

UNIVERSITY BROADCASTING INC.  
KGEB, TULSA, OK, FACILITY ID 24485

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

University Broadcasting Inc seeks waiver of the post-Incentive Auction Transition Phase assignment, and corresponding testing dates and construction completion deadlines, for KGEB, Tulsa, OK (Facility ID No 24485) (“Station”). Pursuant to the *Closing and Reassignment Public Notice*, Station has been assigned to Transition Phase 2, for which the Phase Completion Date is 4/12/2019. University Broadcasting 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.”<sup>1</sup> As demonstrated below, University Broadcasting Inc’s instant request qualifies for such favorable treatment.

The FCC may grant a waiver for good cause shown.<sup>2</sup> A waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest.<sup>3</sup> In considering a

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<sup>1</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>2</sup> 47 C.F.R. § 1.3.

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

waiver, the FCC may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.<sup>4</sup> Such a waiver is appropriate if circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.<sup>5</sup>

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. KGEB has partnered with T-Mobile to transition early to facilitate broadband service using the 600 MHz band in and around Tulsa, Oklahoma up to 7 months earlier than the scheduled transition for this market. The interplay amongst the four TV stations involved in this early transition is depicted in Table 1.

<b>Callsign</b>	<b>Channel</b>	<b>New Ch</b>	<b>Dependency</b>	<b>LSS</b>	<b>ISIX Case for T-Mobile</b>
KOZJ	25	35	N/A	9	N/A
KXNW	34	25	KOZJ	9	N/A
KMYT	42	34	KXNW	9	Case 3
KGEB	49	12	N/A	N/A	Case 4

Table 1. Tulsa early transition move package.

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<sup>4</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>5</sup> *Northeast Cellular*, 897 F.2d at 1166.

Interference. The Station has undertaken an engineering analysis (see attached interference analysis from du Treil, Lundin, & Rackley, Inc.) The results of the analysis indicate that there are no cases of incoming (received) interference exceeding the permissible 0.5% to the KGEB Channel 12 early transition facility beyond those pre-existing interference cases that were accepted as part of the process for KGEB to change from its original Channel 14 assignment to its present Channel 12 for which it holds a construction permit. The Station is not part of a linked station set, and the early transition will not create a new linked station set.

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. University Broadcasting Inc has already received its transmitter and the antenna has been built and is in storage. The tower crew has committed to start the installation June 30<sup>th</sup>, 2018 (see attached tower vendor letter) and this will ensure an orderly early transition.

Impact to Viewers. University Broadcasting 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 in order to receive all reassigned stations in the Tulsa market. Under the original FCC transition plan there is scheduled only 2 rescans for KGEB'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,<sup>6</sup> 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's 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.

In addition, University Broadcasting Inc. will coordinate with Missouri State University, licensee of KOZJ(TV), Joplin, Missouri, Cox Television Tulsa, LLC, licensee of KMYT-TV, Tulsa, Oklahoma and Tribune Broadcasting of Fort Smith License, LLC, licensee of KXNW(TV), Eureka Springs, Arkansas to minimize confusion among viewers in the DMA, of the intention of all four stations to transition ahead of the overall Tulsa transition phase.

See attached T-Mobile letter outlining additional rescan support.

MVPD Notification. Finally, University Broadcasting 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.

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<sup>6</sup> See Transition Public Notice at ¶¶ 20 and 21.