

WatchTV, Inc.
KKEI-CD, FID 71078
FRN 0020-4975-90

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

Waiver Requested. WatchTV, Inc. (“WatchTV”) requests a waiver of the post-Incentive Auction Transition Phase assignment, and corresponding testing dates and construction completion deadlines, for KKEI-CD, Portland OR, (Facility ID No. 71078) (“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 seeks to transition the Station early, with expected transition completion on or before 06/01/2018, 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.”¹ As demonstrated below, WatchTV’s instant request qualifies for such favorable treatment.

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

¹ *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*).

² 47 C.F.R. § 1.3.

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

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

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 simultaneous transition by both of the WatchTV Class A television stations that will be required to change channels as a result of the repacking of the TV spectrum. (WatchTV has three other Class A stations that transmit from a common location through a combiner and common antenna, but the other three will remain on their current channels.)

Coordination with Other Stations. A request is pending (LMS File No. 0000037429) for WatchTV's Station KOXO-CD, Facility ID 71080, to complete its transition from Channel 41 to Channel 15 early, to accommodate T-Mobile, which will be activating its equipment on Channel 41 by 06/01/2018. WatchTV recently purchased a new combiner, which has been custom-configured to accommodate the KOXO-CD channel change and the resulting first-adjacent channel operation by KOXO-CD (Channel 15) and KORS-CD (Channel 16) using a shared antenna.⁶

KKEI-CD has been directed by the FCC to move from Channel 38 to Channel 36, first-adjacent to WatchTV's Station KORK-CD, Facility ID 71079. Thus a second instance of first-adjacent channel operation will exist and must be taken into account in configuring the combiner. It will be far more efficient and less costly if single configuration covers both station pairs at the same time. *WatchTV estimates that allowing the two stations to*

⁴ *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.

⁵ *Northeast Cellular*, 897 F.2d at 1166.

⁶ KOXO-CD and KORS-CD (Facility ID 71069) are both licensed to WatchTV. KORS-CD is currently operates Channel 16 and will not change channels as part of the repacking process.

transition at the same time will save approximately \$50,000 in combiner reconfiguration costs that WatchTV will otherwise claim from the repack reimbursement fund.

As noted above, WatchTV's three other stations, KORS-CD, KORK-CD and KOXI-CD, will not change channels in the repack. Only KOXO-CD and KKEI-CD will change. WatchTV requests that both stations be permitted to change channels at the same time, in time to meet the deadline requested by T-Mobile for KOXO-CD to cease operation on Channel 41.

Interference. WatchTV has undertaken an engineering analysis (see attached Statement from Broadcast Engineering Services) and has determined that no new interference will be created by the proposed early transition of KKEI-CD beyond the permitted amount. To the extent that any prohibited interference issues may arise, they will involve only WatchTV's own first-adjacent channel station and are acceptable to WatchTV. It should be noted that while KZJO, Facility ID 25375, Seattle, WA, will operate on Channel 36 post-transition, KZJO operates on Channel 25 pre-transition. An early transition by KKEI-CD to Channel 36 will have no impact on KZJO's Channel 25 operation. KKEI-CD 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. As noted above, KKEI-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 36. 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.

Impact on Viewers. WatchTV, Inc. believes any disruption to viewers will be minimal. If KKEI-CD and KOXO-CD both transition at the same time, approval of the same early date for both stations will not increase the total number of times that viewers may need to rescan receivers in order to receive all reassigned stations in the Portland, OR market. Moreover,

since the pending early transition waiver request for KOXO-CD has not yet been approved, KOXO-CD and KKEI-CD will now transition at the same time as KOIN, Facility ID 35380, Portland, for which a transition date of 06/01/2018 has already been approved in LMS File No. 0000035024. Therefore, grant of the instant waiver will not increase the number of scans already approved for the Portland market by virtue of KOIN's scheduled early transition.

Consumer Education. Section 73.3700(c)(3) of the Commission's Rules requires that "(3) [t]ransitioning stations, except for license relinquishment stations, must air 60 seconds per day of on-air consumer education PSAs or crawls for 30 days prior to the station's termination of operations on its pre-auction channel." Because KKEI-CD seeks to transition at a date that will be different from all stations in the market other than the three stations planning to transition by 06/01/2018, KKEI-CD will double the number of on-air PSAs or crawls and will broadcast 120 seconds per day for 30 days.⁷

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 enabling WatchTV to configure its new combiner efficiently for KKEI-CD at the same time that it transitions KOXO-CD early to expedite initiation of new services by T-Mobile, with no interference to or impact on the transition timetable for other stations. It is respectfully submitted that the requested waiver is thus in the public interest.

⁷ KKEI-CD does not have a website or social media accounts that it can use to publicize the early transition date.

BES 
Broadcast Engineering Services

60891 Robinette Rd
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Phone (503) 366-1498
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March 12, 2018

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

Re: Repack of KKEI-CD to Channel 36

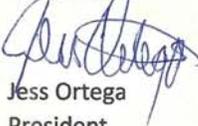
Mr. Herman,

Per our previous discussions, the transition of KKEI-CD from its present channel assignment (UHF 38), to its assigned post-repack channel (UHF 36) can be easily accomplished before the June 1, 2018 deadline requested for KOXO-CD.

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

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

Sincerely,



Jess Ortega
President
Broadcast Engineering Services