EXHIBIT SUPPORTING WAIVER

# OF PHASE ASSIGNMENT, TESTNG PERIOD, AND PHASE COMPLETION DATE

Salem Media LLC (“SML”) seeks waiver of the post Incentive Auction Transition Phase assignment, and corresponding testing dates and construction completion deadlines, for WRLW-CD, Salem, Indiana (Facility ID No. 55315) (“Station”). Pursuant to the *Closing and Reassignment Public Notice,* Station has been assigned to Transition Phase 9, for which the Phase Completion Date is May 1, 2020.[[1]](#footnote-1) SML seeks to transition the Station early, with expected transition completion on or before September 6, 2019, with a testing period to commence immediately preceding said date. SML also requests a waiver of the 30 day viewer notification process so it can complete the transition within phase 5.

The *Transition Scheduling Adoption Public Notice* permitted stations to propose “alternative transition solutions that could create efficiencies,” and held that a request to modify a station’s transition deadline — including by moving to an earlier phase — 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]](#footnote-2)[[3]](#footnote-3) As demonstrated below, SML’s instant request qualifies for such favorable treatment.

The FCC may grant a waiver for good cause shown.[[4]](#footnote-4)3 A waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest.[[5]](#footnote-5) 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.[[6]](#footnote-6) Such a waiver is appropriate if circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.[[7]](#footnote-7)

As demonstrated herein, good cause exists for waiver of the assigned Transition Phase and its attendant testing and completion dates because it will serve the public interest by facilitating an orderly and efficient transition to more swiftly deliver new wireless broadband services to the public while minimizing impacts on broadcast television viewers and post-auction transition resources.

Interference. An Engineering Statement Supporting Request for Waiver Class A Television Station WRLW-CD was conducted by the engineering firm of B. W. St. Clair. The attached report analyzed potential new interference cause or received and determined if there was any impact on a link-station set.

Because the analysis shows no cases of outgoing (caused) or incoming (received) interference exceeding the normal 0.5% rounding tolerance level to any other protected full-power or Class A television stations now operating, no new pairwise (station-to-station) interference will be created by the proposed early transition of Station. As such, there is no impact on any linked station set or other transitioning stations.

The proposed early transition will result in the Station receiving no new interference from any station.

Impacts to Transition Plan. The proposed transition will further the overall transition plan. This early out of phase move will in fact permit better utilization of resources by engaging vendors and service providers early in the process rather than have them potentially overloaded further in the transition. All equipment needed for the repack has been installed and is operational. The antenna and transmission line are installed on the tower. The tower crew has already installed the antenna and transmission line on the tower. SML can finish its repack by the end of the testing period for WRLW-CD in Phase 5. Once WRLW-CD has completed its repack to Channel 21 it will then not affect other stations as they move forward to repack. Simply put SML is ready to move to its new channel, be done with its transition, and will not take any further resources away from the overall process to do so.

Impact to Viewers. Finally, SML believes any disruption to viewers will be minimized. The Station recognizes that its request for an early transition will not increase the total number of times a viewer may need to rescan equipment in order to receive all reassigned stations in the Salem and Kentuckiana area. The Louisville DMA has rescans scheduled for Phases 6 and 9. In addition to the required public service announcements and crawls to notify the Station audience of the proposed transition and provide detailed instructions on the rescanning process, the Station will conduct robust and diverse outreach through digital and social media, newscasts, and notices with other local radio stations and print media to ensure that viewers will be well-informed of the transition.

The Station does a very good job of keeping its viewers informed of changes at its stations. Viewers already know that when WRLW-CD repacks to Channel 21, its effective radiated power will be raised from 6.5 KW to 10.5KW. With the expanded service contour, those currently on the fringes of the station are very anxious to see those changes take place. The staff at WRLW-CD will insure that announcements of the repack are made as required on its stations, radio stations, newspapers, and the scroll at the bottom of the screen. SML understands that the Station must air, at a minimum, either 60 seconds of on-air consumer education PSAs or 60 seconds of crawls per day for 30 days prior to termination of operations on their pre-auction. Due to the fact that it is less than 30 days until the end of phase four, in lieu of the thirty days of notification, SML will double the number of on the air announcements and continue to broadcast the announcement of the repack both on the air and by newspaper, internet and radio. The station has a large Facebook following on the internet and will also use Facebook to provide information and instructions on how to scan for channels. The Station will provide this critical viewer information prior to the transition. The impact to viewers will be very minimal. In fact, viewers are asking how soon we can do this. They are ready.

In sum, grant of this waiver will facilitate a more effective and efficient implementation of the overall policy goals of the Incentive Auction and post-auction transition, and thus is in the public interest.

Best Regards,

Rebecca L. White

Owner and General Manager

July 31, 2019

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*)*.* [↑](#footnote-ref-1)
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 ¶ [↑](#footnote-ref-2)
3. (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*). [↑](#footnote-ref-3)
4. C.F.R. § 1.3. [↑](#footnote-ref-4)
5. *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). [↑](#footnote-ref-5)
6. *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. [↑](#footnote-ref-6)
7. *Northeast Cellular*, 897 F.2d at 1166. [↑](#footnote-ref-7)