

Board of Governors of Missouri State University
KOZJ(TV), Joplin, MO (Facility ID 51101)

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

Board of Governors of Missouri State University (“University”) seeks waiver of the post-Incentive Auction Transition Phase assignment, and corresponding testing dates and construction completion deadlines, for noncommercial educational (PBS Member) Station KOZJ(TV) Joplin, MO (Facility ID 51101) (“Station”). Pursuant to the *Closing and Reassignment Public Notice*, the Station has been assigned to Transition Phase 2, for which the Phase Completion Date is 4/12/2019.¹ University seeks to transition the Station early, with expected transition completion on or before September 1, 2018, with a testing period to commence immediately preceding said date. An early transition for this Station will materially aid the University in its repack transitions for this Station, as well the University’s co-owned Station KOZK, which suffered a tragic tower collapse in the midst of KOZK repack work on the tower.

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

¹ *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*).

assignments or transition schedule.”² As demonstrated below, University’s instant request qualifies for such favorable treatment.

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 the assigned Transition Phase and its attendant testing and completion dates because (i) it will materially aid the University -- a small market public broadcaster facing back-to-back repack transitions for its Stations in rural areas -- and (ii) 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. KOZJ has partnered with T-Mobile to transition early to facility broadband service using the 600 MHz band in and around Tulsa, Oklahoma up to 7 months earlier than the scheduled transition for this market. The interplay amongst the four TV stations involved in this early transition is depicted in Table 1.

² *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*).

³ 47 C.F.R. § 1.3.

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

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

Callsign	Channel	New Ch	Dependency	LSS	ISIX Case for T-Mobile
KOZJ	25	35	N/A	9	N/A
KXNW	34	25	KOZJ	9	N/A
KMYT	42	34	KXNW	9	Case 3
KGEB	49	12	N/A	N/A	Case 4

Table 1. Tulsa early transition move package.

While KOZJ does not operate in the 600 MHz band, it is part of linked station set 9 and downstream from KXNW-TV (Facility ID 29557) which is downstream from KMYT-TV (Facility ID 54420) – and KMYT-TV currently operates on Channel 42 which is in a portion of the 600 MHz band acquired by T-Mobile. KXNW and KMYT are both seeking to transition early and their applications are incorporated by reference to this waiver request.

Interference. Attached hereto is an “Engineering Statement Supporting Request for Waiver Television Station KOZJ(TV),” prepared by duTreil, Lundin & Rackley, Inc (“Engineering Statement”). As demonstrated in the Engineering Statement, the proposed early transition will cause 0.53% new interference to Station KCAF-CD. In the *Transition Scheduling PN*, the Commission determined that allowing temporary pairwise (station-to-station) interference of up to two percent (2%) during the transition is in the public interest.⁷ The proposed new interference is under the allowable threshold and will be temporary, as it will resolve upon the transition of Station KXNW to its new channel. University pledges to notify and work

⁷ *Transition Scheduling Adoption Public Notice*, at ¶ 16.

cooperatively with the licensee of Station KXNW to minimize actual interference, if possible, by coordinating closely with KXNW on transition dates and times. This interference should resolve itself immediately upon KXNW moving to its new channel, 25, the same day.

Further, because the analysis shows no cases of incoming (received) interference exceeding the normal 0.5% rounding tolerance level to any other protected full-power or Class A television stations now operating, no new pairwise (station-to-station) interference will be created by the proposed early transition of Station.

An additional benefit of the early transition is simplifying the transition for KNWA-TV – not part of this package – in its transition. The early transition of KXNW, KOZJ and KMYT will remove three stations from linked station set 9. This will simplify the transition process for KNWA-TV which currently operates at channel 50 and will transition to channel 33 in Phase 2.

No new station linked station sets are created by the proposal.

Impacts to Transition Plan. The proposed transition will further the overall transition plan and will in fact create positive externalities by allowing the unlocking of a linked station set, thereby relieving numerous stations from burdens associated with coordination of resources and timing.

This early out of phase move will in fact permit better utilization of resources by engaging vendors and service providers early in the process and in the summer and fall months when

winter weather in the Midwest is not a concern, rather than have them potentially overloaded further in the transition.

Moreover, the early transition will materially aid the University with the Station's repack by allowing the Station to rely on certain T-Mobile repack resources, including T-Mobile's extensive list of vendor contacts, to assist with the Station's repack. The University is the licensee of two noncommercial educational (PBS Member) television stations – Station KOZJ in Joplin, Missouri and Station KOZK in Springfield, Missouri. These stations provide the only PBS programming to certain rural areas in Southwest Missouri. The University was facing back to back repack efforts for Station KOZJ (Phase 2) and Station KOZK (Phase 1), when the KOZK tower tragically collapsed during repack work, which has forced the University to rethink its transition plans for Station KOZK. T-Mobile's assistance with the KOZJ transition, coupled with T-Mobile's generous offer to assist the University with the unanticipated complications of the KOZK transition (which is NOT related to this phase change waiver or to T-Mobile's new wireless service) will materially aid the University – the noncommercial licensee of two small market public TV stations serving largely rural areas without high MVPD penetration – in making a timely and efficient repack transition. KOZJ has already lined up the necessary vendors to provide the materials and complete the work on or before the Sept. 1, 2018 date sought as documented in the attached exhibits.

Impact to Viewers. University believes any disruption to viewers will be minimized by this arrangement. Under the FCC's Transition Plan, there was scheduled to be one rescan of the Station's DMA. The Station recognizes that grant of the proposed early transition of Station will result in an increase in the number of rescans for viewers in the area from one rescan to two

rescans. The Commission determined that up to two non-sequential rescans will serve the goals of efficiently clearing DMAs while minimizing viewer disruption.⁸ Because the proposed early transition of the Station will still be within the maximum of two rescans deemed to be in the public interest, grant of the instant waiver is appropriate. University pledges to engage in a consumer awareness campaign and to further mitigate any viewer disruption by increasing outreach education above and beyond the required public service announcements to notify the Station audience of the proposed transition and provide detailed instructions on the rescanning process. Specifically, the University will broadcast more than the required number of PSAs during the 30 days prior to transition, mail rescan information directly to supporters of the station, and provide rescan guidance on its website and its viewer guide.

In addition, University will coordinate with Tribune Broadcasting of Fort Smith License, LLC, licensee of KXNW(TV), Eureka Springs, Arkansas, Cox Television Tulsa, LLC, licensee of KMYT-TV, Tulsa, Oklahoma, and University Broadcasting, Inc., licensee of KGEB(DT), Tulsa, Oklahoma to minimize confusion among viewers in the DMA of the intention of all four stations to transition ahead of the overall Tulsa transition phase.

MVPD Notification. Finally, the University has already taken the necessary actions to ensure all impacted MVPDs are notified of the impending channel change at least 90 days prior to actual change.

⁸ *Transition Scheduling Adoption Public Notice*, at ¶ 21.

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, and thus is in the public interest.