

REQUEST FOR WAIVER
Waiver of Phase Assignment
WAND-TV, Decatur, Illinois

WAND(TV) Partnership, licensee of WAND-TV, Decatur, Illinois, FCC Facility ID No. 70852 (“WAND”), seeks waiver of the station’s Post-Incentive Auction Transition Phase assignment and its associated construction completion deadline as explained herein.

Pursuant to the *Closing and Reassignment Public Notice*, WAND was assigned to Transition Phase 7, for which the Phase Completion Date is January 17, 2020.¹ While WAND has been diligently working to meet the Phase 7 deadline, delays in the project including weather, the late arrival of the necessary tower crew and equipment, and a recent cancer diagnosis of the station’s Chief Engineer, have made it impossible for WAND to meet the Phase 7 deadline. WAND needs a few additional weeks to complete the project. Accordingly, WAND seeks modification of its current transition phase assignment to Transition Phase 8, which runs from January 18, 2020 through March 13, 2020. As demonstrated herein, good cause exists for waiver of the assigned Transition Phase. Waiver will serve the public interest by facilitating an orderly and efficient transition and eliminating the need to have the station go dark unnecessarily for any length of time.

In the *Transition Scheduling Adoption Public Notice*, 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 its current channel.² The

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, 913 ¶ 51 (MB 2017) (*Transition Scheduling Adoption Public Notice*), citing *Incentive Auction Task*

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 demonstrated below, re-assigning WAND to a later transition phase will allow it to remain on the air and continue to serve its viewers until it can move to its post-auction channel. No other station will be harmed as the phase change will not create additional linked station sets and no impermissible new interference will be created.

WAND is currently operating on Channel 17 and was scheduled to move to its new post-auction channel, Channel 20, late in the day on January 17, 2020, the end of its assigned Phase 7. However, as the Commission is aware, the Chief Engineer at WAND has been ill and was recently diagnosed with Stage 4 cancer. While engineers from other sister stations have arrived at the market and are working to complete the station’s transition, there has been a delay in the project. The equipment and tower crew were delayed in their arrival and since they have been onsite, winter weather has stalled their progress. In addition, the engineers have determined that more work is necessary before the station can install the new equipment on its current tower to move to Channel 20. Specifically, the station must commission a new tower study to determine whether its current tower can support the equipment it has ordered and if not, determine what steps must be taken to modify the tower. The engineers have developed an interim solution to move the station to Channel 20 before the tower work is complete and the station is working to quickly move to an interim antenna and make the transition. However, that work cannot be completed by the end of Phase 7. Accordingly, the station must either remain on Channel 17 past the Phase 7 completion deadline or it must go dark.

WAND has only one other station in a downstream dependency: KWQC-TV, Davenport, Iowa. KWQC has already moved to its new post-auction channel, Channel 17, at reduced

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).

³ Transition Scheduling Adoption Public Notice at ¶49.

power pursuant to an interference agreement between the two stations (see attached). KWQC has agreed that it will accept additional interference if WAND is forced to remain on Channel 17 past the Phase 7 completion date. WAND has conducted an interference analysis and determined that other than KWQC, no other station will experience impermissible interference if WAND stays on Channel 17 for a few more weeks. WAND has determined that another station, WRSP-TV, will receive additional interference from WAND if WAND remains on Channel 17 when WRSP moves to its new post-auction channel (Channel 16). WAND notes that WRSP has recently requested, and received, grant of a phase waiver to move from Phase 7 to Phase 9. Accordingly, grant of the requested phase waiver will not affect WRSP.

WAND also confirms that modifying its transition phase will not negatively impact viewers. To the contrary, modifying WAND's transition phase will ensure the station can continue to serve its community of license without interruption. There are only two stations that serve over-the-air viewers in Decatur and the second station, WBUI, is not changing channels. Accordingly, grant of this phase waiver will not increase the number of receiver scans in the market.

Further, WAND pledges to act to further mitigate any viewer disruption by increasing outreach education. Because of the delay of the channel change, in addition to the consumer education PSAs and crawls required by the Commission's rules, WAND is exploring expanding its educational and informative outreach to include news stories and digital and social media campaigns. WAND is also considering additional ways to reach local viewers with information about the transition including by advertising on radio and other outlets, maintaining a link on the station's website regarding when and how to rescan, and posting transition and rescanning information to the station's social media pages.

The Commission may grant a waiver for good cause shown.⁴ A waiver is appropriate

⁴ 47 C.F.R. § 1.3.

where the particular facts make strict compliance inconsistent with the public interest.⁵ In considering a waiver, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.⁶ Such a waiver is appropriate if circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.⁷ Based on the facts above, grant of the requested waiver to modify WAND's transition phase serves the public interest by allowing the station to continue operating and serving viewers while it works to install the equipment needed to move the station to Channel 20. Given that the delay is expected to be a few weeks at most and that the station must go dark absent a grant, grant of the instant phase waiver request is in the public interest.

⁵ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

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.

⁷ *Northeast Cellular*, 897 F.2d at 1166.