

### **Request for Waiver of Section 73.3700(b)(1)(i)**

Pursuant to Section 1.3 of the Commission's rules, America 51, L.P. ("ION"), licensee of KPPX-TV, Tolleson (Phoenix), Arizona, hereby requests a waiver of the Commission's July 12, 2017, post-auction construction permit application filing deadline as established by Section 73.3700(b)(1)(i) (the "Filing Deadline"). As shown herein, good cause exists for the Commission to grant ION additional time to file its post-auction construction permit application.

KPPX currently is licensed to Channel 31 and has been reassigned to Channel 14 for permanent operations. Channel 14 is immediately adjacent to the 460-470 MHz land mobile band and broadcast television stations are required to protect existing land mobile radio facilities. Historically, this has resulted in situations in some major metropolitan areas where television broadcast stations have been unable to operate at full power on Channel 14 because of interference to land mobile facilities. Such is the case here.

As the attached engineering report explains, KPPX almost certainly will not be able to operate at full power if it moves to Channel 14. Should ION be forced to move to Channel 14, it is very likely that it would face the same problems that are currently occurring in the San Francisco market where the current use of Channel 14 has resulted in an ongoing case of unresolved interference with existing land mobile facilities, with the result being that the current licensee has not been able to operate at anywhere near full power. Indeed, despite expenditures of over \$500,000.00 over the past eight years in attempts to mitigate the interference problems, the current Channel 14 licensee in San Francisco has been forced to operate at substantially reduced power indefinitely.

The attached engineering report concludes that if KPPX moves to Channel 14 and operates at full power, the potential interference to land mobile facilities likely would be

unresolvable. *See* Initial Report on Land Mobile Interference Analysis Television Station KPPX-TV at 6. That means ION will be unable to construct the facility specified by the Commission in its *Channel Reassignment Public Notice* because it will not be able to operate at its specified power level or maintain its licensed service area and population. As a consequence, ION will seek to construct alternative facilities as designated in a construction permit application filed in the first priority window. *See, e.g.,* Exploring the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, *Report and Order*, 29 FCC Rcd 6567 at ¶ 546 and ¶ 554 n. 1571 (2014) (“*Incentive Auction Report and Order*”) (“We anticipate that such stations [that will file construction permit applications in the first priority window] would include those that cannot submit a construction permit application for their assigned channel because they are unable to construct at their current tower site due to technical or legal issues.”); Incentive Auction Closing and Channel Reassignment Public Notice, *Public Notice*, DA 17-314 (rel. April 13, 2017) (“*Channel Reassignment Public Notice*”). These obstacles to ION’s timely construction of KPPX constitute good cause for the requested waiver.

ION currently is exploring options for alternative facilities and expects to file its post-repack construction permit application in the first priority filing window. *See Channel Reassignment Public Notice* at ¶ 71. ION therefore requests that the Commission swiftly grant ION’s request for an “unable to construct” waiver of the Filing Deadline so that ION can devote its internal resources to finding a technical solution to move KPPX to a different channel.