

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

Baltimore (WNUV-TV) Licensee, Inc. seeks waiver of the post-Incentive Auction Transition Phase assignment, and corresponding testing dates and construction completion deadlines, for WNUV, Philadelphia, PA (Facility ID No 7933) (“Station”). Pursuant to the *Closing and Reassignment Public Notice*, Station has been assigned to Transition Phase 8, for which the Phase Completion Date is 3/13/2020. Baltimore (WNUV-TV) Licensee, Inc. seeks to transition the Station early, with expected transition completion on or before 09/1/18, with a testing period to commence immediately preceding said date.

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 assignments or transition schedule.”¹ As demonstrated below, Baltimore (WNUV-TV) Licensee, Inc.’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*, 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*).

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 Mid-Atlantic up to eighteen (18) months earlier than scheduled.

Interference. The Station has undertaken an engineering analysis (see attached interference analysis from du Treil, Lundin, & Rackley, Inc.). Potential interference to other stations that would be caused by WNUV C.P. moving to channel 25 (FCC approved this move) will not exceed the transitional pairwise interference level of 2% allowed by the FCC during the temporary transition. As part of the analysis a detailed “received case” analysis for the WNUV C.P. facility was conducted to minimize the predicted interference received from the WTVR-TV facility. The resulting pairwise interference from WTVR-TV is less than the 2% allowed by the FCC during the temporary transition. The Station is not part of a linked station set, and the early transition will not create a new linked station set.

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. Baltimore (WNUV-TV) Licensee, Inc. has consulted with equipment manufacturers, vendors, site lessor, and engineers, to ensure an orderly early transition. Baltimore (WNUV-TV) Licensee, Inc. will be retuning the existing antenna system and will not need the services of a tower crew for this installation.

Impact to Viewers. Baltimore (WNUV-TV) Licensee, Inc. believes any disruption to viewers will be minimized. The Station recognizes that its request for an early transition will increase the total number of times a viewer may need to rescan equipment to receive all reassigned stations in the Philadelphia market. Under the original FCC transition plan there is scheduled only 2 rescans for WNUV's DMA and the granting of the proposed early transition will change the number of rescans to 3. 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. See attached T-Mobile letter outlining additional rescan support.

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

MVPD Notification Finally, Baltimore (WNUV-TV) Licensee, Inc. has already started to take the necessary actions to ensure all impacted MVPDs are notified of the impending channel change at least 90 days prior to actual change.

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.