

RED RIVER BROADCAST CO., LLC REQUEST FOR WAIVER OF PHASE  
ASSIGNMENT, TESTING PERIOD, AND PHASE COMPLETION DATE FOR KDLT-TV

Red River Broadcast Co., LLC (“Red River”) seeks waiver of the post-Incentive Auction Transition Phase assignment, and corresponding testing dates and construction completion deadlines, for KDLT-TV, Sioux Falls SD, (Facility ID No. 55379) (“Station”), for which Red River is the licensee. Pursuant to the *Closing and Reassignment Public Notice*, Station has been assigned to Transition Phase 8, for which the Phase Completion Date is 3/13/2020.<sup>1</sup> Red River seeks to transition the Station early, with expected transition completion on or before 11/30/2018, with a testing period to commence immediately preceding said date.

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 the request is “otherwise compliant with [FCC] rules and [has] little or no impact on the phase assignments or transition schedule.”<sup>2</sup> As demonstrated below, Red River’s instant request qualifies for such favorable treatment.

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<sup>1</sup> *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 Red 2786 (WTB & MB 2017) (*Closing and Channel Reassignment Public Notice*).

<sup>2</sup> *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) (*Transition Scheduling Proposal Public Notice*).

The FCC may grant a waiver for good cause shown.<sup>3</sup> A waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest.<sup>4</sup> 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.<sup>5</sup> Such a waiver is appropriate if circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.<sup>6</sup>

As demonstrated herein, good cause exists for waiver of the assigned Transition Phase and its attendant testing and completion dates because it 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. Specifically, if Station is permitted to complete its transition early, T-Mobile a winning 600 MHz wireless licensee will be able to deploy new competitive wireless broadband service to people of the Sioux Falls market a full 15 months earlier than scheduled.

Interference. The Station has undertaken an engineering analysis (see attached interference analysis from du Treil, Lundin, & Rackley, Inc.) to determine that no new interference will be created by the proposed early transition of the Station beyond the permitted 2% transition period amount. The Station is not part of a linked station set, and the early transition will not create a new linked station set.

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<sup>3</sup> 47 C.F.R. § 1.3.

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

<sup>5</sup> *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.

<sup>6</sup> *Northeast Cellular*, 897 F.2d at 1166.

Impacts to Transition Plan. The proposed transition will permit better utilization of resources by engaging vendors and service providers early in the process rather than have them potentially overloaded further in the overall transition. Red River has consulted with equipment manufacturers, vendors, site lessor, engineers, and tower crews to ensure an orderly early transition, and has received positive written support for this proposed early transition.

Impact to Viewers. Red River believes any disruption to viewers will be minimized. The Station recognizes that its request for an early transition will **not** increase the total number of times a viewer may need to rescan equipment in order to receive all reassigned stations in the Sioux Falls market. Under the original FCC transition plan there is scheduled only 1 rescan for KDLT's DMA and the granting of the proposed early transition will not change the number of rescans (it will stay at 1 rescan). The one rescan is within the cap (2 rescans) established by the Transition Public Notice, therefore, grant of the instant waiver is appropriate. Red River pledges to act to further mitigate any viewer disruption by increasing outreach education above and beyond the required public service announcements and crawls including utilizing the Station's digital and social media outreach to notify the Station audience of the proposed transition and provide detailed instructions on the rescanning process. This will ensure that viewers will be well informed of the transition.

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, without causing any new, material interference or disruption. Therefore, granting this request promptly would be in the public interest.