



Federal Communications Commission
Washington, D.C. 20554

March 23, 2018

KOCE-TV Foundation
3080 Bristol Street #100
Attn: Andrew Russell
Costa Mesa, CA 92626

Re: Request for Waiver of Deadline to
Implement Shared Channel Operations
KOCE-TV, Huntington Beach, CA
Facility ID No. 4328
LMS File No. 0000048904

Dear Licensee,

On March 20, 2018, KOCE-TV Foundation (KOCE) submitted the above-captioned request for waiver for KOCE-TV, Huntington Beach, California (the Station) of its April 23, 2018, deadline to implement shared channel operations and discontinue operations on its pre-auction channel (channel sharing implementation deadline).¹ For the reasons set forth below, we grant the request for waiver, extend the channel sharing implementation deadline to June 22, 2018.

Background. The Commission instructed that channel sharee stations² must implement shared channel operations and discontinue operations on their pre-auction channels by January 23, 2018.³ A channel sharee station may request a waiver of the channel sharing implementation deadline.⁴ All such requests for waiver will be evaluated to determine whether grant will delay or disrupt the post-auction transition schedule.⁵

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

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 (MB 2017) (*Broadcast Transition Procedures Public Notice*); 47 CFR §§ 73.3700(b)(4)(ii).

² Absent any contrary information from the station, any station that indicated it had a pre-auction channel sharing agreement (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 obtain 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 879-80, paras. 63-64.

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

⁵ *Id.*

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 (waiver for good cause shown).

KOCE was previously granted a waiver extending its channel sharing implementation deadline to April 23, 2018.⁷ In support of its second request for waiver of the deadline, KOCE notes that it will be sharing with KSCI, Long Beach, California. KOCE states that it has accomplished many of the tasks recited in its earlier waiver request. KOCE notes that tower climbers have evaluated the Mt. Harvard tower to which it proposes to locate and the tower has been found structurally suitable for the channel-sharing arrangement. However, KOCE demurs, substantial tasks, some of them new and unforeseen, remain.

For example, KOCE represents, electrical work on the Mt. Harvard site is still required to accommodate the Station's backup transmitter. KOCE states that quotes for that work have just been received. In addition, KOCE maintains that several weather conditions still impede work on the site, in particular, wet and icy conditions make electrical work hazardous. KOCE also states that a leak in the transmission line of the Mt. Harvard site has been discovered and must be repaired. To repair the leak without taking the Station off the air, KOCE maintains that it is necessary to install an auxiliary antenna. KOCE represents that installing an auxiliary antenna requires negotiation of an additional lease and although negotiation has begun, it has not been concluded. KOCE also states that additional monitoring equipment must be installed to monitor dynamic spectrum between the Station and KSCI. KOCE maintains that an unforeseen building permit is required from Los Angeles County. KOCE states that it cannot accomplish these tasks by April 23, 2018, but believes it can accomplish them by the requested channel sharing implementation date of June 22, 2018.

KOCE argues that good cause exists for grant of its waiver request. KOCE notes that it has contacted the area 600 MHz wireless licensee - T-Mobile - who has informed them that the requested waiver would not adversely affect its post-auction transition schedule for the Los Angeles market. KOCE represents that it is authorized to recite T-Mobile's consent to the request.

Discussion. Upon review of the facts and circumstances presented, we find KOCE's request to briefly extend the channel sharing implementation deadline until June 22, 2018, satisfies the requirements for a waiver. We find that it would not be consistent with the public interest to require the Station to implement its shared channel operations by its current deadline as it is currently completing implementation of its shared channel operations. Given that the testing period start date for transition phase 1 is not set to begin until September 14, 2018, we find that waiver of the channel sharing implementation deadline will not adversely impact the post-incentive auction transition. Further, KOCE has confirmed with the 600 MHz wireless licensee that the Station's continued use of its pre-auction channel will not adversely impact its deployment plans.

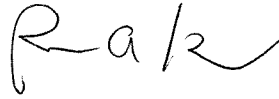
Any further requests for waiver of the channel sharing implementation deadline will not be viewed favorably.⁸

⁷ See LMS File No. 0000036221.

⁸ Further requests to waive the channel sharing implementation deadline must be filed no later than April 23, 2018. *Id.* at 880, para. 70 (requests for waiver of the channel sharing implementation deadline must be filed no later than 60 days prior to the deadline).

The above facts considered, KOCE-TV Foundation's request for waiver **IS GRANTED** and the deadline to implement its shared channel operations and to discontinue operations on its pre-auction channel for KOCE-TV, Huntington Beach, California **IS EXTENDED** to June 22, 2018.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bak' with a stylized flourish at the end.

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc: John Crigler, Esq.