

**Request for Waiver of Transition Phase Assignment,
Testing Period, and Phase Completion Date**

A. Introduction and Background

By this Legal STA Request, Hearst Stations Inc. (“Hearst”) seeks waiver of the post-Incentive Auction Transition Phase assignment, and corresponding testing dates and construction completion deadlines, for WTAE-TV, Pittsburgh, Pennsylvania (Fac. ID No. 65681) (“Station” or “WTAE”). Pursuant to the CCR Public Notice, WTAE has been assigned to Transition Phase 4, for which the Phase Completion Date is currently scheduled as August 2, 2019 (with a six-week testing phase scheduled to commence June 22, 2019).¹ Hearst seeks to transition the Station early, with expected transition completion on or before August 31, 2018—and, possibly, as early as August 1, 2018—with a three-week testing period to commence immediately preceding such date. As of this filing, Hearst’s target date for its early transition is August 7, 2018.

As discussed in greater detail below, this request will result in all of the following benefits:

- streamlining of scarce repack resources,
- no interference to any other station,
- abandonment of channel 51, which is immediately adjacent to the 700 MHz band in which wireless licensees already operate (to be clear, this proposal does not involve the early launch of new wireless services in the 600 MHz band),
- increased safety for tower workers, and
- overall cost savings for WTAE-TV’s repack project.

While grant of the request will result in a third rescan in the Pittsburgh DMA, WTAE-TV is committed to providing enhanced consumer education at various points during the market’s Transition Phases in order to mitigate the impact on viewers.

The Transition Scheduling Adoption Public Notice expressly authorized stations to propose “alternative transition solutions that could create efficiencies,” and specifically indicated 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.”² As demonstrated below, Hearst’s

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) (“CCR Public Notice”).

² *Incentive Auction Task Force and Media Bureau Adopt A Post-Incentive Auction Transition Scheduling Plan*, 32 FCC Rcd 890 (MB 2017) (“Transition Scheduling Adoption Public Notice”), at ¶ 51 (citing *Incentive Auction Task Force and Media Bureau Seek Comment on Post-*

instant request for WTAE qualifies for such favorable treatment.

B. Waiver Standard

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 WTAE’s assigned Transition Phase 4 and its attendant testing and completion dates because it will serve the public interest by maximizing and streamlining the use of scarce transition resources and facilitating an orderly and efficient transition for WTAE’s channel 51 to be dedicated to wireless broadband service to the public while causing minimal impact on broadcast television viewers. More specifically, if WTAE is permitted to complete its transition early, it will free up scarce tower crew resources for stations transitioning in all Transition Phases, as WTAE’s transition—which would otherwise require two full tower crew mobilizations to meet the Phase 4 deadlines—will be accomplished in “one fell swoop” at a time that is most convenient to the tower crew. In addition, early transition of WTAE will mean that existing 700 MHz wireless licensees will have unencumbered access to WTAE’s pre-auction channel 51 a full year earlier than initially scheduled. Moreover, the reduction of two tower mobilizations to one will result in lower risks of injury and lower costs. Finally, early transition will create no interference issues.

D. WTAE-TV’s Early Transition Will Not Cause Any Negative Impacts to the Overall Transition Plan

1. The Proposal Complies with All Interference Rules and Policies

The (lack of) interference implications of this proposal, including linked station sets, is an important consideration. As the Media Bureau’s own analysis already demonstrates, WTAE is not part of any linked station set, and Hearst’s proposed early transition of WTAE will comply with all existing interference rules, policies, and constraints applicable to a transitioning station. This is evident from the fact that WTAE’s Facility ID Number is not included in either the

Incentive Auction Transition Scheduling Plan, Public Notice, 31 FCC Rcd 10802 (MB 2016) (“Transition Scheduling Proposal Public Notice”).

³ 47 C.F.R. § 1.3.

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

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

“Dependencies” table or the “Linked-Station Sets” table made available by the Commission as part of the Post Incentive Auction Television Transition Data Files available at https://data.fcc.gov/download/incentive-auctions/Current_Transition_Files/. In short, Hearst’s proposal to make WTAE’s transition early would have no impact on other transitioning stations because WTAE is not part of a linked station set on its current channel and doesn’t create any new linked station sets on its new channel.

2. Scarce Vendor Resources Will Be Streamlined and No Vendor’s Ability to Provide Products and Services to Other Repacking Stakeholders Will Be Affected

The proposed early transition of WTAE-TV will further the overall post-Auction transition because it will facilitate better utilization of resources by engaging vendors and service providers earlier in the process. Hearst has already scheduled delivery of the principal vendor inputs for its transition. Indeed, it was that scheduling process that gave rise to the concept of moving WTAE’s transition date up by a year.

First, pursuant to a vendor agreement, WTAE’s new transmitter has already been delivered (in fact, installation of the new transmitter commenced on April 16, 2018). The delivery and installation dates were not moved up or changed for purposes of this waiver request. Installation is anticipated to be completed in early May 2018. Again, this installation schedule is already in place and has not been modified or moved up for purposes of this waiver request. Thus, grant of this waiver request will have no impact on the transmitter fabrication, delivery, or installation that would affect any other station in the nationwide transition because the transmitter has already been fabricated and delivered, and installation is already underway (and each of these activities would have occurred on the same schedule even if Hearst were not filing this waiver request).

Second, WTAE’s new aux antenna, which will also serve as WTAE’s interim facility to effectuate the transition, will be scheduled for to be delivered from where it currently sits in storage in July 2018, once the tower crew’s rigging date has been finalized. The precise delivery date of the aux antenna from storage does not depend on whether or not this waiver request is granted—it will occur as soon as feasible once the tower crew’s schedule has been finalized for the site. Significantly—and of great consequence to this waiver request—WTAE’s two new antennas have, as of the date of this waiver request, *both already been fabricated and are currently sitting in storage*. Thus, the delivery of the already-fabricated antennas from storage will be scheduled to coincide with the tower crew’s schedule, and WTAE’s proposed early transition will not affect the antenna manufacturer’s production schedule in any manner. (In that regard, a letter from antenna manufacturer Dielectric is attached to this waiver request. The letter indicates that WTAE-TV’s early transition will have no effect on Dielectric’s ability to provide products and services to other transitioning stations.)

Third, Hearst is scheduling its tower vendor to commence its work in July 2018 at WTAE’s site. (The precise dates are, at the time of filing of this waiver request, being negotiated to finality.) At a minimum, the July 2018 tower crew mobilization will be for purposes of installing the new auxiliary antenna. This tower crew mobilization will occur in July 2018 for the aux antenna

installation irrespective of whether this waiver request is granted. This waiver request really has more to do with what occurs *after* the tower crew's July 2018 mobilization because that's when the scheduling efficiencies—and potential cost savings—really materialize.

If this waiver request is *not* granted, then the tower crew will complete WTAE's aux antenna work at the site, demobilize, and return to the site a year later in the spring of 2019 during the height of the nationwide transition, shortly in advance of the Phase 4 testing window. That second mobilization would be to install the primary antenna (which already sits in storage). In the "big picture" of the overall nationwide transition, the second mobilization would represent an unnecessary strain on scarce tower crew resources if, instead, WTAE could be granted permission to transition a year early as requested herein. Indeed, as indicated in Coast to Coast's attached letter, the vendor itself has a distinct preference to complete WTAE-TV's repack project with only one mobilization and to eliminate the need to come back for a second mobilization. To be clear, if this waiver request is granted, the tower crew's July 2018 mobilization would simply be extended in order to install the new primary antenna and put WTAE in position to commence operations on its new channel by the end of August 2018, which would eliminate the second mobilization.

3. Eliminating the Second Tower Mobilization Results in Demonstrable Decreases in Hazard Risk and in Project Costs

Finally, a single mobilization and a condensed work schedule in the July/August 2018 timeframe will reduce two important things: (i) risks inherent in tower work and (ii) project costs.

Each time a tower is rigged, the tower crew is exposed again to the risks associated with tower climbing and work. By rigging the tower one time for one continuous project—instead of rigging the tower twice for two separate projects—the safety risks would necessarily decrease for the tower crew because they would be performing less tower work. Indeed, in the attached letter from Hearst's tower vendor (Coast to Coast), the President of Coast to Coast suggests that the rigging risks could be cut nearly in half by making WTAE-TV's transition into a one-mobilization project.

Furthermore, because WTAE-TV's antennas already sit in storage, the early transition sought herein is predicted to translate into cost savings for the overall WTAE transition project, because the additional year of storage costs for the primary antenna would be eliminated from the budget. A letter from Dielectric (who manufactured the antennas and is currently storing the antennas) is attached to address the storage cost element.

E. WTAE-TV's Enhanced Consumer Education Efforts Will Mitigate the Minimal Consumer Impacts

Hearst acknowledges that its request for an early transition may increase the total number of times viewers may need to rescan equipment in order to receive all reassigned stations in the Station's DMA from two to three scans. Hearst believes any disruption to viewers will be

minimized by a combination of its own mandatory efforts (as prescribed by Section 73.3700(c)) to educate the public and its own additional efforts to engage in consumer education through additional platforms and at additional points during the Pittsburgh DMA's transitions. Although three scans exceeds the presumptive cap established by the Media Bureau and Incentive Auction Task Force⁷ by one scan, a waiver is warranted as the Station will engage in a more comprehensive consumer awareness campaign. Moreover, the Media Bureau has found that three scans is acceptable in some circumstances. *See, e.g.*, WXOW Waiver Request, LMS File No. [0000040297](#) (granted Feb. 2, 2018).

More specifically, in addition to the required on-air public service announcements and crawls to notify the Station's audience of information relevant to WTAE's transition⁸ and to provide detailed instructions on the rescanning process, Hearst will conduct robust and diverse outreach through on-air news content and via digital platforms. These efforts will include social media engagement and use of the Station's free mobile device "app" to ensure that viewers will be well-informed that WTAE's early transition and the transition schedule for the rest of the DMA will require consumer rescans. Indeed, Hearst's engagement with local viewers via digital, non-broadcast media platforms is significant on a daily and monthly basis.

From a non-broadcast digital media platform standpoint, WTAE's content and messaging is available to all consumers in the DMA, and its monthly digital platform statistics suggest that a significant portion of consumers in the DMA engage with one or both on a regular basis. For example, in the 24th ranked Pittsburgh DMA with 1,141,950 television households,⁹ the WTAE.com website operated by Hearst had nearly two million (approximately 1,931,000) unique visitors during the month of January 2018, and some 136,000 downloads of WTAE's "app" have been downloaded to active mobile devices. WTAE also reaches a significant number of consumers via social media, with approximately 350,000 fans on Facebook, and approximately 118,000 Twitter followers. As such, there is little question that Hearst will be able to effectively engage in a robust viewer education campaign—above and beyond the on-air notifications required by Section 73.3700(c)—to inform consumers about the need to rescan at the point that WTAE completes its early transition pursuant to a grant of the instant waiver request.

Finally, Hearst is committed to ensuring that consumers are aware of the true "final" rescan in the Pittsburgh DMA, which will occur towards the end of the entire transition. Because twelve stations in the Pittsburgh DMA will be transitioning as part of Phase 4 (WWAT-CD, WWLM-CD, WPCB-TV, WGPT, WINP-TV, WMVH-CD, WBYD-CD, WKHU-CD, WWKH-CD, WPGH-TV, WPNT, and WPXI), the market will be inundated with consumer education messaging immediately prior to the Phase 4 implementation dates. Additional education efforts by WTAE-

⁷ See Transition Scheduling Adoption Public Notice at ¶¶ 21 & 26.

⁸ See 47 C.F.R. § 73.3700.

⁹ See The Nielsen Company, Local Television Market Universe Estimates, *available at* <http://www.nielsen.com/content/dam/corporate/us/en/public%20factsheets/tv/2017-18%20TV%20DMA%20Ranks.pdf>.

TV during that period would be superfluous and likely to vanish into the background of what will already be a robust, marketwide rescan education campaign. Nearly a year later, however, the remaining repacked station in the market, noncommercial station WQED, will effectuate its transition as part of Phase 9. As the lone Phase 9 station in the market transitioning about a year after everyone else, noncommercial WQED stands to be the most vulnerable station in the market in terms of getting its rescan message out. (And, that would be true even if WTAE-TV were not seeking to change its Phase.) Hearst believes that it would be most helpful and productive for WTAE-TV to engage in additional consumer education efforts around the time of WQED's transition in order to help ensure that viewers are aware of the need to rescan again in order to continue to receive the final transitioning station on its new channel. To that end, in the time leading up to WQED's transition, WTAE-TV will commit to engaging in a supplementary viewer education campaign by airing rescan reminders and using its digital platforms for the same purpose.

F. Conclusion

In sum, grant of this waiver will not undermine or delay any post-Auction transition goals, does not require waiver of any interference regulations or policies, and will facilitate a more effective and efficient implementation of the overall policy goals of the Incentive Auction and post-auction transition. The only difference between this waiver request and early transition plan and the ones that have already been approved by the Media Bureau (*see, e.g.*, WXOW, LMS File No. [0000040297](#); WBEC-TV, LMS File No. [0000036051](#)) is that no wireless carrier seeking "early access" to 600 MHz spectrum is directly involved in the WTAE early transition. Of course, the Media Bureau has also granted waivers for stations to move to earlier transition phases outside of the context of the early provision of wireless broadband services, and Hearst's request is consistent with those decisions as well. *See, e.g.*, KCDT, LMS File No. [0000026078](#) (weather-related circumstances sufficient to justify change to earlier transition phase with no promise of additional consumer education); WECT, LMS File No. [0000024616](#) (noting that grant of the request would "reduce transition costs and may even free up resources for other stations"). Accordingly, grant of this request is in the public interest.

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Mr. Paul Nowacowski
WTAE TV
400 Ardmore Blvd.
Pittsburgh, PA 15221
(412) 242-4300

February 27, 2018

Dear Paul:

I am providing this letter in support of WTAE-TV's submission to the FCC seeking to move your transition up by approximately one year, from the designated Transition Phase 4 to the July/August 2018 time period.

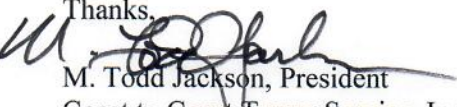
As the vendor selected to perform the tower work necessary for your transition, we support your request to move your transition up by a year because it will mean that our tower crew will only have to mobilize to WTAE-TV's tower site one time, instead of two. In fact, since we began discussing the WTAE-TV repack project, it has always been my preference to structure the project in a manner that would result in one, early mobilization so that we don't have to come back to the site during the height of the repack to complete the second set of preparations for your Phase 4 transition deadline. Mobilizing only once (in the June – August 2018 time period) to WTAE-TV's site will result in substantial cost savings to you—I can't tell you a definite amount, but I would approximate the reduction from two mobilizations to one to result in a savings in the \$45,000 to \$50,000 range—and will also result in a greater degree of safety for our crew; after all, every time a tower needs to be rigged, the crew faces the risks associated with the work. By mobilizing only one time, we cut the rigging risk basically in half. Moreover, by completing WTAE-TV's work in the "Phase Zero" July/August 2018 time frame, it will free us up to provide our services elsewhere during the height of the transition around Transition Phase 4.

Finally, if we are authorized to complete your transition early as you are requesting, it will not negatively impact any other work or repack client that we have already lined up.

If you have any questions, please let me know. We look forward to working on your project, Paul, and I hope the FCC grants your request to transition early.

Sincerely,

Thanks,


M. Todd Jackson, President
Coast to Coast Tower Service, Inc.
753 Arrowhead Road
Waxahachie, TX 75167

(214) 251-8050 - Direct Phone
(972) 923-9504 - Office Phone
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Dielectric, LLC
22 Tower Road
Raymond, ME 04071
1-800-341-9678

March 21, 2018

Mr. John Drain
Hearst Television Inc.
300 West 57th Street
New York, NY 10019

Dear Mr. Drain,

In regards to your inquiry on building the repack array for WTAE-TV in Pittsburg, PA early, this will not impact our ability to service customers in later phases of the repack. Dielectric has ample capacity at this point and will do as much pre-work as possible to avoid any manufacturing delays.

If you have any questions or concerns regarding this, please feel free to reach out to me directly.

Regards,

A handwritten signature in black ink, appearing to read "Jay S. Martin".

Jay S Martin
VP Sales-Dielectric



22 Tower Road
Raymond, ME 04071
Phone: 207-655-4555
Fax: 207-655-8173

March 22, 2018

Doug Durkee
Hearst Television
ddurkee@hearst.com
Re: Storage Fees

Dear Doug,

This letter is in response to your email requesting storage rates for purposes of filling out the FCC 399 form. As discussed, there are too many variables to provide a firm-fixed-price, so Dielectric's worse case estimate for 1 year of storage at a secure facility in Maine for the WTAE Main and Aux equipment would be \$20,880.00. This estimate would be recalculated once final weights and dimensions and duration of storage are known.

This estimate is valid for 90 days & we hope this helps you fill out your 399 form. If I can be of any other help, please don't hesitate to reach out.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig A. Gurney".
Craig Gurney

Dielectric, LLC

Account Manager

207-655-8141 / 207-712-1178