

Phase Adjustment Waiver for KSBO-CD
Santa, Barbara, CA, Facility ID 31354

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

HC2 Station Group, Inc. (owns KSBO-CD) seeks waiver of the post-Incentive Auction Transition Phase assignment, and corresponding testing dates and construction completion deadlines, for KSBO-CD, Santa Barbara, CA (Facility ID No. 32176) (“Station”). Pursuant to the *Closing and Reassignment Public Notice*, Station has been assigned to Transition Phase 8, for which the Phase Completion Date is 3/13/2020. HC2 Station Group, Inc. seeks to transition the Station early in Phase 2, with expected transition completion on or before 4/12/2019.

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, HC2 Station Group, Inc.’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

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).

waiver, the FCC may take into account considerations of hardship, equity, or more effective 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

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 while minimizing impacts 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 Santa Barbara and San Luis Obispo area up to 11 months earlier than scheduled.

Interference. The 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 or received by the proposed early transition of the Station beyond the permissible 0.5% rounding level of interference allowed by the FCC. The early transition will not create any additional new linked station set(s).

Impacts to Transition Plan. The proposed transition will permit better utilization of resources by

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.

engaging vendors and service providers early in the process rather than have them potentially overloaded further in the overall transition. HC2 Station Group, Inc. Has consulted with equipment manufacturers, vendors, site lessor, engineers, and tower crews to ensure an orderly early transition. (see attached letters from vendors). Additionally, a waiver will place KSBO-CD in the same phase 2 as the stations in nearby Los Angeles and immediately before the Bakersfield phase 3 stations, allowing tower crews to stay in the Southern California market in an ordered fashion. By moving KKSBO-CD and K50LZ-D in phase 2, all California stations outside of the San Francisco and Sacramento DMAs will have transitioned to their new channel assignment by the conclusion of phase 3.

Impact to Viewers. HC2 Station Group, Inc. believes any disruption to viewers will be minimal. Under this Transition Plan, two stations are scheduled to repack in Phase 8 in the Santa Barbara DMA. There is another station K50LZB-D which has an agreement with T-Mobile and is seeking a waiver with a new deadline of April 12, 2019 (Phase2). Grant of the proposed early transition of these two Stations will not increase the total number of times a viewer may need to rescan equipment in order to receive these stations in the Santa Barbara market. Under the original FCC transition plan there is scheduled 2 rescan for KSBO-CD's DMA and the granting of the proposed early transition will not change the number of rescans. The two rescans are within the cap (2 rescans) established by the Transition Public Notice, therefore, grant of the instant waiver is appropriate. HC2 Station Group, Inc. pledges to mitigate any viewer disruption by outreach education using public service announcements and crawls. As a beneficiary of the spectrum auction, T-Mobile is committed to educating consumers in the impacted market and

will supplement the broadcaster's outreach to consumers on the impending changes and the steps they will need to take to continue receiving the station. HC2 Station Group Inc. will also seek to cooperate with the other early repack station in the DMA to notify viewers market-wide of the intention of all stations to transition ahead of their scheduled phase. This will ensure that viewers will be well informed of the transition. See attached T-Mobile letter outlining additional rescan support.

KBSO-CD will complete the transition using its final, permanent, transmission facilities as provided in the construction permit granted on 07/05/17. KBSO-CD does not anticipate needing to utilize auxiliary facilities past the phase 2 transition deadline if a waiver is granted.

MVPD Notification. Finally, HC2 Station Group, Inc. will start to take the necessary actions to ensure all impacted MVPDs are notified of the impending channel change at least 90 days prior to actual change.

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.