



ORIGINAL

Pillsbury Winthrop Shaw Pittman LLP  
1200 Seventeenth Street, NW | Washington, DC 20036 | tel 202.663.8000 | fax 202.663.8007

Clifford M. Harrington, Esq.  
tel 202.663.8525  
clifford.harrington@pillsburylaw.com

May 29, 2015

Accepted / Filed

MAY 29 2015

Federal Communications Commission  
Office of the Secretary

**VIA HAND DELIVERY**

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, SW, TW-A325  
Washington, DC 20554

**Re: WKEF Licensee, LLC  
Request for Extension of Incentive Auction Protection Cutoff  
WKEF(TV), Dayton, OH, FAC ID 73155**

WKEF Licensee, LLC (“Licensee”), licensee of television station WKEF(TV), Dayton, Ohio (the “Station”), through its counsel, hereby respectfully requests at least a 60 day extension of the May 29, 2015 Pre-Auction Licensing Deadline so that, in the wake of a recently granted Channel 51 to Channel 18 channel change<sup>1</sup>, the Station may complete its channel change facility construction and obtain protection in the repacking process that will be part of the television incentive auction.<sup>2</sup>

---

<sup>1</sup> *Amendment of Section 73.622(i), MB Docket No. 15-98 Post-Transition Table of DTV Allotments, Television Broadcast Stations (Dayton, Ohio)*, 29 FCC Rcd 16159 (2014).

<sup>2</sup> *Media Bureau Designates May 29, 2015 as Pre-Auction Licensing Deadline, Public Notice*, 30 FCC Rcd 393 (MB 2015)(“January Notice”); see also *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, Report and Order, 29 FCC Rcd 6567, 6656, para. 195 and n. 646 (2014) (“Incentive Auction R&O”).

Such an extension is in the public interest and is consistent with the Commission's Incentive Auction and National Broadband goal to repurpose up to 120 MHz of spectrum. The channel change "will serve the public interest because it would remove any potential interference with a wireless licensee in the Lower 700 MHz A Block located directly adjacent to channel 51 in Dayton."<sup>3</sup>

In the *January Notice*, the Commission established May 29, 2015 as the Pre-Auction Licensing Deadline and mandated that, as of that date, all "full power and Class A facilities must be licensed in order to be eligible for protection in the repacking process..."<sup>4</sup> This deadline is a limited extension of February 22, 2012, the prior license protection cutoff date established in the *Incentive Auction R&O*. The *January Notice* states that certain categories of facilities, including Channel 51 change facilities, warranted additional time beyond February 22, 2012 in order to best serve the public interest.

As the Commissions is aware, the Station was the focus of a recent Channel 51 change Petition for Rulemaking proceeding.<sup>5</sup> The proceeding, following the

---

<sup>3</sup> *Amendment of Section 73.622(i), MB Docket No. 15-98 Post-Transition Table of DTV Allotments, Television Broadcast Stations (Dayton, Ohio)*, 29 FCC Rcd 16159 (2014).

<sup>4</sup> *Media Bureau Designates May 29, 2015 as Pre-Auction Licensing Deadline, Public Notice*, 30 FCC Rcd 393 (MB 2015).

<sup>5</sup> *Notice of Proposed Rulemaking (Dayton, Ohio)*, DA 14-1344, MB Docket No. 14-159, RM-117435 (rel. Sept. 18, 2014).

July 30, 2014 execution of a Channel Relocation Agreement with T-Mobile, was initiated on August 15, 2014 and terminated on December 23, 2014.

The technical specifications reviewed and approved as part of the Station's Channel 51 to Channel 18 change require the construction, erection and complete installation of a new antenna and related transmission facilities. The Licensee, as evidence of its commitment to the channel change has persisted through the rulemaking proceeding, filed the requisite FCC Forms, and expeditiously taken all other steps necessary to complete the construction of the Station's Channel 18 facility and place it into operation.

The Licensee is making every reasonable effort within its control to expedite the Channel 18 construction so that it may vacate the spectrum for T-Mobile. The current WKEF antenna is specifically designed to operate on Channel 51, and cannot be used for operation on Channel 18.

The Licensee contracted with the only remaining U.S. television antenna manufacturer, Dialectric, to design and custom build the Channel 18 antenna. The Licensee has requested that Dialectric take all steps possible to expedite the construction and testing of the new antenna. The antenna is in the final stages of construction and will be delivered to the tower site in approximately 30 days.

Additional delays were encountered with regard to the leased tower space for the new Channel 18 antenna. The new antenna will be mounted on an existing tower structure owned by American Tower LLC ("ATLLC"). There are other full power

television antennas on that same tower structure. As a consequence, ATLLC delayed all tower modifications until a tower coordination could be undertaken *after* the May Sweeps. That tower coordination has been completed and a tower crew is scheduled to begin the necessary tower modifications in the next few weeks. Following those modifications, and the proposed antenna delivery, the Licensee and the contracted tower crew anticipate installing the new Channel 18 antenna by the end of July.

The proposed channel change is being undertaken to permit T-Mobile to institute, at the earliest possible date, improved wireless broadband service in the Dayton, Ohio market. The Commission has already recognized the important public interest benefits—including increased competition and improved wireless broadband service—in those areas. Moreover, the requested waiver need not delay implementation of the Commission's incentive auction process, and the Commission may easily flag the WKEF coverage information in its repacking database and use the new Channel 18 information for its computations. For all these reasons, the public interest strongly favors grant of the requested waiver.

May 29, 2015  
Page 5

Accordingly, the Licensee respectfully requests at least a sixty (60) day extension of the May 29, 2015 Pre-Auction Licensing Deadline.

Please direct any communications regarding this matter to the undersigned.

Respectfully submitted,



Clifford M. Harrington

533070-0000079