

## REQUEST FOR WAIVER

Nexstar Broadcasting, Inc. (“Nexstar”), licensee of KWKT-TV, Waco, Texas, FACA ID 12522 (“KWKT” or the “Station”), seeks a waiver of 47 C.F.R. §§73.3700(b)(4)(iii) to permit KWKT to continue operations of its pre-auction Channel 44 facilities until July 8, 2020.

Pursuant to the *Closing and Reassignment Public Notice*, the Station had been assigned to Transition Phase 9, for which the Phase Completion Date is May 1, 2020. Due to COVID, Nexstar sought and received a Phase Waiver to move KWKT’s transition to Phase 10, which must be completed by July 3, 2020. See FCC LMS File No. 0000110278. The Station is a FOX affiliate.

More specifically, the instant waiver request seeks authority to *briefly* continue the Station’s pre-auction Channel 44 operations, at reduced power, just beyond the Phase 10 deadline. The extension of the requested Channel 44 operations will not create interference to any other already transitioned or Phase 10 transitioning digital television station. In an attempt to mitigate any interference to the incumbent wireless spectrum holder, Nexstar reached out to Bluewater Wireless II, L.P.

This request is being submitted due to circumstances beyond Nexstar’s control. Over the last three years, Nexstar has worked diligently to transition more than 80 stations to their post-auction channels. Nexstar’s transition progress, as well as other broadcasters, has been plagued by equipment, rigging, weather and, more recently, COVID, delays – all of which were beyond its control. The impact of COVID on 1Q 2020 progress has been undeniable. Such impact is relative to this specific request.

As the Commission is aware, KWKT’s post-auction Channel 28 operations require the installation of a top mount antenna. Such installations may be accomplished either by a

helicopter lift or a temporary gin pole installation. Both methods require very specific rigging equipment and skilled installers. Given the limited available resources and scheduling issues associated with a helicopter lift, Nexstar scheduled a gin pole installation. The rigging schedule was interrupted in April 2020 – due in part to shelter in place requirements and the availability of services related to the installation and support of the installation crews. See attached Statement from Jeremy Hollier, Director of Operations at DeepSouth Communications LLC.

The installation crew is again on site and attempting to complete the installation of the top mount antenna. The current weather conditions, including high winds, has made completion of the install impossible by the upcoming July 3, 2020 deadline. Consequently, the Station's operations must continue on its pre-auction Channel 44 in order to continue serving its community. The only other alternative is to go dark, which would deprive the Station's community of programming including news and weather.

The facts make strict compliance inconsistent with the public interest.<sup>1</sup> 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.<sup>2</sup> Such a waiver is appropriate if circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.<sup>3</sup>

As demonstrated herein, good cause exists for waiver of the post-auction transition construction deadline. As a consequence of the Commission's Incentive Auction, the Station is required to transition from its current, pre-transition channel 44 to its post-auction Out-of-Core channel 28 by or before the conclusion of Phase 10, which is slated for July 3, 2020. Due

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<sup>1</sup> Northeast Cellular Tel. Co. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>2</sup> 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.

<sup>3</sup> Northeast Cellular, 897 F.2d at 1166.

to unanticipated and unavoidable delays, including rigging delays, weather and COVID 19, construction has not yet been completed. Consequently, the Station's transition to its post-auction channel 28, using a new antenna, will not occur by July 3, 2020. All delays were beyond Nexstar's control.

As the Commission knows, due to the limited rigging resources available throughout the United States, normal installation schedules are often back to back with little or no room for delays of any nature. These have been extraordinary times. Accordingly, Nexstar respectfully requests to *briefly* delay KWKT's transition until July 8, 2020. This brief extension would ensure that the Station could continue to serve its community of license without interruptions. Absent grant of the instant waiver, KWKT will be required to go dark on or after July 3, 2020.

Nexstar pledges to act to further mitigate any viewer disruption by increasing outreach education, beyond the requisite minimum consumer outreach announcements and crawls (which will continue until the Station transitions), and proposes to expand its educational and informative outreach to include digital and social media campaigns. Nexstar will maintain a link on the station's website regarding when and how to rescan. Additionally, transition and rescanning information will also be posted to the station's social media pages.

Based on the facts above, grant of the requested waiver to modify KWKT's transition phase serves the public interest by conserving resources and averting a significant disruption of service to its community of license.

**Statement - Jeremy Hollier**

**Director of Operations - DeepSouth Communications LLC**



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June 29, 2020

Nexstar Broadcasting, Inc.  
Herman Marvel  
3131 North University  
Peoria, IL 61604

Re: Delayed deadline KWKT

Herman,

We need to bring to your attention that we will not be able to make the July 3<sup>rd</sup> cut over for KWKT. As you are aware, we have incurred numerous delays throughout this project that has caused us to miss the deadline. Please see below for delays accrued to date:

April 2<sup>nd</sup>, 2020

Crew has Aux antenna and line installed and ready for cut over. We were pulled off the project by Nexstar due to the COVID 19 outbreak. The crew derigged all the equipment and mobilized off site until further notice.

May 15<sup>th</sup>, 2020

Crew has mobilized back on site as directed by Nexstar. The original intent was to use the existing waveguide for the new system. After several days of tuning, it was decided that the existing waveguide would not work for the new antenna system. With coordination between Deep South Communications, Nexstar and the tower owner the new line for the site was ordered and shipped to location.

May 20<sup>th</sup>, 2020

New 6" line was received on site. Crew started with the removal of the 15" waveguide and hardware associated with waveguide install. The crew started install of 6" line as soon as the old line was removed.

June 23<sup>rd</sup>, 2020

Crew has started rigging the tower to raise gin pole to remove and replace top mounted antenna.

June 25<sup>th</sup> – June 29<sup>th</sup>, 2020

Crew has been battling excessive winds daily and have not been able to lift the gin pole. Daily winds have been 30+ MPH on the ground, making working conditions on the tower unsafe for changing the antenna.



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Deep South Communications has been on site daily and have made every effort to meet the deadline as agreed. At this time, due to weather issues, we are likely to miss the July 3, 2020 cut over date.

Please let us know if you need any more information regarding these delays.

Sincerely,

Jeremy Hollier

Director of Operations