

## Request for Waiver of Phase Assignment

KTBU Licensing, Inc., the licensee of KTBU, Conroe, Texas (FID 28324) files this request for a waiver of the post-Incentive Auction Transition Phase assignment and corresponding testing dates and construction completion deadlines for KTBU. KTBU was assigned to Transition Phase 2 pursuant to the Closing and Reassignment Public Notice.<sup>1</sup> KTBU now requests re-assignment to Transition Phase 3 because construction of its post-transition facility has been delayed by circumstances outside of its control.

Station KTBU shares a tower with KYAZ, Katy, Texas, and KZJL, Houston, Texas, both of which are also assigned to Transition Phase 2. To complete their post-transition facilities, the stations intend to utilize a new shared antenna installed by American Tower. Although the shared antenna has been installed and the parties have been working diligently to complete construction, the final installation of the stations' new transmission line (most of which has already been installed) has been delayed due to severe weather in the Houston area that has limited the crew's ability to access the tower. Despite the hope that the installation could be completed in a timely manner, the current weather forecast includes severe weather conditions over the next several days that are likely to prevent KTBU from completing construction by the Transition Phase 2 deadline of April 12, 2019. Assuming the weather cooperates, it is estimated that installation of the transmission line can be completed within approximately 14 working days.

In the Transition Scheduling Adoption Public Notice,<sup>2</sup> the Commission anticipated that there would be circumstances where a station would need to seek a waiver of the phase construction deadline, including authority to continue operating on its current channel. The Commission indicated that it would consider these requests on a "case-by-case basis," by evaluating the impact to viewers and the transition schedule.<sup>3</sup> Re-assigning KTBU to a later transition phase will allow it to stay on the air until it can move to its post-transition channel and ensure its viewers are not left without important Spanish-language programming. The ability of the tower crew to access the tower is the sole barrier to completing construction of KTBU's post-transition facility. Therefore, KTBU Licensing, Inc. requests that KTBU be reassigned to Transition Phase 3, allowing it to continue operating on its current (pre-transition) Channel 42 until June 21, 2019 (although KTBU estimates that any delay will be a matter of days rather than weeks or months).

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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*).

<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 (MB 2017) (*Transition Scheduling Adoption Public Notice*).

<sup>3</sup> *Transition Scheduling Adoption Public Notice*, ¶ 49.

KTBU is not part of a linked set and does not require coordination with any other station to complete its transition. Because KTBU currently operates in the 600MHz band, a delay in its transition will not create a new linked station set. KTBU will notify T-Mobile USA, Inc. (“TMO”) about the circumstances and will keep TMO informed.

Eight stations in the Houston market must transition to post-repack facilities—all of which have been assigned to Transition Phase 2. At least three of these stations, KZJL, Houston, Texas, KTMD, Galveston, Texas and KUBE-TV, Baytown, Texas, have already requested an extension due to the same uncontrollable weather delays, and an extension request is expected to be submitted by KYAZ. Therefore, if KTBU moves to Phase 3, it will not result in any additional rescans.<sup>4</sup>

Accordingly, the grant of this request will serve the public interest by permitting KTBU to continue serving viewers while the station completes its transition to its post-repack channel.

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<sup>4</sup> 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, DA 17-107 at ¶¶ 20 and 21 (MB 2017) (Transition Scheduling PN).