

EXHIBIT SUPPORTING WAIVER OF
PHASE ASSIGNMENT, TESTING PERIOD, AND PHASE COMPLETION DATE

The Board of Trustees of Michigan State University (“MSU”) hereby seeks a waiver of the post-Incentive Auction Transition Phase assignment, and corresponding testing dates and construction completion deadlines, for WKAR-TV, East Lansing, MI (Facility ID 6104) (“Station”). Pursuant to the *Closing and Reassignment Public Notice*, the Station has been assigned to transition from its current channel assignment (Channel 40) to a new channel (Channel 33) in Transition Phase 7, for which the Phase Completion Date is January 17, 2020.¹ MSU seeks to transition the Station early, with an expected transition completion date on or before June 1, 2018, and with a testing period to commence immediately preceding said date.

The requested waiver would allow for implementation of an agreement reached between MSU and T-Mobile USA, Inc. (“T-Mobile”), the licensee of new 600 MHz licenses WQZL793, WQZL794, and WQZL795. Those licenses authorize T-Mobile to provide new mobile broadband services over the frequencies 622-637/668-683 MHz, which encompass the Station’s current channel assignment, Channel 40.

The *Transition Scheduling Adoption Public Notice* permitted stations to propose “alternative transition solutions that could create efficiencies,” and held that a request to modify a station’s transition deadline — including by moving to an earlier phase — would be viewed favorably if

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 (WTB & MB 2017) (*Closing and Channel Reassignment Public Notice*); see also FCC Transition Data Files, Phase Assignment, available at https://data.fcc.gov/download/incentive-auctions/Current_Transition_Files/phase_assignment_091217.csv (last accessed September 27, 2017).

the request is “otherwise compliant with [FCC] rules and [has] little or no impact on the phase assignments or transition schedule.”² The FCC may grant a waiver for good cause shown.³ A waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest.⁴ In considering a waiver, the FCC may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.⁵ Such a waiver is appropriate if circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.⁶ As demonstrated herein, good cause exists for waiver of the Station’s assigned Transition Phase and its attendant testing and completion dates because such action will serve the public interest by facilitating an orderly and efficient transition to more swiftly deliver new wireless broadband services to the public while minimizing impacts on broadcast television viewers and post-auction transition resources.

The proposed transition will further the overall transition plan. This early out-of-phase move will in fact permit better utilization of resources by engaging vendors and service providers early in the process, thereby reducing the demand on those resources in later phases when they may become constrained. This waiver request includes an attachment including letters from several

² *Incentive Auction Task Force and Media Bureau Adopt A Post-Incentive Auction Transition Scheduling Plan*, MB Docket No. 16-306 and GN Docket No. 12-268, 32 FCC Rcd 890, 913 ¶ 51 (MB 2017) (*Transition Scheduling Adoption Public Notice*), citing *Incentive Auction Task Force and Media Bureau Seek Comment on Post-Incentive Auction Transition Scheduling Plan*, Public Notice, 31 FCC Rcd 10802 (MB 2016).

³ 47 C.F.R. § 1.3.

⁴ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁵ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular*, 897 F.2d at 1166.

⁶ *Northeast Cellular*, 897 F.2d at 1166.

vendors attesting to the fact that the Station's early transition will not impair their ability to fulfill other orders.

The Station is not part of a linked station set, and MSU intends to transition the Station to its new channel several months before the testing period for Transition Phase 1 even begins. Further, by waiving the Station's Transition Phase 7 assignment and allowing the Station to transition early, the FCC will enable T-Mobile to put its licenses to use for the benefit of consumers in the Lansing, Michigan market 19 months sooner than would be the case if the Station were to move to its new channel under the otherwise-applicable transition schedule.

No Adverse Interference. The "Engineering Statement Supporting Request for Waiver Television Station WKAR-TV" ("Engineering Statement"), prepared by du Treil, Lundin & Rackley, Inc. and attached to this waiver request, demonstrates that the early operation of the Station on Channel 33 as authorized in its construction permit "will have no adverse interference consequences, either caused or received, under the current repack allocation environment."⁷ After analyzing the Station's post-repack facility using the latest version of the FCC's *TVStudy* software, the du Treil, Lundin & Rackley statement shows that "there are no cases of outgoing (caused) interference exceeding the normal 0.5% rounding tolerance level to any other protected full-power or Class A television stations now operating."⁸ In addition, no new pairwise interference will be created by the proposed early transition of Station beyond the permitted two

⁷ Engineering Statement at p. 1.

⁸ Id. at p. 2.

percent (2%) pairwise interference transition period amount, and there will be no negative impact on other transitioning stations in the Station's DMA.

The Station's proposed early transition will result in it receiving 1.17% new interference from Station W33BY-D. The Commission has determined that allowing temporary pairwise (station-to-station) interference of up to 2% during the transition is in the public interest.⁹ The proposed new interference is under the allowable threshold and will be temporary, as it will resolve upon the transition of Station W33BY-D to its new channel 15 at Phase 3 on June 21, 2019.

Furthermore, as noted above, the Station is not a part of a linked station set.

Impact on Viewers. Under the FCC's Transition Plan, a single rescan is scheduled for the Station's Lansing, Michigan DMA. Grant of the proposed waiver for the Station to transition early will increase to two the number of rescans. We note, however, that two rescans is still within the limit established by the Commission;¹⁰ therefore, grant of the instant waiver is appropriate. Furthermore, MSU will work to minimize any viewer disruption by conducting viewer education efforts above and beyond the required public service announcements (PSAs) and crawls. Specifically, for at least 30 days prior to ceasing operation on its pre-auction channel, the Station will devote 90 seconds per day to viewer notification in the form of on air education, PSAs and crawls. These efforts will be targeted to alert the public of the new channel. In addition, at least 30 days in advance of the transition, the Station will email all contacts in our database to provide notification of the impending change in channel and

⁹ *Transition Scheduling Adoption Public Notice*, at ¶ 16.

¹⁰ *Transition Scheduling Adoption Public Notice*, at ¶ 21.

instructions for rescanning, and will place an article in our “Stay Tuned Guide.” WKAR News also will air an interview with Station leaders to talk about the need for the move and to provide rescanning instructions. Beginning 90 days in advance of the transition, the Station will launch a social media campaign and incorporate messaging into all of our engagement events and interactions with the public, and will solicit support from friends at other local media outlets in getting the word out through an article and through their social media channels. Finally, the Station’s Chief Engineer will be available to take calls from the public to help with the rescanning process if needed, and the Station will train additional staff members to be a go-to resource for viewers who call in with questions.

In sum, grant of this waiver will facilitate a more effective and efficient implementation of the overall policy goals of the Incentive Auction and post-auction transition, and thus is in the public interest.