or Station) filed the above captioned request for waiver of the Commission's post-incentive auction consumer education requirements.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup> 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>5</sup>

WCFE-TV is assigned to transition Phase 10, which had a testing period start date of May 2, 2020 and has phase completion date of July 3, 2020. The Station has transitioned to operations on its post-auction channel utilizing an interim antenna. In its filing, the Licensee discusses the efforts it has undertaken to complete construction. The Licensee states that as a result of these circumstances, and to minimize any viewer confusion in the event the station did not transition by July 3, WCFE-TV did not

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<sup>1</sup> 47 CFR §§ 73.3700(c)(3).

<sup>2</sup> *Id.*

<sup>3</sup> *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*).

<sup>4</sup> *Id.*

<sup>5</sup> 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).

commence its consumer education requirements, as required by section 73.3700(c)(3), 30 days prior to ceasing operation on its pre-auction channel.<sup>6</sup> In order to ensure viewers are fully informed about the Station's transition, the Licensee is undertaking consumer education and outreach efforts beyond what are required by Commission rules, including but not limited to: (1) additional public service announcements and crawls that will amount to six times the number of announcements required under the Rules; (2) the use of digital and social media; and (3) an e-mail notification to its viewers that subscribe to the Station's weekly e-newsletter. The Licensee states that WCFE-TV has been undertaking these consumer outreach efforts since June 13, 2020.

*Discussion.* Upon review of the facts and circumstances presented, we find that grant of 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 is undertaking expanded consumer education efforts. Cumulatively, these efforts resulted in more consumer education than would have occurred if the Station had commenced its notices thirty days prior to its transition date. We find such consumer education and outreach efforts will be sufficient to ensure viewers are fully informed of the Station's transition.

Accordingly, we **GRANT** Mountain Lake Public Telecommunications Council's request for waiver of the Commission's post-incentive auction consumer education requirements, 47 CFR § 73.3700(c)(3), for station WCFE-TV, Plattsburgh, New York, subject to all the commitments made in the Stations' waiver request and compliance with all other Commission rules applicable to transitioning stations.<sup>7</sup>

Sincerely,

/s/

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

Cc (via electronic mail):  
Derek Teslik, Esq. (dteslik@graymillerpersh.com)  
(Attorney of Record)

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<sup>6</sup> 47 CFR § 73.3700(c)(3).

<sup>7</sup> See generally 47 CFR § 73.3700 and *Transition Reminder Public Notice*, 33 FCC Rcd 8240. We remind 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). 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)(i) citing 47 CFR § 73.3598(b). Grant of an extension of time to construct does not relieve a station of the requirement that it cease operation on its pre-auction channel by its assigned phase completion date.