

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

Maryland Public Broadcasting Commission seeks waiver of the post-Incentive Auction Transition Phase assignment, and corresponding testing dates and construction completion deadlines, for WMPT, Annapolis, MD (65942) (“Station”). Pursuant to the *Closing and Channel Reassignment Public Notice*, Station has been assigned to Transition Phase 8, for which the Phase Completion Date is March 13, 2020.¹ Maryland Public Broadcasting Commission seeks to transition the Station early in Phase 4, with expected transition completion on or before August 2, 2019, with a testing period to commence immediately preceding said date.

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, Maryland Public Broadcasting Commission’s instant request qualifies for such favorable treatment.

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 Rcd 2786 (WTB & MB 2017) (*Closing and Channel Reassignment Public Notice*).

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*).

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 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 in the Washington, DC area, a full 7 months earlier than scheduled.

Interference. Attached hereto is an “Engineering Statement Supporting Request for Waiver Television Station WMPT(TV),” prepared by du Treil, Lundin & Rackley, Inc (“Engineering Statement”). As demonstrated in the Engineering Statement, the results of the analysis indicate that there are no cases of outgoing (caused) interference exceeding the normal 0.5% rounding

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.

tolerance level to any other protected full-power or Class A television stations now operating. As such, there is no impact on any linked station set or other transitioning stations.

Additionally, the analysis results show there are no cases of incoming (received) interference exceeding the normal 0.5% rounding tolerance level to the WMPT Channel 21 C.P. facility.

WBOC-TV and WHP-TV facilities are not considered since they will transition in Phase 4 just ahead of the proposed early transition of WMPT.

Impacts to Transition Plan. The proposed transition will further the overall transition plan. This early out of phase move will in fact permit better utilization of resources by engaging vendors and service providers early in the process rather than have them potentially overloaded further in the transition. WMPT is currently scheduled for Phase 8. By moving WMPT to Phase 4 it will lessen the possibility of viewer interruptions in the greater Washington, DC area, since a majority of stations in the Washington, DC area are already transitioning in Phase 4 so tower crews will already be in the area at the time of the transition and eliminate the need for crews to return to the Washington DC area after Phase 4. If a viewer is having problems re-scanning instead of losing MPT totally, they will still have one station to watch. During Phase 4 two of Maryland Public Television's (MPT) other stations WGPT and WCPB will be changing channels. Adding WMPT will facilitate project management by grouping three of MPT's stations together in the same phase.

Impact to Viewers. Finally, Maryland Public Broadcasting Commission believes any disruption to viewers will be minimized. The majority of stations in the Washington, DC area are already

transitioning in Phase 4 so having WMPT likewise transition in Phase 4 would reduce the impact upon viewers in the market. In addition to the required public service announcements and crawls to notify the Station audience of the proposed transition and provide detailed instructions on the rescanning process, the Station will conduct robust and diverse outreach through digital and social media, newscasts, and via notices with other local stations and print media to ensure that viewers will be well-informed of the transition. During Phase 4 two of Maryland Public Television's (MPT) stations WGPT and WCPB are already changing channels. MPT provides the same program streams to all transmitters. Therefore, adding WMPT to Phase 4 will allow all of its stations to transition at the same time simplifying the transition process for MPT.

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.