

WatchTV, Inc.  
KOXO-CD, FID 71080  
FRN 0020-4975-90

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

Waiver Requested. WatchTV, Inc. requests a waiver of the post-Incentive Auction Transition Phase assignment, and corresponding testing dates and construction completion deadlines, for KOXO-CD, Portland OR, (Facility ID No. 71080) (“Station”). Pursuant to the *Closing and Reassignment Public Notice*, Station has been assigned to Transition Phase 2, for which the Phase Completion Date is 04/12/2019. WatchTV, Inc. seeks to transition the Station early, with expected transition completion on or before 06/01/18, with a testing period to commence immediately preceding said date.

Commission Transition Policy. 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>1</sup> As demonstrated below, WatchTV, Inc.’s instant request qualifies for such favorable treatment.

The FCC may grant a waiver for good cause shown.<sup>2</sup> A waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest.<sup>3</sup> In considering a waiver, the FCC may take into account considerations of hardship, equity, or more effective

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<sup>1</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*).

<sup>2</sup> 47 C.F.R. § 1.3.

<sup>3</sup> *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

implementation of overall policy on an individual basis.<sup>4</sup> Such a waiver is appropriate if circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.<sup>5</sup>

Good Cause for Waiver. 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 with minimal impact 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 Portland, OR market a full 10 months earlier than scheduled.

Interference. 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. Station is not part of a linked station set, and the early transition will not create a new linked station set.

Impact on Transition by Other Stations. The proposed transition will have no impact on vendors and installers needed by other stations. KOXO-CD transmits through a shared broadband antenna that is in place now and will not require replacement. WatchTV anticipates purchasing a new transmitter to operate on Channel 15. Transmitters are readily available in the marketplace and can be acquired on short notice. Attached is a letter from WatchTV's engineering contractor, which will provide equipment acquisition and installation services, indicating that any remaining needed parts are readily available, and the 06/01/2018 proposed cutover date can readily be achieved.

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<sup>4</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>5</sup> *Northeast Cellular*, 897 F.2d at 1166.

Impact on Viewers. WatchTV, Inc. believes any disruption to viewers will be minimal. While the Station's request for an early transition will increase the total number of times a viewer may need to rescan equipment in order to receive all reassigned stations in the Portland, OR market, WatchTV is not aware of any other station that plans to transition out of the normal time sequence. Under the original FCC transition plan, only one (1) rescan is scheduled for KOXO-CD's DMA. Grant of the proposed early transition will change the number of rescans to two (2). The two-rescan result is within the cap (2 rescans) established by the transition public notices. Moreover, as discussed below, WatchTV's viewers have learned to re-scan in the past, and WatchTV knows how to alert them to re-scan in the future. Thus, grant of the instant waiver is appropriate.

Impact on Experimental Operation. WatchTV, Inc. holds experimental licenses to transmit ATSC 3.0 signals on its Class A stations KKEI-CD, Channel 38, KOXI-CD, Channel 20, and KORK-CD, Channel 35, all in Portland. The Class A required programming for all of these stations has been broadcast on ATSC 1.0 digital streams on KOXO-CD, Channel 41, since the experimental operation started. WatchTV informed viewers that the programming of the three stations was moving, and viewers learned how to make the transition. When KOXO-CD moves to Channel 15, the Class A programming streams for KKEI-CD, KOXI-CD, and KORK-CD will also move to Channel 15. KOXO-CD will broadcast appropriate announcements for to inform viewers about the need to rescan to receive KOXO-CD on Channel 15. It will be a process that WatchTV has undertaken before and that its viewers will understand.

Conclusion: 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, by expediting initiation of new services by T-Mobile, with no interference to or impact on the transition by other stations, and with no harm to KOXO-CD's television viewers. It is respectfully submitted that the requested waiver is thus in the public interest.



## Broadcast Engineering Services

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December 20, 2017

Greg Herman  
President  
WatchTV, Inc.  
855 Harbor Court  
Southlake, Texas 76092

Re: Repack of KOXO-CD to Channel 15

Mr. Herman,

Per our discussion, the transition of KOXO-CD from its present channel assignment (UHF 41), to its assigned post-repack channel (UHF 15) can be easily accomplished before the June 1, 2018 deadline.

The transmitting antenna and transmission line are already in place and all of the other equipment required is either on-hand or can be readily obtained well in advance to permit installation and final testing before June 1st, 2018.

If you have any questions, please feel free to contact me at any time.

Sincerely,

Jess Ortega  
President  
Broadcast Engineering Services