

## Attachment 1

### REQUEST FOR WAIVER

Gray Television Licensee, LLC (“Gray”) hereby requests waiver of the requirement to provide certain information on FCC Form 312 for submission of its receive-only earth station registration for C-Band antennas used in conjunction with broadcast television stations WDTV (Weston, West Virginia) and WVFX (Clarksburg, West Virginia) (together, “The Stations”).

The Stations utilize nine receive-only C-Band antennas to receive video programming that it then disseminates to its viewers. Many of these antennas are very old. As registration of these antennas has always been permissive,<sup>1</sup> and due to C-Band’s receive-only nature, the station understandably did not maintain detailed records for some of its antennas. Now, the Commission has warned that it will consider protecting in further action “only those earth stations that are licensed, registered, or have pending applications for license or registration on file” by October 17, 2018.<sup>2</sup> The FCC held that “the interests of equity warrant providing earth station operators with a chance to file applications” during the current filing window.<sup>3</sup>

Specifically, The Stations lack make, model, antenna size, and gain information for four of their nine antennas. To allow the FCC Form 312 to validate, Gray has inputted “dummy” data for the antennas ID’d as WDTV 1, 3 and 6-7:

- WDTV 1
  - E30 and E31: “unknown”
  - E32: 3.66m
  - E41/42: 40 dBi at 3.725 GHz
- WDTV 3
  - E30 and E31: “unknown”
  - E32: 3.55m
  - E41/42: 40 dBi at 3.905 GHz
- WDTV 6-7
  - E30 and E31: “unknown”
  - E32: 3.66m
  - E41/42: 40 dBi at 3.905 GHz

These figures are based upon good faith estimates of the dishes.

Under Section 1.3 of the Commission’s rules, the Commission has authority to waive its rules “for good cause shown.”<sup>4</sup> Good cause exists if “special circumstances warrant a deviation from the general rule and such deviation will serve the public interest” better than adherence to the

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<sup>1</sup> See, e.g., 47 C.F.R. § 25.131(b).

<sup>2</sup> *C-Band Earth Station Freeze Public Notice*, DA 18-398, at 5 (April 19, 2018) (“*C-Band Freeze PN*”).

<sup>3</sup> *Id.*, at 4.

<sup>4</sup> 47 C.F.R. § 1.3; *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

general rule.<sup>5</sup> In determining whether waiver is appropriate, the Commission should “take into account considerations of hardship, equity, or more effective implementation of overall policy.”<sup>6</sup>

Here, good cause exists to waive the requirement to provide make, model and gain for four antennas for which Gray lacks information used in conjunction with the broadcast television operations of The Stations. Because of the FCC’s permissive registration requirement, the Stations had no reason to keep and maintain technical data for its receivers. Therefore, the “interests of equity” warrant waiver of the requirement for The Stations to provide make, model and gain information for four of their antennas. The antennas’ location and C-Band receive-only use provide more than enough information for the Commission to “consider[] whether its rules require modification to accommodate changing market and technological conditions.”<sup>7</sup> By extension, these antennas should be protected in any further action the agency pursues.

Accordingly, Gray requests that the Commission waive the requirement to provide manufacturer, model, antenna size, and antenna gain for four of the antennas included in the instant receive-only registration application.

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<sup>5</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>6</sup> *WAIT Radio*, 418 F.2d at 1159.

<sup>7</sup> *C-Band Freeze PN*, at 4.