



Federal Communications Commission
Washington, D.C. 20554

August 17, 2017

Richard Van Gendern
State Board of Education, State of Idaho
d/b/a Idaho Public Television
1455 North Orchard Street
Boise, ID 83706

Re: Request for Modification and
Waiver of Phase Assignment
KCDT, Coeur D'Alene, ID
Facility ID No. 62424
LMS File No. 0000026078

Dear Licensee,

On July 6, 2017, State Board of Education, State of Idaho (Idaho PTV), the licensee of Station KCDT(TV), Coeur D'Alene, Idaho (Station or KCDT), filed a *Request for Modification and Waiver of Phase Assignment*, requesting to modify the post-incentive auction transition phase assignment assigned to the Station in the *Closing and Channel Reassignment Public Notice* from Phase 7 "to Phase 6 or earlier."¹ For the reasons below, we grant the request for modification and waiver of KCDT's phase assignment and modify its phase assignment to Phase 6.

Background. Pursuant to the *Transition Scheduling Adoption Public Notice*, individual stations may request waivers of their phase assignments.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 of such requests 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. 0000026078, Phase STA 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 *Transition Scheduling Adoption Public Notice*, 32 FCC Rcd 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, 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

KCDT is currently licensed to operate on channel 45 and was reassigned to channel 18 in the *Closing and Channel Reassignment Public Notice* and assigned to Phase 7. KCDT's antenna and transmitter site are located on West Canfield Butte, which sits at an elevation of 4,048 feet above sea level in a heavily forested area. The testing period for Phase 7 begins on October 19, 2019, and the phase completion date is January 17, 2020.⁷ Idaho PTV states that its current phase assignment presents logistical challenges due to winter weather that during that time may already exist at its facility on West Canfield Butte.⁸ According to Idaho PTV, winter access to this site is difficult and only accomplished by snowcat or snowmobile,⁹ and moving the Station's transition phase to Phase 6 or earlier will allow it to avoid the difficulties associated with accessing the site.¹⁰ Specifically Idaho PTV states that Phase 6, which has a testing start date of September 7, 2019, and phase completion date of October 18, 2019, will provide staff and contractors with "a much better chance to avoid hazardous travel conditions."¹¹

Discussion. Upon review of the facts and circumstances presented, we find that the Licensee's request to modify its phase assignment to Phase 6 satisfies the requirements for a waiver and will not have an adverse impact on the transition schedule or a negative impact on other stations or viewers. A staff analysis confirms that the phase change does not create any new linked station sets. KCDT is part of the Spokane, Washington Designated Market Area (DMA), in which only one other station, KVBI-CD, Spokane, Washington, was reassigned as part of the repack. Both stations were assigned to Phase 7. Although grant of the request will move KCDT to Phase 6, viewers that receive KCDT do not receive KVBI-CD over-the-air due to the geographic size of the Spokane DMA. As a result, viewers of KCDT and KVBI-CD will still only have to conduct one rescan. Furthermore, grant of the request will also help ensure that the Station transitions in a timely and safe manner.

Although Idaho PTV requests that its phase be modified to Phase 6 *or earlier*, it states that Phase 6 would be acceptable. In the absence of additional explanation and affirmation from Idaho PTV that another phase would be acceptable, we decline to move the station to a phase earlier than Phase 6. We are also concerned that moving KCDT to an earlier phase could divert resources from stations already assigned to those phases and may not adequately address the issue that Idaho PTV has with its current phase assignment.

Accordingly, we **GRANT** the Licensee's *Request for Modification and Waiver of Phase Assignment* and modify the transition phase assignment for KCDT **from Phase 7 to Phase 6**. Testing on

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

⁶ *Id.*

⁷ *Id.* at 893, para. 6 ("While stations may engage in planning and construction activities at any time prior to their phase completion date, equipment testing on post-auction channels will be confined to the specified testing periods assigned to their transition phase in order to minimize interference and facilitate coordination.").

⁸ Waiver Request at 1.

¹⁰ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 2.

the Station's post-auction channel may not begin until 12:01 am local time on **September 7, 2019**,¹² and the Station is required to cease operating on its pre-auction channel no later than 11:59 pm local time on **October 18, 2019**.¹³

Sincerely,

A handwritten signature in black ink, appearing to read 'Barbara A. Kreisman', with a long horizontal flourish extending to the right.

Barbara A. Kreisman
Chief, Video Division
Media Bureau

Cc: Anne Goodwin Crump (via electronic mail)

¹² 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.

¹³ 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. See *Closing and Channel Reassignment Public Notice*, 32 FCC Rcd 2806, para. 64.