

EXHIBIT SUPPORTING WAIVER
OF PHASE ASSIGNMENT, TESTING PERIOD, AND PHASE COMPLETION DATE

WHYY, Inc., seeks waiver of the Post-Incentive Auction Transition Phase assignment, and corresponding testing dates and construction completion deadlines, for noncommercial educational Television WHYY-TV (shared), Wilmington, Delaware, Facility ID 72338 (the “Station”). Pursuant to the *Closing and Reassignment Public Notice*, the Station has been assigned to Transition Phase 9, for which the Phase Completion Date is May 1, 2020.¹ WHYY seeks to transition the Station later to phase 10, with anticipated transition completion on or before June 3, 2020, with a testing period to commence immediately preceding said date.

Construction of the Station’s facilities have been disrupted by the public health and travel restrictions taken to slow the spread of the novel coronavirus known as COVID-19. Although WHYY had been working diligently and had been on track to meet the Phase 9 transition deadline, it was recently informed by equipment suppliers and installers and other stations in its linked set that field work is being suspended because of the global pandemic. The Commission recognized these circumstances in its *Public Notice*, DA 20-282, released March 17, 2020, by allowing stations such as WHYY to request a waiver of its phase assignment should these delays created by the COVID-19 pandemic prevent a timely transition.

WHYY has confirmed the stations linked to it have already filed or will be filing a similar request for waiver for reassignment to Phase 10: WNET, Newark, NJ, WBAL-TV, Baltimore, MD, WJZ-TV, Baltimore, MD, and WYOU, Scranton, PA. Modifying the Station’s

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*).

transition phase will enable it to continue to serve viewers without interruption or needing to operate with reduced coverage temporary facilities for an extended period of time, which is critical during the Covid-19 national emergency.

The FCC may grant a waiver for good cause shown.² A waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest.³ 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.⁴ Such a waiver is appropriate if circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.⁵

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 minimize impacts on broadcast television viewers and post-auction transition resources. Additionally, the phase change will permit coordination and make more efficient the repack activities for WHYI, resulting in reduced costs to the federal government, reduced exposure of the virus to workers, and loss of service to viewers at this critical time of our national emergency.

² 47 C.F.R. § 1.3.

³ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁴ *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.

⁵ *Northeast Cellular*, 897 F.2d at 1166.