



Federal Communications Commission
Washington, D.C. 20554

April 8, 2019

West Central Ohio Broadcasting, Inc.
Frederick Vobbe
1424 Rice Avenue
Lima, OH 45805

Re: Request for Modification and
Waiver of Phase Assignment
WOHL-CD, Lima, OH
Facility ID No. 68549
LMS File No. 0000068428

Dear Licensee,

On March 8, 2019, West Central Ohio Broadcasting, Inc. (WCOB), the licensee of WOHL-CD, Lima, Ohio (WOHL-CD or Station) filed a *Request for Modification and Waiver of Phase Assignment* requesting to modify the post-incentive auction transition phase assigned to the station in the *Closing and Channel Reassignment Public Notice* from Phase 2 to Phase 5.¹ For the reasons below, we grant WCOB's request for waiver and modify the Station's phase assignment to Phase 5, as conditioned herein.

Background. Pursuant to the *Transition Scheduling Adoption Public Notice*, individual stations may request waiver and modification of their phase assignment.² A waiver is appropriate where the particular facts would make strict compliance inconsistent with the public interest and deviation from the general rule would relieve hardship, promote equity, or produce a more effective implementation of overall policy on an individual basis.³ The Media Bureau (Bureau) has stated it will evaluate such requests on a case-by-case basis to assess the impact on the transition schedule, including the impact on other broadcasters as well as viewers, in order to facilitate a timely and orderly transition.⁴ The Bureau determined that it would view favorably requests that are compliant with the Commission's rules and

¹ See *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*). See LMS File No. 0000068428, WOHL-CD Phase Change Wavier Request (Waiver Request).

² See *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, 912-14, paras. 47-52 (MB 2017) (*Transition Scheduling Adoption Public Notice*).

³ See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); 47 CFR § 1.3 (waiver for good cause shown). See also *Transition Scheduling Adoption Public Notice*, 32 FCC Rcd at 913-14, para. 51 and n.171.

⁴ See *id.* at 912-14, paras. 49-52. See also *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Broadcast Transition*, 32 FCC Rcd 858, 881-82, para 73 (MB 2017).

have little or no impact on the transition schedule.⁵ Requests that the staff determines would be likely to delay or disrupt the transition schedule will be viewed unfavorably.⁶

Request for Phase Change. WOHL-CD is currently licensed to operate on channel 35. The Station was reassigned to channel 15 in the *Closing and Channel Reassignment Public Notice* and assigned to transition Phase 2, which has a phase testing period start date of December 1, 2018, and a phase completion date of April 12, 2019. The Station is located in the Lima, Ohio, Designated Market Area (Lima DMA). A total of two stations, including WOHL-CD, were repacked in the Lima DMA, with both stations being assigned to Phase 2. WCOB is unable to construct its post-auction facility at the Station's existing tower site and instead must construct a new tower at a different site. WCOB's waiver request states that since it learned early in the transition process that it would require a new tower, WCOB has diligently undertaken efforts to meet its phase completion deadline.⁷ WCOB has hired ERI to construct its new tower and obtain other new equipment, including the Station's new antenna. Unfortunately, ERI has experienced delays obtaining the necessary supplies from its vendors.⁸ ERI has informed WCOB that it will not receive all of the necessary components to be able to construct WOHL-CD's post-auction facility by April 12, 2019.⁹ ERI does not anticipate delivery of the Station's new antenna until May 31, 2019. As a result, WCOB seeks to have WOHL-CD's transition phase modified from Phase 2 to Phase 5, which has a testing period start date of August 3, 2019, and a phase completion date of September 6, 2019.

In support of its request, WCOB has provided an engineering analysis demonstrating that the Station's change in transition phase will not create any new linked station sets, dependencies, or increased pairwise interference greater than two percent during the transition period.¹⁰ WCOB states that while the phase change will increase the number of rescan periods in the Lima DMA from one to two, this is consistent with the two rescan periods per DMA limitation used in the tool adopted by the Bureau in the *Transition Scheduling Adoption Public Notice* to assign stations to transition phases.¹¹ In order to ensure that viewers are well-informed about the Station's transition and the additional rescan period, WCOB has agreed to provide additional consumer outreach beyond what is required by the Commission's rules by providing notice through the use of the Station's local news platforms, including newscasts and its social and digital media assets.¹²

⁵ *Transition Scheduling Adoption Public Notice*, 32 FCC Rcd at 912-13, para. 49 and n.163.

⁶ *Id.*; *Incentive Auction Task Force and Media Bureau Remind Repacked Stations of Certain Post-Auction Transition Requirements and Deadlines, Public Notice*, 33 FCC Rcd 8240, 8244-45, para. 14 (IATF & MB 2018) (*Transition Reminder Public Notice*).

⁷ Waiver Request at 2-3.

⁸ *Id.* at 3.

⁹ *Id.* at 5 (Letter from ERI to WCOB).

¹⁰ *Id.* at 4 and WOHL-CD Phase Change Request Engineering Statement. See *Transition Scheduling Adoption Public Notice*, 32 FCC Rcd at 897, para. 16 (allowing temporary increased pairwise (station-to-station) interference of up to two percent during the transition period).

¹¹ Waiver Request at 4. See *Transition Scheduling Adoption Public Notice*, 32 FCC Rcd at 898-99, paras. 20-21 (establishing a two rescan periods per DMA limitation when assigning stations to transition phases).

¹² Waiver Request at 4.

Discussion. Upon review of the facts and circumstances presented, we find that WCOB's request to modify the phase assignment for WOHL-CD to transition to its post-auction channel in Phase 5 satisfies the requirement for a waiver and is in the public interest. We agree that the change to the Station's transition phase should not have an adverse impact on the overall transition schedule or a negative impact on other stations or viewers. Staff has confirmed that the phase change will not create any new linked station sets or direct dependencies. The Station also currently operates on channel 35, so modification of its transition phase will not impact any planned deployment of 600 MHz wireless broadband services. While the total number of rescan periods in the Lima DMA will increase to two, that is still within the two rescan periods per DMA limitation used in the tool adopted by the Bureau in the *Transition Scheduling Adoption Public Notice* to assign stations to transition phases and WCOB has committed to put in place viewer outreach programs beyond those required by the Commission rules. Furthermore, modifying WOHL-CD's transition phase will ensure that the Station is able to continue to serve its viewers without interruption. As a result, we find the facts and circumstances discussed above outweigh any viewer burden caused by an additional rescan period in the Lima DMA.

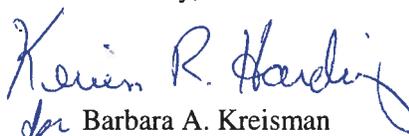
We remind WCOB that pursuant to the Spectrum Act, the Station is eligible for reimbursement from the TV Broadcast Relocation Fund (Fund) of costs "reasonably incurred . . . in order for the licensee to relocate its television service from one channel to the other." Additional expenses incurred such as expenses resulting from changes in a Station's transition plan that are not related to the post-incentive auction channel change, may not be reimbursable from the Fund.

Accordingly, we **GRANT** WCOB's *Request for Modification and Waiver of Phase Assignment* and modify the transition phase assignment for WOHL-CD **from Phase 2 to Phase 5**, subject to all the commitments made in its waiver request and compliance with all Commission rules applicable to transitioning stations.¹³ Testing on the Station's post-auction channel **may not begin until 12:01 am local time on August 3, 2019**, and WOHL-CD is required to cease operating on its pre-auction channel

¹³ See generally 47 CFR § 73.3700 and *Transition Reminder Public Notice*, 33 FCC Rcd 8240.

no later than 11:59 pm local time on September 6, 2019.¹⁴ The Station's construction permit expiration date will also be modified to correspond to its new phase completion date.¹⁵

Sincerely,


for Barbara A. Kreisman
Chief, Video Division
Media Bureau

Cc: (via electronic mail):
Christina H. Burrow, Esq.

¹⁴ Each transition phase has a designated testing period on which a station in that phase may begin testing equipment on its new channel and a designated phase completion date when a station must cease operation on its pre-auction channel. The phase completion date is the date that will be listed in that station's construction permit as its construction deadline and is the date the station must cease operation on its pre-auction channel. *See Closing and Channel Reassignment Public Notice*, 32 FCC Rcd 2806, para. 64. A station that commences testing on its post-auction channel before the beginning of its assigned testing period will be operating in violation of Commission rules.

¹⁵ *Id.* ("The phase completion date is...[also] the date listed in each station's construction permit as its construction deadline"). If a station must commence operations on its post-auction channel at variance from the parameters authorized in its construction permit, it must file for and be granted special temporary authority prior to commencing operations. *See* 47 CFR § 73.1635. A station that needs additional time to complete construction of its post-auction facility beyond its construction permit expiration date must file for a 180-day extension of its construction permit in accordance with Section 73.3700(b)(5)(iv). Stations needing additional time to construct after a 180-day extension is granted, will be subject to the Commission's tolling provisions. 47 CFR § 73.3700(b)(5)(iv). Grant of an extension of time to construct does not relieve a station of the requirement that it ceases operation on its pre-auction channel by its assigned phase completion date.