

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

Station Venture Operations, LP (“SVO”) seeks waiver of the post-Incentive Auction Transition Phase assignment, and corresponding testing dates and construction completion deadlines, for KXAS-TV, Fort Worth, TX (Facility ID 49330) (the “Station”), which is assigned to the Dallas-Ft. Worth Designated Market Area (“DMA”). Pursuant to the *Closing and Reassignment Public Notice*, the Station has been assigned to Transition Phase 3, for which the Phase Completion Date is June 21, 2019.<sup>1</sup> SVO seeks to transition the Station early, with expected transition completion on or before June 1, 2018, with a testing period to commence immediately preceding June 1.

The requested waiver would allow for implementation of an agreement reached between SVO and T-Mobile USA, Inc. (“T-Mobile”), the licensee of new 600 MHz licenses WQZL881 and WQZL882. Those licenses authorize T-Mobile to provide new mobile broadband services in the Dallas, TX Partial Economic Area (PEA008).

The *Transition Scheduling Adoption Public Notice* permitted 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

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<sup>1</sup> *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*”).

assignments or transition schedule.”<sup>2</sup> As demonstrated below, SVO’s instant request qualifies for such favorable treatment.

The FCC may grant a waiver for good cause shown.<sup>3</sup> A waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest.<sup>4</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>5</sup> Such a waiver is appropriate if circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.<sup>6</sup> As demonstrated herein, good cause exists for waiver of the Station’s 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, the Station is not part of a linked station set, and if the Station is permitted to complete its transition early, T-Mobile will be able to deploy new competitive wireless broadband service to the residents of the Dallas PEA a full year earlier than scheduled.

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<sup>2</sup> *Incentive Auction Task Force and Media Bureau Adopt A Post-Incentive Auction Transition Scheduling Plan*, MB Docket No. 16-306 and GN Docket No. 12-268, 32 FCC Rcd 890, 913 ¶ 51 (MB 2017) (*Transition Scheduling Adoption Public Notice*), citing *Incentive Auction Task Force and Media Bureau Seek Comment on Post-Incentive Auction Transition Scheduling Plan*, Public Notice, 31 FCC Rcd 10802 (MB 2016) (*Transition Scheduling Proposal Public Notice*).

<sup>3</sup> 47 C.F.R. § 1.3.

<sup>4</sup> *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>5</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>6</sup> *Northeast Cellular*, 897 F.2d at 1166.

Interference. Attached hereto is an “Engineering Statement Supporting Request for Waiver Television Station KXAS-TV,” prepared by duTreil, Lundin & Rackley, Inc (“Engineering Statement”). As demonstrated in the Engineering Statement, because the analysis shows no cases of incoming (created) interference exceeding the normal 0.5% rounding tolerance level to any other protected full-power or Class A television stations now operating, no new incoming pairwise (station-to-station) interference will be created by the proposed early transition of Station.

The proposed early transition will cause 0.86% and 1.30% new interference to Station KLTS-TV and KTAB-TV, respectively. In the *Transition Scheduling PN*, the Commission determined that allowing temporary pairwise (station-to-station) interference of up to two percent (2%) during the transition is in the public interest.<sup>7</sup> The proposed new interference is under the allowable threshold and will be temporary, as it will resolve upon the transition of Stations KLTS-TV and KTAB-TV to their new channels. SVO pledges to notify and work cooperatively with the licensees of Stations KLTS-TV and KTAB-TV to minimize actual interference, if possible.

Despite the creation of new interference, no new station linked station sets are created by the proposal.

Impacts to Transition Plan. This early out-of-phase transition will in fact permit better utilization of resources by engaging vendors and service providers early in the process rather than have

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<sup>7</sup> *Transition Scheduling Adoption Public Notice*, at ¶ 16.

them potentially overloaded further in the transition. Additionally, the requested early cutover by KXAS-TV would not require any hardware. The station has a broadband antenna, re-tunable combiner and re-tunable transmitter. The proposed transition therefore will further the overall transition plan.

Impact to Viewers. Under the Transition Plan, all of the TV stations in the Dallas-Ft. Worth DMA are scheduled for the same transition phase (i.e., a single rescan is scheduled). Grant of the proposed early transition of Station will result in an increase in the number of rescans. The Commission has determined, however, that up to two non-sequential rescans will serve the goals of efficiently clearing DMAs while minimizing viewer disruption.<sup>8</sup> Because the proposed early transition will still be within the maximum of two rescans deemed to be in the public interest, grant of the instant waiver is appropriate. SVO pledges to act to further mitigate any viewer disruption by increasing outreach education above and beyond the required once per day for 30 days of public service announcements and crawls to notify the Station audience of the proposed transition and provide detailed instructions on the rescanning process.

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.

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<sup>8</sup> *Transition Scheduling Adoption Public Notice*, at ¶ 21.