

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

Eternal Family Network seeks waiver of the post-Incentive Auction Transition Phase assignment, and corresponding testing dates and construction completion deadlines, for KEFN-CD, St. Louis, MO (Facility ID 9375) (“Station”). The Station has been assigned to Transition Phase 9, for which the Phase Completion Date is May 1, 2020. Eternal Family Network seeks to transition the Station early, with expected transition completion on or before June 1, 2018, with a testing period to commence immediately preceding said date.

The *Transition Scheduling PN* encouraged stations to propose “alternative transition solutions that could create efficiencies,” and held that a request to modify a station’s transition deadline — including by moving to an earlier phase — would be viewed favorably if the request is “otherwise compliant with [FCC] rules and [has] little or no impact on the phase assignments or transition schedule.”¹ As described below, Eternal Family Network’s instant request qualifies for such favorable treatment.

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

¹ *Incentive Auction Task Force and Media Bureau Adopt a Post-Incentive Auction Transition Scheduling Plan*, Public Notice, MB Docket No. 16-306, GN Docket No. 12-268, ¶ 50, *24 n.163 (rel. Jan. 27, 2017) (“Transition Scheduling PN”).

² 47 C.F.R. § 1.3.

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

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 more swiftly deliver new wireless broadband services to the public while minimizing impacts on broadcast television viewers and post-auction transition resources. Specifically, if Station is permitted to complete its transition early, T-Mobile a winning 600 MHz wireless licensee will be able to deploy new competitive wireless broadband service to people of the St. Louis market 20 months earlier than scheduled.

Interference. The Station has undertaken an engineering analysis (see attached interference analysis from du Treil, Lundin, & Rackley, Inc.) to determine that no new interference will be created by the proposed early transition of the Station beyond the permitted 2% transition period amount, if KEFN is able to change channels as proposed in the accompanying major modification to channel 20. On channel 20, the Station is not part of a linked station set, and the early transition will not create a new linked station set. Additionally, moving to channel 20 will break up link station set 70.

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.

Impacts to Transition Plan. The proposed transition will permit better utilization of resources by engaging vendors and service providers early in the process rather than have them potentially overloaded further in the overall transition. Eternal Family Network has consulted with equipment manufacturers, vendors, site lessor, engineers, and tower crews to ensure an orderly early transition. (see attached letters from vendors).

Impact to Viewers. Eternal Family Network believes any disruption to viewers will be minimized. The Station recognizes that its request for an early transition may increase the total number of times a viewer may need to rescan equipment in order to receive all reassigned stations in St. Louis from two to three scans. Although this number exceeds the presumptive cap established by the Transition PN,⁶ by one scan, a waiver can be justified as the Station will engage in a comprehensive consumer awareness campaign. In addition to the required public service announcements and crawls to notify the Station audience of the proposed transition and provide detailed instructions on the rescanning process, the Station will conduct robust and diverse outreach through digital and social media, newscasts, and via notices with other local stations and print media to ensure that viewers will be well-informed of the transition. The Station will also coordinate with another early moving station in the market to minimize the need for broadcasters to rescan. See attached T-Mobile letter outlining additional rescan support.

⁶ See Transition Public Notice at ¶¶ 20 and 21.

In sum, grant of this waiver will facilitate a more effective and efficient implementation of the overall policy goals of the Incentive Auction and post-auction transition, and thus is in the public interest.