



Federal Communications Commission
Washington, D.C. 20554

April 10, 2019

Central Ohio Association of Christian Broadcasters
David Aiken
1282 North Main Street
Marion, OH 43302

Re: Request for Modification and
Waiver of Phase Assignment & Request
for Waiver of Viewer Notification
Requirements
WOCB-CD, Marion, OH
Facility ID No. 167948
LMS File No. 0000064133

Dear Licensee,

On March 28, 2019, Central Ohio Association of Christian Broadcasters (COACB), the licensee of Station WOCB-CD, Marion, Ohio (WOCB-CD or Station), filed a *Request for Modification and Waiver of Phase Assignment* requesting to modify the post-incentive auction transition phase assigned to the Station in the *Closing and Channel Reassignment Public Notice* from Phase 8 to Phase 2.¹ COACB also requests waiver of the Commission's consumer education requirements. For the reasons below, we grant COACB's requests for waiver and modify WOCB-CD's phase assignment to Phase 2, as conditioned herein.

Background. Pursuant to the *Transition Scheduling Adoption Public Notice*, individual stations may request waiver and modification of their phase assignment.² The Media Bureau (Bureau) has stated it will evaluate such requests on a case-by-case basis to assess the impact on the transition schedule, including the impact on other broadcasters as well as viewers, in order to facilitate a timely and orderly transition.³ The Bureau determined that it would view favorably requests that are compliant with the

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) (*Closing and Channel Reassignment Public Notice*). See LMS File No. 0000064133 (as amended Apr. 1, 2019) (Waiver Request).

² 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, 32 FCC Rcd 890, 912-14, paras. 47-52 (MB 2017) (*Transition Scheduling Adoption Public Notice*).

³ See *id.* at 912-14, paras. 49-52. See also *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Broadcast Transition*, 32 FCC Rcd 858, 881-82, para 73 (MB 2017).

Commission's rules and have little or no impact on the transition schedule.⁴ Requests that the staff determines would be likely to delay or disrupt the transition schedule will be viewed unfavorably.⁵

Pursuant to Section 73.3700(c)(3) of the Commission's rules (Rules), repacked stations must air sixty (60) seconds per day of on-air crawls or public service announcements (PSAs) beginning 30 days prior to discontinuing operations on their pre-auction channel.⁶ A waiver of the Rules may be appropriate where the particular facts would make strict compliance inconsistent with the public interest and deviation from the general rule would relieve hardship, promote equity, or produce a more effective implementation of overall policy on an individual basis.⁷

Request for Phase Change. WOCB-CD is currently licensed to operate on channel 39. It was reassigned to channel 22 in the *Closing and Channel Reassignment Public Notice* and assigned to transition Phase 8, which has a testing period start date of January 18, 2020, and a phase completion date of March 13, 2020. WOCB-CD is located in the Columbus, Ohio, Designated Market Area (Columbus DMA). A total of ten stations, including WOCB-CD, were repacked in the Columbus DMA, with five stations being assigned to transition Phase 2 and five to Phase 8. COACB seeks to have WOCB-CD's transition phase modified from Phase 8 to Phase 2, which has a testing period start date of December 1, 2018, and a phase completion date of April 12, 2019. According to COACB, all equipment needed for the Station to complete its transition to channel 22 has been installed and is operational except for the transmitter.⁸ The antenna and transmission line are already installed on the tower. The transmitter is in storage and ready to be installed upon request at the time of the phase deadline.⁹ Internal station resources will perform the installation, which will not divert any resources from other transitioning stations.¹⁰ COAB has provided an engineering analysis with the waiver request demonstrating that the Station's early transition will not create any new linked-station sets or result in increased pairwise interference greater than two percent during the transition period.¹¹

Request for Waiver Consumer Education Requirements. The Columbus DMA has two rescan periods (Phase 2 and Phase 8), so the requested phase change will not increase the total number of rescan periods for the Columbus DMA beyond the two rescan period per DMA limitation used in the tool adopted by the Bureau in the *Transition Scheduling Adoption Public Notice*.¹² COACB did not begin its

⁴ *Transition Scheduling Adoption Public Notice*, 32 FCC Rcd at 912-13, para. 49 and n.163.

⁵ *Id.*; *Incentive Auction Task Force and Media Bureau Remind Repacked Stations of Certain Post-Auction Transition Requirements and Deadlines*, Public Notice, 33 FCC Rcd 8240, 8244-45, para. 14 (IATF & MB 2018) (*Transition Reminder Public Notice*).

⁶ 47 CFR § 73.3700(c)(3).

⁷ See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); 47 CFR § 1.3 (waiver for good cause shown). See also *Transition Scheduling Adoption Public Notice*, 32 FCC Rcd at 913-14, para. 51 and n.171.

⁸ Waiver Request at 3.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 2-3. See *Transition Scheduling Adoption Public Notice*, 32 FCC Rcd at 897, para. 16 (allowing temporary increased pairwise (station-to-station) interference of up to two percent during the transition period).

¹² See *Transition Scheduling Adoption Public Notice*, 32 FCC Rcd at 898-99, paras. 20-21 (establishing a two rescan periods per DMA limitation when assigning stations to transition phases).

consumer education announcements, as required by Section 73.3700(c)(3), in time to satisfy the Phase 2 transition deadline, which is currently less than 30 days away, and therefore requests a waiver of the requirements. COACB commits to airing three times the number of announcements required by the Commission's rules in the remaining days prior to its transition,¹³ and has already commenced airing viewer notifications. COACB also will also notify viewers of the transition date using newspaper, radio, the internet, and social media.¹⁴

Discussion. Upon review of the facts and circumstances presented, we find COACB's request for waiver and modification of WOCB-CD's phase assignment satisfy the requirements for a waiver and are in the public interest. We agree that the change to WOCB-CD's transition phase should not have an adverse impact on the overall transition schedule or a negative impact on other stations or viewers. A staff analysis confirms that the phase change does not create any new linked station sets and will not result in new interference above the two percent permitted during the transition. COACB has confirmed that the resources necessary to support its early transition are available and will not delay other transitioning stations' access to resources. The work necessary to complete this transition in large part has already been done and the remaining resources necessary to complete the work will require only internal Station resources.

We find that granting COACB's request for this phase change will not have a negative impact on viewers. The total number of rescan periods in the Columbus DMA will remain at two. We find that under the circumstances of this move, granting COACB's request for waiver of the post-incentive auction consumer education requirements is not likely to harm viewers or cause viewer confusion. Because other stations in the DMA are already transitioning during the same rescan period during which WOCB-CD will transition, viewers will capture WOCB-CD on its new channel when those rescans are performed. Furthermore, WOCB-CD has begun viewer notifications already and has committed to make sure viewers are fully informed about WOCB-CD's transition by airing three times the number of viewer notifications required by Commission rules prior to its transition and inform members of the public through radio, newspaper, and the internet. As a result, we find the facts and circumstances discussed above outweigh any viewer burden caused by a change in the station's transition schedule.

We caution WOCB-CD that any additional expenses incurred as a result of the grant of WOCB-CD's voluntary phase change may not be reimbursable from the TV Broadcasters Relocation Fund. Such additional costs might include, but may not be limited to, additional legal or engineering expenses, filing fees, and interim or additional equipment that was not contemplated when the station filed its initial estimated expenses but was subsequently necessitated to complete the transition to its post-auction channel due to its phase change.

Accordingly, we **GRANT** COACB's *Request for Modification and Waiver of Phase Assignment* and modify the transition phase assignment for WOCB-CD **from Phase 8 to Phase 2**, as well its request for waiver of Section 73.3700(c)(3), subject to all the commitments made in its waiver request and compliance with all other Commission rules applicable to transitioning stations.¹⁵ Testing on the Station's post-auction channel **may begin immediately**, and WOCB-CD is required to cease operating on

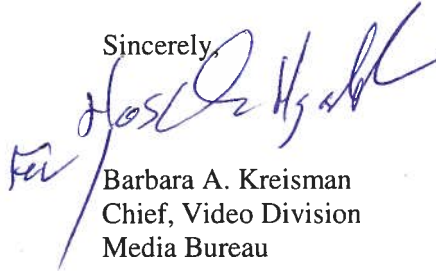
¹³ Waiver Request at 4.

¹⁴ *Id.*

¹⁵ See generally 47 CFR § 73.3700 and *Transition Reminder Public Notice*, 33 FCC Rcd 8240.

its pre-auction channel **no later than 11:59 pm local time on April 12, 2019.**¹⁶ The Station's construction permit expiration date will also be modified to correspond to its new phase completion date.¹⁷

Sincerely,

A handwritten signature in blue ink, appearing to read "Barbara A. Kreisman", is written over the typed name and title.

Barbara A. Kreisman
Chief, Video Division
Media Bureau

¹⁶ Each transition phase has a designated testing period on which a station in that phase may begin testing equipment on its new channel and a designated phase completion date when a station must cease operation on its pre-auction channel. The phase completion date is the date that will be listed in that station's construction permit as its construction deadline and is the date the station must cease operation on its pre-auction channel. *See Closing and Channel Reassignment Public Notice*, 32 FCC Rcd 2806, para. 64. A station that commences testing on its post-auction channel before the beginning of its assigned testing period will be operating in violation of Commission rules.

¹⁷ *Id.* ("The phase completion date is...[also] the date listed in each station's construction permit as its construction deadline"). If a station must commence operations on its post-auction channel at variance from the parameters authorized in its construction permit, it must file for and be granted special temporary authority prior to commencing operations. *See* 47 CFR § 73.1635. A station that needs additional time to complete construction of its post-auction facility beyond its construction permit expiration date must file for a 180-day extension of its construction permit in accordance with Section 73.3700(b)(5)(iv). Stations needing additional time to construct after a 180-day extension is granted, will be subject to the Commission's tolling provisions. 47 CFR § 73.3700(b)(5)(iv). Grant of an extension of time to construct does not relieve a station of the requirement that it ceases operation on its pre-auction channel by its assigned phase completion date.