

EXHIBIT SUPPORTING WAIVER
OF PHASE ASSIGNMENT, TESTING PERIOD, AND PHASE COMPLETION DATE
WUPV (TV)

WUPV License Subsidiary, LLC, seeks waiver of the post-Incentive Auction Transition Phase assignment, and corresponding testing dates and construction completion deadlines, for WUPV Ashland, VA (Facility ID No. 10897) (“Station”). Pursuant to the *Closing and Reassignment Public Notice*,¹ the Station has been assigned to Transition Phase 8, for which the Phase Completion Date is March 13, 2020. The Station seeks to transition the Station early, with expected transition completion on or before April 25, 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.”² As demonstrated below, the Station’s instant request qualifies for such favorable treatment.

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).

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 PN*).

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 it will serve the public interest by facilitating an orderly and efficient transition. As a result of the FCC's Incentive Auction repack process, the WUPV facility was reassigned to RF Channel 8. WUPV now holds a construction permit for operation on Channel 8 with a maximum directional ERP of 30 kW and an antenna HAAT of 257 m (See FCC File No. 0000029586). The Station has already installed the antenna and VHF transmitter equipment at the site. However, on or about January 14, 2019, the Station's main UHF transmitter, operating on Channel 47 failed (Larcen Visionary IOT 24 kW TPO). The Station is currently operating on their emergency backup transmitter (Harris Maxiva 1 kW TPO). Replacement parts for the main transmitter will take approximately six months to receive. Over-the-air coverage will be significantly reduced during the six months it will take to receive replacement parts. In lieu of operating for several months at reduced coverage while waiting for UHF replacement parts that will be used for a very short duration, the Station requests that it be

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.

allowed to transition to its new VHF channel assignment on April 25, 2019.

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 Station is not part of any Linked Station Set or Linked Station Neighbor. The early transition will not create any pairwise interference cases or new Linked Station Sets.

Impacts to Transition Plan. The proposed transition will permit better utilization of resources by ensuring that tower crews and equipment manufacturers are best put to use, rather than have them potentially overloaded further in the overall transition. Repairing the failed UHF transmitter would occupy industry resources that would otherwise, and more productively be better put to use through repack installations.

Impact to Viewers. The Station believes any disruption to viewers will be minimized. The Station recognizes that its request for an early transition will not increase the total number of times a viewer may need to rescan equipment in order to receive all reassigned stations in the Richmond-Petersburg market. Under the original FCC transition plan there are two scheduled rescans for Station's DMA. The granting of the proposed early transition will result in only one additional rescan than the initial cap established by the *Transition PN*.⁷ The Station pledges to act to further mitigate any viewer disruption by increasing outreach education above and beyond

⁷ See *Transition PN* at ¶¶ 20 and 21.

the required public service announcements and crawls including utilizing the Station's digital and social media outreach to notify the Station audience of the proposed transition and provide detailed instructions on the rescanning process. This will ensure that viewers will be well informed of the transition. The Station will complete the transition using its final, permanent, transmission facilities as provided in the construction permit granted on Oct. 2, 2018 (File No. 0000029586).

MVPD Notification. Finally, the Station 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.