



Federal Communications Commission  
Washington, D.C. 20554

December 21, 2017

Nexstar Broadcasting, Inc.  
545 E. John Carpenter Freeway  
Suite 700  
Irving, Texas 75062  
Attention: Elizabeth Ryder

Re: Request for Modification and  
Waiver of Phase Assignment  
WJKT(TV), Jackson, Tennessee  
Facility ID No. 68519  
LMS File No. 0000035028

Dear Licensee,

On November 8, 2017, Nexstar Broadcasting, Inc. (Nexstar), the licensee of full power television station WJKT(TV), Jackson, Tennessee (WJKT or Station), filed a *Request for Modification and Waiver of Phase Assignment*, requesting to modify the post-incentive auction transition phase assigned to the Station in the *Closing and Channel Reassignment Public Notice* from Phase 8, and instead transition on or before June 1, 2018, with a testing period to commence immediately prior.<sup>1</sup> For the reasons below, we grant Nexstar's request for waiver and modify WJKT's phase assignment to permit it to commence testing and transition to its post-auction channel on or before June 1, 2018, subject to completion of applicable consumer education requirements and any required notice to multichannel video programming distributors (MVPDs).<sup>2</sup>

*Background.* Pursuant to the *Transition Scheduling Adoption Public Notice*, individual stations may request waiver and modification of their phase assignment.<sup>3</sup> A waiver is appropriate where the particular facts would make strict compliance inconsistent with the public interest and deviation from the general rule would relieve hardship, promote equity, or produce a more effective implementation of overall policy on an individual basis.<sup>4</sup> The Media Bureau (Bureau) has stated it will evaluate such

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<sup>1</sup> 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 LMS File No. 0000035028 (amended Dec. 12, 2017), WJKT Out of Phase Legal STA Waiver Request (Waiver Request).

<sup>2</sup> Repacked stations are required to conduct consumer outreach efforts including providing on-air viewer notifications in the form of public service announcements as well as on-screen crawls at least thirty (30) days prior to transitioning to their post-auction channels. See 47 CFR § 73.3700(c). To the extent applicable, repack stations are also required to provide MVPDs with notice ninety (90) days prior to transitioning. See 47 CFR 73.3700(d). As discussed in greater detail below, Nexstar has also committed to additional consumer education efforts beyond those required by the Commission's rules. Waiver Request at 3 and Consumer Outreach-WJKT.

<sup>3</sup> See *Incentive Auction Task Force and Media Bureau Adopt a Post-Incentive Auction Transition Scheduling Plan*, Public Notice, 32 FCC Rcd 890, 912-14, paras. 47-52 (MB 2017) (*Transition Scheduling Adoption Public Notice*).

<sup>4</sup> See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); 47 CFR § 1.3 (waiver for good cause shown). See also *Transition Scheduling Adoption Public Notice*, 32 FCC Rcd at 913-14, para. 51 and n.171.

requests on a case-by-case basis to assess the impact on the transition schedule, including the impact on other broadcasters as well as viewers, in order to facilitate a timely and orderly transition.<sup>5</sup> The Bureau determined that it would view favorably requests that are compliant with the Commission's rules and have little or no impact on the transition schedule.<sup>6</sup> Requests that the staff determines would be likely to delay or disrupt the transition schedule will be viewed unfavorably.<sup>7</sup>

WJKT is currently licensed to operate on channel 39. It was reassigned to channel 21 in the *Closing and Channel Reassignment Public Notice* and assigned to transition Phase 8, which has a testing period start date of January 18, 2020, and phase completion date of March 13, 2020. WJKT is located in the Jackson, Tennessee, Designated Market Area (Jackson DMA). A total of three stations, including WJKT, were repacked in the Jackson DMA and all were assigned in the *Closing and Channel Reassignment Public Notice* to Phase 8. Nexstar requests permission to begin testing and commence operation on WJKT's post-auction channel on or before June 1, 2018. Nexstar asserts that transitioning to its post-auction channel on or before June 1, 2018, is intended to promote the deployment of new wireless broadband services by enabling T-Mobile, a winning 600 MHz licensee, to deploy its new wireless broadband service in the Jackson DMA 21 months earlier than it would be able to under the current transition schedule.<sup>8</sup> Nexstar argues that its proposal will also "permit a more efficient use of resources by engaging vendors and service providers earlier in the overall process rather than having them potentially overloaded at a later date in the transition."<sup>9</sup> Nexstar has consulted with and provided letters from its antenna and transmitter manufacturers confirming that they will be able to support WJKT's early transition and such a change will not impact their ability to support other stations' transition efforts.<sup>10</sup>

Nexstar also provides an engineering analysis demonstrating that its early transition will not create any new linked station sets or result in impermissible interference during the transition period.<sup>11</sup> Nexstar notes that, while WJKT's proposed early transition will create an additional rescan period in the Jackson DMA, there is currently only one rescan period for the DMA and adding an additional rescan would continue to satisfy the two rescan periods per DMA limitation used in the tool adopted by the Bureau in the *Transition Scheduling Adoption Public Notice* to assign stations to transition phases.<sup>12</sup> Nexstar also states that in order to mitigate consumer impact it will engage in consumer education and outreach beyond the requirements of the Commission's rules through the use of digital and social media.<sup>13</sup>

*Discussion.* Upon review of the facts and circumstances presented, we find Nexstar's request to modify its phase assignment to permit WJKT to transition to its post-auction channel on or before June 1, 2018, satisfies the requirements for a waiver. We agree that the change to WJKT's transition phase

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<sup>5</sup> See *Transition Scheduling Adoption Public Notice*, 32 FCC Rcd at 912-14, paras. 49-52. See also *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Broadcast Transition*, Public Notice, 32 FCC Rcd 858, 881-82, para 73 (MB 2017).

<sup>6</sup> *Transition Scheduling Adoption Public Notice*, 32 FCC Rcd at 912-13, para. 49 and n.163.

<sup>7</sup> *Id.*

<sup>8</sup> Waiver Request at 2.

<sup>9</sup> *Id.* at 3.

<sup>10</sup> *Id.* at 14-15, Vendor Letters from Dielectric and Rohde & Schwartz.

<sup>11</sup> *Id.* at 3 and 6-12, Engineering Statement.


<sup>12</sup> *Id.* at 3; see *Transition Scheduling Adoption Public Notice*, 32 FCC Rcd at 898-99, paras. 20-21.

<sup>13</sup> Waiver Request at 3 and Consumer Outreach-WJKT.

should not have an adverse impact on the overall transition schedule or a negative impact on other stations or viewers. A staff analysis confirms that the phase change does not create any new linked station sets and will not result in new interference above the two percent permitted during the transition.<sup>14</sup> While viewers in the Jackson DMA will be subject to an additional rescan period, the total number of rescan periods will be limited to two. Nexstar has committed to put in place viewer outreach programs beyond those required by the Commission rules in order to ensure that viewers will be well-informed and can manage the additional rescan period. Nexstar has also provided evidence that the resources necessary to support its early transition are available and will not delay other transitioning stations' access to resources. As a result, we find on balance that the benefit of early deployment in the 600 MHz band, the ability to vendors to support WJKT's early transition, and additional consumer education and outreach efforts, outweighs the burden of an additional rescan period in this case.

Accordingly, we **GRANT** Nexstar's *Request for Modification and Waiver of Phase Assignment* and modify the transition phase assignment for WJKT **from Phase 8 and permit the Station to commence testing and transition to its post-auction channel on or before June 1, 2018, subject to completion of applicable consumer education requirements and any required notice to MVPDs under the Rules,<sup>15</sup> as well as any additional consumer education commitments made in its waiver request.** Furthermore, WJKT must cease operation on its pre-auction channel on or before June 1, 2018, upon commencement of operation pursuant to program test authority, or upon the filing of an application for license to cover, whichever occurs first.

Sincerely,



Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

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<sup>14</sup> See *Transition Scheduling Adoption Public Notice*, 32 FCC Rcd at 897, para. 16 (allowing temporary increased pairwise (station-to-station) interference of up to two percent during the transition period).

<sup>15</sup> See 47 CFR §§ 73.3700(c), (d).