



Federal Communications Commission
Washington, D.C. 20554

October 30, 2017

Nexstar Broadcasting, Inc.
Elizabeth Ryder
545 E. John Carpenter Freeway
Suite 700
Irving, TX 75062

Re: Request for Waiver of Deadline to
Implement Shared Channel Operations
WKBN-TV, Youngstown, OH
Facility ID No. 73153
LMS File No. 0000033910

Dear Licensee,

On October 18, 2017, Nexstar Broadcasting, Inc. (Nexstar), submitted the above-captioned request for waiver for television station WKBN-TV, Youngstown, Ohio (Station) of the January 23, 2018, deadline for incentive auction winning channel sharing stations to implement shared channel operations and discontinue operations on their pre-auction channels (channel sharing implementation deadline).¹ For the reasons set forth below, we grant the request for waiver and extend the channel sharing implementation deadline to April 23, 2018.

Background. The Commission instructed that channel sharing stations² must implement shared channel operations, and a sharee station must discontinue operations on its pre-auction channel by January 23, 2018.³ A channel sharee may request an additional 90 days to discontinue operations on its

¹ 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 (IATF & MB 2017) (*Broadcast Transition Procedures Public Notice*); 47 CFR §§ 73.3700(b)(3), 73.3700(b)(4)(ii).

² Absent any contrary information from the station, any station that indicated it had a pre-auction 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 requests a waiver of the channel sharing application filing deadline.

³ See *Closing and Channel Reassignment Public Notice*, 32 FCC Rcd at 2813, para. 76; *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 879, para. 63; 47 CFR §§ 73.3700(b)(3), 73.3700(b)(4)(ii). As noted previously, some of the post incentive auction transition-related deadlines set forth in the Commission's rules are referred to in months. For the sake of clarity and to provide greater ease of calculation, the Media Bureau refers to such deadlines in days. For example, a "6-month" deadline is referred to as a "180-day" deadline. See *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 860 n.18.

pre-auction channel and commence shared operations by requesting a waiver pursuant to Section 1.3 of the Commission's rules.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 All such requests for waiver of the deadline to commence shared operations will be evaluated to determine whether grant will delay or disrupt the post-auction transition schedule.⁶

In support of its waiver request, Nexstar maintains that grant of its waiver request is in the public interest. Nexstar first argues that grant of 90 additional days will not adversely affect the Commission's post-auction transition timeline. Because it will be sharing with WYTV, Youngstown, Ohio and will utilize existing facilities, Nexstar maintains that the grant of this waiver will not divert any additional engineering resources otherwise needed for the post-auction transition. In fact, Nexstar argues that grant of the waiver will help maximize the efficiency of its parent company's limited engineering resources needed to organize and implement the repack of 90 full-power and Class A stations. In addition, as the testing period for Phase 1 of the repack does not begin until September 14, 2018, Nexstar argues that allowing 90 additional days for it to cease operations on its pre-auction channel and transition to shared operations will not affect other stations' transition schedules.

Nexstar also argues that permitting it to utilize a full 6 MHz channel for an additional 90 days will allow both itself and its host station to provide the best over-the-air experience to its viewers by providing a better-quality signal (with increased bandwidth and lower compression), including the continued broadcast of free multicast streams on both stations. In addition, Nexstar states that it is attempting to obtain the highest-possible quality encoders and then configure those encoders as optimally as possible. Nexstar maintains that the more time it has to optimize the configuration with live programming, the better the viewing experience will be when the channel sharing arrangement is implemented. Finally, Nexstar argues that grant of its waiver will facilitate its ability to channel share successfully and without disruption which will promote longstanding policy goals for broadcast television, including localism, viewpoint diversity, and competition.

Discussion. Upon review of the facts and circumstances presented, we find Nexstar's request to extend the channel sharing implementation deadline until April 23, 2018, satisfies the requirements for a waiver. In this case, we find that it would be inconsistent with the public interest to require the Nexstar to implement its shared channel operations by the January 23, 2018 deadline. Nexstar has demonstrated that delays in finding the highest-quality encoders and to configure those encoders along with the need to organize and implement the repack of 90 full power and Class A stations will prevent it from meeting the channel sharing implementation deadline. We find that the public interest will be served by waiver of the deadline because it will allow Nexstar more time to optimize the configuration of its shared facility, resulting in a better viewer experience. In addition, because the testing period start date for transition

⁴ 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 days (for a total of 180 additional days) using the same procedure. *Id.*

⁵ 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).

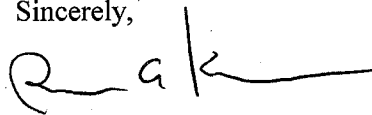
⁶ *Id.*

phase 1 is not set to begin until September 14, 2018,⁷ we find that waiver of the channel sharing implementation deadline will not adversely impact the post-incentive auction transition schedule.

We remind Nexstar that channel sharee stations must submit an application for construction permit for shared channel operations and include a copy of their channel sharing agreement (CSA) no later than November 24, 2017 (channel sharing application filing deadline).⁸ Our action today does not affect the channel sharing application filing deadline for the Station.

The above facts considered, Nexstar Broadcasting, Inc.'s request for waiver of the January 23, 2018 deadline to implement shared channel operations for WKBN-TV, Youngstown, Ohio and to discontinue operations on its pre-auction channel **IS GRANTED** and the January 23, 2018 deadline **IS EXTENDED** for 90 days until April 23, 2018.

Sincerely,

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

Barbara A. Kreisman
Chief, Video Division
Media Bureau

⁷ See *Closing and Channel Reassignment Public Notice*, 32 FCC Red at 2806, para. 64.

⁸ *Id.* at 2813, para. 77; *Broadcast Transition Procedures Public Notice*, 32 FCC Red at 880, para. 64; 47 CFR § 73.3700(b)(1)(vii).