

**EXHIBIT 1**  
**(Request for Waiver/Change of Phase Assignment from Phase 3 to Phase 4)**

KSTC-TV, LLC (“Licensee”), the licensee of KSTC-TV, Minneapolis, Minnesota, Facility ID No. 35843 (the “Station”), hereby respectfully requests a change to its initial post-Incentive Auction transition phase assignment for the Station, including its corresponding testing dates and construction completion deadlines.<sup>1</sup> Currently, the Station is assigned to change from Channel 45 to Channel 30 during Phase 3 of the post-Incentive Auction transition, which is scheduled to end on June 21, 2019.<sup>2</sup> Because construction of its post-transition facility has been delayed by circumstances beyond its control, Licensee now requests re-assignment of the Station to the next transition phase (Phase 4).

As noted, the Station is currently licensed to broadcast on Channel 45 from a very tall tower shared with numerous other broadcasters. The Licensee has been diligently working toward completion of its required repack, including arranging for tower and transmitter crews, coordinating with other users of the tower, ordering and receiving necessary equipment, and taking other steps in order to meet its current Phase 3 deadline. (Indeed, the Station’s employees have taken on, to the extent their training and expertise have permitted, a number of tasks originally intended to be done by other parties in an effort to keep the project on track.) However, as set forth in the letters attached to this exhibit, the scheduled tower and transmitter system crews were precluded from beginning work on the Station as expected due to various delays at their prior projects.<sup>3</sup> Once both crews were able to arrive in Minnesota, their work has been further delayed by several days of difficult weather, including storms and high winds, that made tower work hazardous.

At this point, the remaining steps in the construction process will not be able to be safely completed by the upcoming Phase 3 deadline.<sup>4</sup> Although rigging of the 400-plus meter tower has been installed, the crews still must complete several steps, including removal and replacement of the transmission line and of the antenna, before the station may begin operating on the new channel. With consistently good weather, the project is estimated to be able to be completed and testing begin approximately four to five weeks from today. If the recent weather continues, however, the project may take a few additional weeks.

In the *Transition Scheduling Adoption Public Notice*,<sup>5</sup> the Commission anticipated that there would be circumstances in which a station may require a waiver of or change in its planned

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<sup>1</sup> Although the Legal STA form in the online LMS system apparently defaults to the Station’s auxiliary facility, this request is intended for the Station’s entire current facility (main and auxiliary).

<sup>2</sup> 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 (¶ 64) (MB & WTB 2017) (“*Closing and Channel Reassignment Public Notice*”).

<sup>3</sup> See Letter from Kevin Barber, Tower King II Inc. & Letter from Matthew A. Sanderford, Jr., President, Marsand, Inc. (both attached).

<sup>4</sup> See *id.*

<sup>5</sup> *Incentive Auction Task Force and Media Bureau Adopt Post-Incentive Auction Transition Scheduling Plan*, Public Notice, 32 FCC Rcd 890 (MB 2017) (“*Transition Scheduling Adoption Public Notice*”).

transition phase, including authority to continue to broadcast on its current channel. The Commission indicated that it would consider these requests on a case-by-case basis, subject to its general waiver standard,<sup>6</sup> by evaluating the impact on other broadcasters, viewers and the transition schedule.<sup>7</sup>

Based on these and other relevant considerations, the proposed one-phase delay in the Station's proposed transition is consistent with the public interest. With respect to the transition schedule, the Station is not part of a linked set and does not require coordination with any other station to complete its transition. Because the Station currently broadcasts in the 600 MHz band, a delay in its transition will not create a new linked station set. The Station's current channel – Channel 45 (*i.e.*, 656-662 MHz) – also lies entirely within the planned duplex gap, which should further limit any impact on the transition. Moreover, to the extent the change in phase may require an additional re-scan in certain portions of the DMA,<sup>8</sup> the Licensee is prepared to take additional steps beyond standard viewer and MVPD notification requirements, including additional crawls and other notifications during its local news programs as well as additional guidance on its website, in order to assist its viewers. Finally, even with imperfect weather, the proposed delay is expected to be a matter of weeks, not months, with testing of the modified facility expected to begin in July.

Conversely, rejection of the proposed transition phase change will significantly impact viewers that look to the Station for its MeTV, This TV, Antenna TV and other content, including its local news and weather programming. The Station is using its licensed auxiliary antenna to broadcast on Channel 45 during work on its main facility, and it does not have an interim facility readily available to broadcast its current programming without disruption while the work required to transition the Station's main facility is completed. As noted in the attachments, the necessary work to transition the Station's main facility cannot be completed, at this point, until July. In light of these considerations, and for good cause shown, the requested brief delay of phase for the Station from Phase 3 to Phase 4 (with its August 2, 2019, deadline) is consistent with the public interest.

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<sup>6</sup> See, e.g., *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); 47 C.F.R. § 1.3 (“Any provision of the rules may be waived by the Commission . . . if good cause therefor is shown.”)

<sup>7</sup> *Transition Scheduling Adoption Public Notice* (¶¶ 49-51).

<sup>8</sup> Based on the Post Incentive Auction Television Transition Data Files (as available on the FCC's transition website), the Minneapolis-St. Paul DMA has only two independent full-power stations being repacked, the Station and KPXM-TV, St. Cloud, which already transitioned during Phase Zero. See, e.g., [https://data.fcc.gov/download/incentive-auctions/Current\\_Transition\\_Files/](https://data.fcc.gov/download/incentive-auctions/Current_Transition_Files/) (Phase Assignment) (last viewed on May 29, 2019). (The only other TV station listed as being repacked within the DMA is a satellite station, KSAX(TV), assigned to Alexandria, Minnesota, which currently is expected to transition from Channel 42 in Phase 3.)



**TOWER KING II, Inc.**

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**May 30, 2019**

**From: Kevin Barber**  
**Tower King II Inc.**

**To: Ed Smith**  
**Director of Engineering**  
**KSTC-TV**  
**Minneapolis MN**

**REF: KSTC-TV delays**

Tower King II Inc. supports KSTC-TV's request to move to Transition Phase 4 because of delays in the construction schedule caused by extreme weather patterns (rain, wind unfavorable work conditions that would not allow for safe work) we have experienced and continuing to happen through out the past and the current project (KSTC-TV)

We are currently 5 weeks behind on 1<sup>st</sup> of the year forecast and project scheduling Accordingly, at this point, I strongly feel we will be unable to complete work on KSTC-TV's tower by the Transition Phase 3 deadline June 21, 2019.

Please feel to contact me with any questions that you might need

Sincerely,  
Kevin Michael Barber  
President (Owner)



MARSAND, INC.

Matthew A. Sanderford, Jr., P.E.

May 29, 2019

REF: KSTC-TV, Repack Ch 30, Minneapolis, MN

To whom this may concern:

Marsand, Inc. supports KSTC-TV's request to move to Transition Phase 4 because of delays in the construction schedule caused by additional time needed to complete prior work in a different market.

Accordingly, at this point, we are unable to complete work on KSTC-TV's transmitter by the Transition Phase 3 deadline.

Respectfully Yours,

Matthew A. Sanderford, Jr., P.E., CPBE  
President - MARSAND, INC.

cc: David Sanderford  
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