



Federal Communications Commission
Washington, D.C. 20554

April 10, 2019

Trinity Christian Center of Santa Ana, Inc.
P.O. Box C-11949
Santa Ana, CA 92711

Re: Request for Modification and
Waiver of Phase Assignment
KNMT(TV), Portland, OR
Facility ID No. 47707
LMS File No. 0000068438

Dear Licensee,

On March 8, 2019, Trinity Christian Center of Santa Ana, Inc. (Trinity), the licensee of KNMT(TV), Portland, Oregon (KNMT 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 2 to Phase 3.¹ For the reasons below, we grant Trinity's request for waiver and modify the Station's phase assignment to Phase 3, as conditioned herein.

Background. Pursuant to the *Transition Scheduling Adoption Public Notice*, individual stations may request waiver and modification of their phase assignment.² A waiver is 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.³ 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.⁴ The Bureau determined that it would view favorably requests that are compliant with the Commission's rules and

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. 0000068438, Legal STA – KNMT-TV (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 *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.

⁴ 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).

have little or no impact on the transition schedule.⁵ Requests that the staff determines would be likely to delay or disrupt the transition schedule will be viewed unfavorably.⁶

KNMT is currently licensed to operate on channel 45. The Station was reassigned to channel 32 in the *Closing and Channel Reassignment Public Notice* and assigned to transition Phase 2, which has a phase testing period start date of December 1, 2018 and a phase completion date of April 12, 2019. The Station is located in the Portland, Oregon, Designated Market Area (Portland DMA). A total of five stations, including KNMT, were repacked in the Portland DMA, with two stations who transitioned in the period prior to the phase 1 testing period start date, and the three stations who are assigned to Phase 2. The Station's tower owner, Sylvan Tower, has requested, but not yet obtained, all local permits necessary to allow the required rigging and tower work needed to complete construction of the Station's post-auction facility.⁷ KNMT states that it has "no reason to believe the local permits will not finally be issued."⁸ The new post-auction transmitter has been installed, the antenna and feedline have been delivered on site, and the tower crew (Radio Tower Company) is standing by to conduct the necessary work upon issuance of the local permits.⁹ KNMT's on-site engineer has been in regular communication with Sylvan Tower on the issuance of the required permits.¹⁰ As a result, Trinity requests that KNMT's transition phase be modified from Phase 2 to Phase 3, which has a testing period start date of April 13, 2019, and a phase completion date of June 21, 2019.

Trinity states that this phase change will not create any new linked-station sets or result in increased pairwise interference greater than two percent during the transition period.¹¹ In order to minimize impact on viewers as a result of the modification to the Station's assigned phase, Trinity has agreed to provide additional consumer outreach beyond what is required by the Commission's rules by doubling the number of public service announcements and on-screen crawls.¹²

Discussion. Upon review of the facts and circumstances presented, we find that Trinity's request to modify the phase assignment for KNMT to transition to its post-auction channel in Phase 3 satisfies the requirement for a waiver and is in the public interest. We agree that the change to the Station's transition phase should not have an adverse impact on the overall transition schedule or a negative impact on other stations or viewers. Staff has confirmed that the phase change will not create any new linked station sets or direct dependencies. While the total number of rescan periods in the Portland DMA will increase from two to three, which is one more than the two rescan periods per DMA limitation used in the tool adopted by the Bureau in the *Transition Scheduling Adoption Public Notice* to assign stations to transition

⁵ *Transition Scheduling Adoption Public Notice*, 32 FCC Rcd at 912-13, para. 49 and n.163.

⁶ *Id.*; see *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*).

⁷ Waiver Request at 1.

⁸ *Id.* at 2.

⁹ *Id.* at 1.

¹⁰ *Id.*

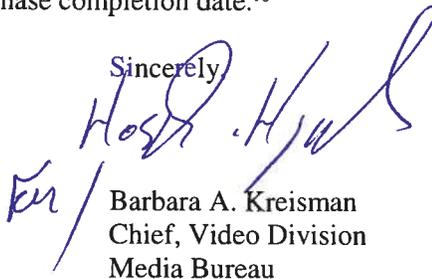
¹¹ *Id.* at 2. See *Transition Scheduling Adoption Public Notice*, 32 FCC Rcd at 897, para. 16 (allowing temporary increased pairwise (station-to-station) interference of up to two percent during the transition period).

¹² Waiver Request at 2.

phases,¹³ Trinity has committed to put in place viewer outreach programs beyond those required by the Commission rules. As a result, we find the facts and circumstances discussed above outweigh any viewer burden caused by an additional rescan period in the Portland DMA or a short delay in access by wireless providers to the 600 MHz band.

We remind Trinity that pursuant to the Spectrum Act, the Station is eligible for reimbursement from the TV Broadcast Relocation Fund (Fund) of costs “reasonably incurred . . . in order for the licensee to relocate its television service from one channel to the other.” Additional expenses incurred such as expenses resulting from changes in a Station’s transition plan that are not related to the post-incentive auction channel change, may not be reimbursable from the Fund.

Accordingly, we **GRANT** Trinity’s *Request for Modification and Waiver of Phase Assignment* and modify the transition phase assignment for KNMT **from Phase 2 to Phase 3**, subject to all the commitments made in its waiver request and compliance with all Commission rules applicable to transitioning stations.¹⁴ Testing on the Station’s post-auction channel **may not begin until 12:01 am local time on April 13, 2019**, and KNMT is required to cease operating on its pre-auction channel **no later than 11:59 pm local time on June 21, 2019**.¹⁵ The Station’s construction permit expiration date will also be modified to correspond to its new phase completion date.¹⁶

Sincerely

Barbara A. Kreisman
Chief, Video Division
Media Bureau

Cc: (via electronic mail):
Colby May, Esq.

¹³ 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).

¹⁴ See generally 47 CFR § 73.3700 and *Transition Reminder Public Notice*.

¹⁵ 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.

¹⁶ *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.