



Federal Communications Commission  
Washington, D.C. 20554

January 17, 2020

WAND(TV) Partnership  
904 W South Side Drive  
Decatur, IL 62521

Re: Request for Modification and  
Waiver of Phase Assignment  
WAND(TV), Decatur, IL  
Facility ID No. 70852  
LMS File No. 0000097698

Dear Licensee,

On January 15, 2020, WAND(TV) Partnership (Licensee), the licensee of WAND(TV), Decatur, Illinois (WAND 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 7 to Phase 8.<sup>1</sup> For the reasons below, we grant the Licensee's request for waiver and modify the Station's phase assignment to Phase 8, as conditioned herein.

*Background.* Pursuant to the *Transition Scheduling Adoption Public Notice*, individual stations may request waiver and modification of their phase assignment.<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup> The Bureau determined that it would view favorably requests that are compliant with the Commission's rules and

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<sup>1</sup> 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*, GN Docket No. 12-268 et al., Public Notice, 32 FCC Rcd 2786 (WTB & MB 2017) (*Closing and Channel Reassignment Public Notice*). See LMS File No. 0000097698, Phase Waiver Request (Waiver Request).

<sup>2</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, Public Notice, 32 FCC Rcd 890, 912-14, paras. 47-52 (MB 2017) (*Transition Scheduling Adoption Public Notice*).

<sup>3</sup> 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.

<sup>4</sup> 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*, MB Docket No. 16-306 and GN Docket No. 12-268, Public Notice, 32 FCC Rcd 858, 881-82, para. 73 (MB 2017).

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

WAND is currently licensed to operate on channel 17. It was reassigned to channel 20 in the *Closing and Channel Reassignment Public Notice* and is currently assigned to transition Phase 7, which had a phase testing period start date of October 19, 2019, and has a phase completion date of January 17, 2020. The Station is located in the Champaign-Springfield-Decatur, Illinois, Designated Market Area (Champaign DMA). A total of 10 stations were repacked in the Champaign DMA, with one station having transitioned in the period prior to the Phase 1 testing period start date, five stations, including WAND, being assigned to transition Phase 7, and four stations being assigned to Phase 9. According to the Licensee, the Station's equipment and tower crew were delayed in their arrival and winter weather then stalled construction.<sup>7</sup> In addition, the Station's engineers have determined that the Station must commission a new tower study to determine whether its current tower can support the equipment it has ordered and, if not, determine what steps must be taken to modify the tower.<sup>8</sup> The Station's engineers have therefore developed a solution to move the station to an interim facility on Channel 20, but such work cannot be completed by January 17, 2020.<sup>9</sup> The Licensee expects that it will be able to transition the station to its post-auction channel within "a few weeks."<sup>10</sup> As a result, the Licensee requests that the Station's transition phase assignment be modified from Phase 7 to Phase 8, which has a testing period start date of January 18, 2020, and phase completion date of March 13, 2020.

WAND is part of Linked-Station Set 104 and is directly linked with station KWQC-TV, Davenport, Iowa (KWQC).<sup>11</sup> KWQC is also assigned to transition Phase 7. In order to prevent increased temporary pairwise interference greater than two percent,<sup>12</sup> WAND must transition at the same time as or prior to KWQC. Pursuant to special temporary authority and an interference agreement with WAND, KWQC has commenced operation on channel 17 at reduced power.<sup>13</sup> Pursuant to the interference agreement, KWQC plans to increase its operations to full power on January 17, 2020. Such operation will require KWQC to accept approximately 3.08% temporary pairwise interference from WAND and cause 7.61% temporary pairwise interference to WAND. Both stations have agreed to accept these limited amounts of temporary pairwise interference while WAND completes its transition to its post-auction channel.<sup>14</sup> The Licensee has included with its waiver request an exhibit demonstrating that by moving to Phase 8, WAND will not create any new linked-station sets or cause increased temporary

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

<sup>6</sup> *Id.*; see *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*).

<sup>7</sup> Waiver Request at 2.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 3.

<sup>11</sup> KWQC is licensed to Gray Television Licensee, LLC.

<sup>12</sup> 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).

<sup>13</sup> See LMS File No. 0000096176 (granted Jan. 10, 2020).

<sup>14</sup> *Id.*

pairwise interference to any stations other than KWQC.<sup>15</sup> In order to mitigate any viewer disruption caused by the Station's change in phase, the Licensee states that it will expand consumer outreach beyond what is required by the Commission's rules to include news stories and the Station's digital and social media platforms. The Licensee is also considering additional ways to reach local viewers with information about the transition by advertising on radio and other outlets.<sup>16</sup>

*Discussion.* Upon review of the facts and circumstances presented, we find that the Licensee's request to modify the phase assignment for WAND to transition to its post-auction channel satisfies the requirement for a waiver and is in the public interest. We agree that changing the Station's transition phase to Phase 8 should not have an adverse impact on the overall transition schedule. The change in schedule will result in temporary pairwise interference to and from KWQC, but the Station has entered into an interference agreement with KWQC and both stations have agreed to accept limited amounts of temporary pairwise interference from one another. Staff has confirmed that the phase change will not create any new linked-station sets or cause any increased temporary pairwise interference to any stations other than KWQC. By moving WAND to Phase 8, the total number of rescan periods in the Champaign DMA will increase from three to four.<sup>17</sup> The Licensee has therefore agreed to increase consumer education and outreach beyond what is required by the Commission's rules in order to ensure that viewers are fully informed about the repack and in order to minimize any viewer confusion caused by the Station's change in phase. Modifying WAND'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 increase in the number of rescan periods in the Champaign DMA and temporary reduction in service.

We remind the Licensee 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."<sup>18</sup> 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** WAND(TV) Partnership's *Request for Modification and Waiver of Phase Assignment* and modify the transition phase assignment for WAND **from Phase 7 to Phase 8**, subject to all the commitments made in its waiver request and compliance with all Commission rules applicable to transitioning stations.<sup>19</sup> Testing on the Station's post-auction channel **may not begin until 12:01 am local time on January 18, 2020**, and WAND is required to cease operating on its pre-auction

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<sup>15</sup> Waiver Request at 3 and Interference Analysis.

<sup>16</sup> *Id.* at 3.

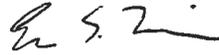
<sup>17</sup> This number of rescan periods is in excess of the two rescan periods per DMA limitation used in the tool adopted by the Bureau in the *Transition Scheduling Adoption Public Notice* to assign stations to transition phases. *Transition Scheduling Adoption Public Notice*, 32 FCC Rcd at 898-99, paras. 20-21.

<sup>18</sup> 47 U.S.C. § 1452(b)(4)(A)(i). See also *Incentive Auction R&O*, 29 FCC Rcd at 6821, para. 622 ("The appropriate scope of 'costs reasonably incurred' necessarily will have to be decided on a case-by-case basis.").

<sup>19</sup> See generally 47 CFR § 73.3700 and *Transition Reminder Public Notice*, 33 FCC Rcd 8240.

channel no later than 11:59 pm local time on March 13, 2020.<sup>20</sup> The Station's construction permit expiration date will also be modified to correspond to its new phase completion date.<sup>21</sup>

Sincerely,



For

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

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

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<sup>20</sup> 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 at 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.

<sup>21</sup> *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.