

In anticipation of such early displacements and interruption of television service, the FCC has announced that it will accept displacement applications for LPTV stations that receive a 120-day notice letter, provided that a waiver of the displacement application filing freeze is requested, and a request for temporary operation on the requested channel is simultaneously filed.² This waiver request is made in accordance with the FCC's announced policy.

The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *See Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). Waiver of the Commission's rules is appropriate if (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest. *See id.*

W46EJ-D's over ten-year history of providing television service to residents of West Virginia is threatened by T-Mobile's decision to build out its wireless operation early. The resulting loss of television service would be inconsistent with the public interest. In this unique circumstance, an exception to the displacement application filing freeze will enable the provision of uninterrupted television service to the residents of West Virginia. Grant of the waiver will serve the public interest by avoiding a loss of television service.

² *See Incentive Auction Task Force and Media Bureau Set Forth Tools Available to LPTV/Translator Stations Displaced Prior to the Special Displacement Window*, Public Notice, DA 17-584 (released June 14, 2017)

For the foregoing reasons, CTI respectfully requests a waiver of the displacement application filing freeze so that W46EJ-D may seek an alternate channel and continue operating.

Respectfully submitted:



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