

COVID-19 Phase Change Request

KTEN(DT) is currently assigned to Phase 9 of the television repack, with a current deadline of May 1, 2020, for the station to transition operations from its pre-auction facility on Channel 26 to its post-auction facility on Channel 17.

However, due to circumstances related to the COVID-19 pandemic, KTEN(DT) is unable to meet the Phase 9 deadline, and accordingly, KTEN(DT) hereby seeks waiver of the Phase 9 deadline and reassignment to Phase 10.

Status of Repack Transition and COVID-19 Delay

KTEN(DT)'s post-transition facility is authorized in FCC LMS File No. 0000034216. The station had been on track to transition to its post-transition facility in Phase 9. However, Electronics Research, Inc. (ERI), the company managing the tower work, recently notified KTEN(DT) that the tower crew subcontracted for the project has suspended field service work as a result of the COVID-19 pandemic. The tower crew has left the site to shelter in place with their families for their safety and in the nationwide effort to slow the spread of COVID-19.

When the tower crew is able to return they will still need to rig the tower, remove the existing analog transmission line, and prepare the tower for the removal of the existing antenna and installation of the new Channel 17 antenna by helicopter.

At this point, and subject to potential further COVID-19 disruptions, it is projected that the project will be complete and KTEN(DT)'s post-transition facility will be operational by May 18 and prior to the Phase 10 deadline of July 3, 2020.

Good Cause Exists for Waiver of the Phase 9 Deadline

Because KTEN(DT)'s transition is delayed due to circumstances related to the COVID-19 pandemic and the overwhelming public interest in the effort to slow the spread of COVID-19, and in accordance with the Commission's Public Notice in DA 20-282, (rel. Mar. 17, 2020), good cause exists for waiver of the Phase 9 deadline.¹

Accordingly, KTEN(DT) submits that a waiver of the Phase 9 deadline is in the public interest and respectfully requests reassignment of KTEN(DT) to Phase 10.

¹ The FCC may grant a waiver for good cause shown. 47 C.F.R. § 1.3. A waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). 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. *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. Such a waiver is appropriate if circumstances warrant a deviation from the general rule, and such deviation will serve the public interest. *Northeast Cellular*, 897 F.2d at 1166.

Waiver Would Not Create Any Interference Issues

KTEN(DT) is in a linked station set (LSS Set 71) with no upstream dependencies and only one downstream dependency, which is KOTV-DT, Tulsa, OK (KTEN(DT) has to vacate Channel 26 before KOTV-DT can transition to Channel 26). The Media Bureau has already moved KOTV-DT to Phase 10 due to similar circumstances related to the COVID-19 pandemic pursuant to FCC LMS File No. 0000108397. KTEN(DT) has been in contact with KOTV-DT and does not anticipate any technical or interference-based obstacle to moving KTEN(DT) to Phase 10. KTEN(DT) will continue to coordinate with KOTV-DT and will transition before or at the same time as KOTV-DT. It is KTEN(DT)'s understanding that reassignment to Phase 10 should not create any new linked-station sets or increase temporary pairwise interference beyond two percent.

Waiver Should Not Create Any Significant Viewer Confusion

KTEN(DT) is the only station in the Sherman TX – Ada, OK DMA that is being repacked. Accordingly there will be only one “rescan date” for the market. KTEN(DT) will provide and update its consumer education messaging as required to mitigate any viewer confusion that could result by the reassignment of KTEN(DT) to Phase 10.

KTEN(DT) timely notified MVPDs of its Phase 9 transition plans and will remain in contact with—and distribute re-notifications (with the new Phase 10 date, if this request is granted) as warranted to—all impacted MVPDs to ensure they have all information needed to implement KTEN(DT)'s channel change.

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For the foregoing reasons, KTEN(DT) respectfully requests waiver of the Phase 9 deadline and reassignment to Phase 10.

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