

Waiver of Phase Assignment

Gray Television License, LLC (Gray), licensee of KVLV-TV, Fargo, North Dakota (FID 61961) (KVLV) files this request for waiver of the post-Incentive Auction Transition Phase assignment and corresponding testing dates and construction completion deadlines for KVLV. KVLV was assigned to Transition Phase 1, pursuant to the *Closing and Reassignment Public Notice*.¹ KVLV requested and was re-assigned to Transition Phase 2 because of circumstances outside of its control (“Phase 2 Request”). KVLV now requests re-assignment to Transition Phase 3 because construction of its post-repack facility continues to be delayed by circumstances outside of its control.

In the *Transition Scheduling Adoption Public Notice*,² the Commission anticipated that there would be circumstances where a station would need to seek a waiver of the phase construction deadline, including authority to continue operating on their current channel. The Commission indicated that it would consider these requests on a “case-by-case basis,” by evaluating the impact to viewers and the transition schedule.³ As explained below, re-assigning KVLV to a later transition phase will allow it to stay on the air until it can move to its post-transition channel and ensure its viewers are not left without important news and weather information. KVLV is not part of a paired transition group, therefore, its move to a later transition phase will not delay the transition of another station.

To complete the transition to its post-repack facility, KVLV must reinforce its tower, install a new main antenna and transmission line and install a new transmitter. KVLV executed a contract with TCI Tower (TCI) in March 2018 for engineering services, tower modification, antenna installation of both the interim and main antennas, and main transmission line replacement. TCI subcontracted the KVLV work to Steve Lemay Tower.

As explained in its Phase 2 Request, the subcontractor originally assigned to the KVLV project were involved in a tragic tower collapse in Springfield, Missouri, which killed Mr. Lemay and seriously injured several people in his crew. With the loss of this team, TCI struggled to find replacement subcontracts, but eventually identified a new subcontractor to perform the KVLV tower work.

The new subcontractor installed the KVLV interim antenna in September, but not the interim transmission line. Although KVLV anticipated completing its interim facility by the Transition Phase 1 deadline, it requested authority to remain on its pre-transition channel until Transition

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 (MB 2017) (*Transition Scheduling Adoption Public Notice*).

³ *Transition Scheduling Adoption Public Notice*, ¶ 49.

Phase 2, rather than switch to its post-repack channel on an interim facility, to ensure it could reach all of its viewers with news and weather information during the severe winter weather that is common in this region. Despite the tower crew's efforts to build the interim facility last Fall, they were stymied by equipment failures and weather, leaving the interim facility unfinished.

The tower crew was scheduled to return on March 8 to complete the interim facility, then finish construction of the final facility. However, after several additional delays related to weather and issues at other tower sites, TCI informed KVLV on March 19 that it would be unable to complete work in time for KVLV to make the Phase 2 deadline of April 12. *See* Letter from TCI supporting this Transition Phase Change Request.

KVLV continues to work with TCI to identify a date their subcontractor can return to complete the work. Currently, KVLV has been provided with a tentative window in the middle of April. Once the tower crew returns, it will take approximately six weeks to complete construction of the final facility.

KVLV will be unable to complete construction of either its interim or final repack facility by April 12, 2019. Therefore, Gray requests that KVLV be re-assigned to Transition Phase 3, allowing it to continue operating on its current (pre-transition) Channel 44 until June 21, 2019.

KVLV is not part of a linked set and does not require coordination with any other station to complete its transition. Because KVLV currently operates in the 600MHz band, a delay in its transition will not create a new linked station set.

Two stations in the Fargo market must transition to post-repack facilities—KVLV and KRDK. Both stations were originally assigned to Phase 1 but encountered significant difficulties with tower crews. KRDK has received authority to move to Transition Phase 3 (See KRDK STA, File No. 63031). Therefore, if KVLV moves to Phase 3, viewers in this market will only need to rescan equipment one time.⁴

⁴ *See 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, DA 17-107 at ¶¶ 20 and 21 (MB 2017) (*Transition Scheduling PN*).

Letter from TCI



Tower Consultants Incorporated

March 19, 2019

Doug Jenson
Gray Television - KVLV-TV
1350 21st Avenue South

Re: TCI Project 18.253.002 – Gray PO #224881
Blanchard, North Dakota
KVLV-TV Repack Modification Services
Remobilization Delay

Dear Doug,

Tower Consultants Incorporated has been retained to perform modification and antenna and transmission line installation on the KVLV-TV 1,989-ft guyed tower located in Blanchard, North Dakota. TCI regrets to notify Gray Television that we will be unable to meet the current deadline, April 12, 2019, for KVLV to be on air on its new channel. Due to FCC repack activities there is a scarcity of field crews qualified to perform tower work of this nature. This scarcity and generally unfavorable environmental conditions (weather) throughout the country have made it difficult to complete existing projects. Our field crew will mobilize back to the tower site at the earliest feasible date.

Please do not hesitate to contact me should you have any questions or wish to discuss the remobilization schedule.

Sincerely,

A handwritten signature in black ink that reads "Ron Dozsa". The signature is written in a cursive, flowing style.

Ron Dozsa
Project Manager
Tower Consultants Incorporated