

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

Gray Television Licensee, LLC (“Gray”) seeks waiver of the post-Incentive Auction Transition Phase assignment, and corresponding testing dates and construction completion deadlines, for WAHU-CD, Charlottesville, VA (Facility ID No. 47705) (“Station”). Pursuant to the *Closing and Reassignment Public Notice*, Station has been assigned to Transition Phase 8, for which the Phase Completion Date is March 13, 2020.¹ Gray seeks to transition the Station early by moving to Transition Phase 5, for which the testing period begins on August 3, 2019 and ends on September 6, 2019. Gray expects to transition the Station early in Phase 5.

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.”² As demonstrated below, Gray’s instant request qualifies for such favorable treatment.

¹ *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 Rcd 2786 (WTB & MB 2017) (*Closing and Channel Reassignment Public Notice*).

² *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*).

The FCC may grant a waiver for good cause shown.³ A waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest.⁴ 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.⁵ Such a waiver is appropriate if circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.⁶

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 in the Winchester/Harrisonburg/Charlottesville, VA area up to 6 months earlier than scheduled.

Interference. Attached hereto is an “Engineering Statement Supporting Request for Waiver Television Station WAHU-CD,” prepared by du Treil, Lundin & Rackley, Inc (“Engineering Statement”). As demonstrated in the Engineering Statement, because the analysis shows no

³ 47 C.F.R. § 1.3.

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

⁵ *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.

⁶ *Northeast Cellular*, 897 F.2d at 1166.

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 result in the Station receiving 0.72% new interference from Station WDCA(TV). 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.⁷ The proposed new interference is under the allowable threshold and will be temporary, as it will resolve upon the transition of Station WDCA(TV) to its new channel.

Impacts to Transition Plan. The proposed transition will further the overall transition plan. The Station has completed construction of its repack station. It only needs to test the facility and make its final transition to the new channel.

Impact to Viewers. Gray believes any disruption to viewers will be minimal. The Station will be moving to the same Transition Phase as Gray's commonly owned station in the market, WCAV, thereby, keeping the number of times a viewer may need to rescan equipment in order to receive all reassigned stations in Charlottesville to two scans.

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, and

⁷ *Transition Scheduling Adoption Public Notice*, at ¶ 16.

newscasts to ensure that viewers will be well-informed of the transition. Likewise, T-Mobile will undertake additional consumer outreach to ensure consumers are informed about the transition as described in the attached letter.

MVPD Notification. Finally, Gray will take all 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.