



NARRATIVE

In support of a request for

MODIFICATION AND WAIVER OF PHASE ASSIGNMENT

KOTV-DT POST-AUCTION CHANNEL 26

Tulsa, Oklahoma

Facility ID: 35434

Pursuant to the procedures set forth in the Public Notice dated March 17, 2020 (DA 20-282) ("Public Notice"), Griffin Licensing, L.L.C. ("Griffin") hereby seeks a waiver of the post-incentive auction transition phase assignment, and corresponding testing dates and construction completion deadlines, for KOTV-DT, Tulsa, OK (Facility ID 35434) ("KOTV" or the "Station"). The Station is assigned to Transition Phase 9, for which the Phase Completion Date is May 1, 2020.

Due to circumstances related to the ongoing COVID-19 pandemic which have caused scheduling delays that are beyond Griffin's ability to control, Griffin seeks to transition KOTV to its post-auction channel as part of Phase 10, with a transition completion date of July 3, 2020 and a testing period beginning on May 2, 2020.

As the Public Notice acknowledged, construction and delivery delays are occurring as a result of the COVID-19 pandemic, and Griffin's primary goal has been to protect the health and safety of its employees and their families.

The Commission may grant a waiver for good cause shown.¹ A waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest.² 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.³ Such a waiver is appropriate if circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.⁴

As demonstrated below, and as acknowledged in the Public Notice, good cause exists for waiver of the Station's assigned transition phase. A waiver in this situation would serve the public interest by acknowledging the unprecedented circumstances presented by COVID-19, and by facilitating an orderly transition and keeping a valuable source of programming on air, with minimal impact on the transition plan.

In addition, Griffin notes that the Public Notice states that "any station scheduled to complete its transition in phase 9 that believes it may be unable to meet the May 1, 2020, deadline will be granted a waiver of the phase 9 deadline and reassignment to phase 10." Griffin believes that KOTV, which is

¹ 47 C.F.R. § 1.3.

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

³ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

⁴ *Northeast Cellular*, 897 F.2d at 1166.



assigned to Phase 9, will be unable to meet the May 1, 2020 deadline, and therefore should be granted a waiver in this instance.

Impact to Other Stations. Currently KOTV channel 26 is in a linked station group with KTEN(TV), Ada, Oklahoma, and KUTU-CD, Tulsa. Griffin has been in contact with both stations and does not anticipate any significant impact to the transition plans of those stations. In addition, KOTV is coordinating with KJRH, which is collocated on the same tower, and does not anticipate any issues. A KOTV transition in Phase 10 instead of Phase 9 will not cause pairwise interference above two percent to any other station, or create additional linked station sets.

Impact to Transition. Griffin submits that a grant of this waiver request will not impact the transition because Griffin anticipates that KOTV will complete its transition by the Phase 10 completion date of July 3, 2020, and thus will not delay the transition in any way.

Impact on Viewers. Griffin acknowledges that by moving to Transition Phase 10, it will cause viewers in the Tulsa DMA to undergo an additional rescan. However, two rescans are within the constraints adopted in the Commission's Transition Scheduling Plan.

For the reasons set forth above, KOTV requests a waiver of the phase 9 deadline and reassignment to phase 10.