

REQUEST FOR WAIVER OF PHASE ASSIGNMENT

West Central Ohio Broadcasting, Inc. (“Block”), licensee of WOHL-CD (“WOHL”), Lima, Ohio, FCC Facility ID No. 73356 (“WOHL” or the “Station”), seeks waiver of the Station’s Post-Incentive Auction Transition Phase assignment and corresponding testing dates and construction completion deadlines for WOHL-CD. Pursuant to the *Closing and Reassignment Public Notice*, the Station has been assigned to Transition Phase 2, for which the Phase Completion Date is April 12, 2019.¹ WOHL seeks modification of its current transition phase assignment to Transition Phase 5, with a Phase Completion Date of September 6, 2019, which would extend the current construction period by just over five months.

The *Transition Scheduling Adoption Public Notice* permits stations to propose “alternative transition solutions that could create efficiencies,” and held that a request to modify a station’s transition deadline 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, Block’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

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*).

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.

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 for WOHL. Waiver will serve the public interest by facilitating an orderly and efficient transition, avoiding redundant expenditures and the inefficient use of already scarce vendor resources, and eliminating the need to have the Station go dark unnecessarily for any length of time.

The Station is currently required to transition from its current, pre-auction channel 35 to its post-auction channel 15 by or before the conclusion of Phase 2, which is slated for April 12, 2019. As the Commission is aware, Block knew early on that meeting this deadline would be a challenge. Indeed, as early as June 7, 2017, Block requested an “unable to construct” waiver of the Commission’s July 12, 2017 post-incentive auction construction permit filing deadline.⁷ At that time, Block knew it could not build its post-auction facilities as originally assigned because Block needed to find a new tower on which to locate WOHL. Recognizing that Block would not be able to make the necessary modifications to its current WOHL tower, the Commission granted Block’s request on July 3, 2017, thereby allowing Block to find a new tower site for

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.

⁷ *See* LMS File No. 0000024831.

WOHL.⁸

Block immediately started searching for a location for a new tower. It investigated other towers in the area and several vacant parcels of land. In total, at least eight potential sites were investigated. Ultimately, the WOHL team found a parcel of land that could accommodate a new broadcast tower that would allow the station to replicate its current coverage area on its new channel. Block purchased the property, obtained the necessary zoning, environmental and FAA approvals, and then began the construction process. Concurrently, Block filed for and was granted a construction permit to move WOHL to its new channel at the new location. As soon as that construction permit was granted, Block placed an order with Electronics Research, Inc. (“ERI”) for the new tower and other new equipment, including new antennas, associated with the transition.

ERI has been aware of WOHL’s repack deadline since the project first began and has been diligently working to erect the new tower and construct the antennas.⁹ Unfortunately, ERI has been experiencing vendor delays. As the attached letter confirms, ERI has informed Block that it will not receive all of the necessary components to be able to construct and deliver the antennas in time to meet the April 12, 2019 Phase 2 deadline. ERI expects the antennas to be complete and ready to ship by May 31, 2019. WOHL therefore is filing this phase waiver request so it can continue to operate on its pre-auction channel until construction on its post-auction channel is complete.

⁸ Letter from Barbara A. Kreisman, Chief, Video Division, Media Bureau, Federal Communications Commission to West Central Ohio Broadcasting, Inc. (July 3, 2017).

⁹ ERI is building the new tower and a antenna for WOHL. ERI is also building a new antenna for WOHL’s non-repacked sister station, WLIO. The two antennas will be stacked on the new tower, with the WOHL antenna on top. Accordingly, both antennas must be completed before the WOHL antenna can be installed.

WOHL is not part of a linked station set. While another station, WPDT-TV, Dayton, Ohio, will be moving to Channel 35, WPDT-TV is scheduled to move to Channel 35 in Phase 6. Accordingly, in order to ensure that WOHL will not cause scheduling problems for WPDT, WOHL herein pledges that it will make all efforts to transition to Channel 15 as soon as possible and in any event before Phase 6 begins on September 7, 2019.

WOHL also confirms that modifying its transition phase will not negatively impact viewers. On the contrary, modifying WOHL's transition phase would ensure that the Station can continue to serve its community of license without interruptions. Moreover, as there are only two stations scheduled to change channels in the Lima DMA, only two receiver scans will be needed in the market, which falls within the Commission's per-market rescan expectations for the transition.

Further, Block pledges to act to further mitigate any viewer disruption by increasing outreach education. In addition to the consumer outreach program service announcements and crawls required by the Commission's rules, Block proposes to expand its educational and informative outreach to include news stories and digital and social media campaigns. Block is considering additional ways to reach local viewers with information about the transition including by advertising on radio and other outlets, maintaining a link on the station's website regarding when and how to rescan, and posting transition and rescanning information to the station's social media pages.

Based on the facts above, grant of the requested waiver to modify WOHL's transition phase serves the public interest by conserving resources and averting a significant disruption of service to its community of license.

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Vice President of Marketing

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February 22, 2019

Mr. Frederick R. Vobbe
Vice President and Chief Operator
Lima's Hometown Stations
WLIO and WOHL Television
1424 Rice Avenue
Lima OH 45805

REF: ERI Sales Orders 35819A and 35819B for WOHL-CD and WLIO-TV,
Lima, Ohio RF Channel 15 and RF Channel 8 television antennas and
transmission line systems.

Dear Mr. Vobbe:

This letter is to provide you with status of the orders for your two (2) stacked ERI TRASAR television antennas. We have been diligently working on these antennas.

ERI began the work of designing your top mounted and stacked digital television antennas even before we actually received a firm order. The construction of "in-line" stacked antenna arrays is very challenging, particularly when directional azimuth patterns with stringent protection requirements are involved. The modelling and design process simply required much more time than is typically required. This also drives the final design of vendor supplied components that cannot be ordered until all elements of the both of antenna designs are complete.

We completed the design process but unfortunately a number of the components required will not be delivered in time to complete the stacked antenna array for shipment before the FCC mandated transition date of April 12, 2019 for WOHL-CD to move to RF Channel 15. We are expediting the delivery of vendor supplied product and doing all that can be done to expedite the completion of your antennas. We expect that the full system will be complete and ready for shipment by May 31, 2019. Of course, some additional time will be required to install the antennas once they are delivered.

If you have questions or require additional information would please contact. I have included my contact telephone numbers and email address below.

Sincerely,

ELECTRONICS RESEARCH, INC.



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