



Federal Communications Commission
Washington, D.C. 20554

October 30, 2017

WDBD License Subsidiary, LLC
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Re: Request for Modification and
Waiver of Phase Assignment
WDBD(TV), Jackson, MS
Facility ID No. 71326
LMS File No. 0000030497

Dear Licensee,

On October 2, 2017, WDBD License Subsidiary, LLC (American Spirit Media), the licensee of Station WDBD(TV), Jackson, Mississippi (Station or WDBD), 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 transition Phase 3 to transition Phase 1.¹ For the reasons stated below, we grant the request for waiver and modification of WDBD's phase assignment and modify the Station's phase assignment to Phase 1.

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

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. 0000030497, WDBD Exhibit Supporting Waiver (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.

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 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

WDBD is currently licensed to operate on channel 40. It was reassigned to channel 14 in the *Closing and Channel Reassignment Public Notice* and assigned to transition Phase 3, which has a testing period start date of April 13, 2019, and phase completion date of June 21, 2019. WDBD is located in the Jackson, Mississippi, Designated Market Area (Jackson DMA). A total of two stations, including WDBD, were repacked in the Jackson DMA and were both assigned to Phase 3. American Spirit Media requests permission to modify its transition phase to Phase 1, which has a testing period start date of September 14, 2018, and a phase completion date of November 30, 2018. American Spirit Media asserts that its request is intended to promote the deployment of new wireless broadband services by enabling T-Mobile, a winning 600 MHz licensee, to deploy its new wireless broadband service in the Jackson DMA seven months earlier than it would be able to under the current transition schedule.⁷ American Spirit Media also contends that this phase change will "permit better utilization of resources by engaging vendors and service providers early in the process, rather than have them overloaded further in the transition."⁸ American Spirit Media has consulted with its numerous vendors and provided letters from both its antenna and transmitter manufacturer confirming that they will be able to support WDBD's transition in Phase 1 and such a change will not impact their ability to support other stations' transition efforts.⁹

American Spirit Media also provides an engineering analysis demonstrating that its phase change will not create any new linked station sets or result in impermissible interference during the transition period.¹⁰ American Spirit Media acknowledges that WDBD's proposed phase change, if granted, would create an additional rescan period in the Jackson DMA.¹¹ As originally announced, there was only one rescan period for the Jackson DMA. The only other station transitioning in the DMA, WLOO(TV), Vicksburg, Mississippi (WLOO), has also filed a waiver request seeking to modify its transition phase from Phase 3 to Phase 1, which is being concurrently granted today.¹² As a result, there continues to be only one rescan period required for the Jackson DMA. Finally, American Spirit Media states that in addition to required viewer notifications it will conduct additional consumer education and outreach

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*, 32 FCC Rcd 858, 881-82, para 73 (MB 2017).

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

⁶ *Id.*

⁷ Waiver Request at 2.

⁸ *Id.* at 2. See Antenna Letter ("[A]llows Dielectric to more uniformly distribute its manufacturing capacity."); Transmitter Letter ("[I]t will allow GatesAir to more efficiently utilize our manufacturing capacity.").

⁹ See LMS File No. 0000030497, WDBD Transmitter Manufacturer Letter (Transmitter Letter) and WDBD Antenna Manufacturer Letter (Antenna Letter).

¹⁰ See Waiver Request at 2; LMS File No. 0000030497 (as amended, Oct. 17, 2017), WDBD Engineering Statement.

¹¹ Waiver Request at 3-4.

¹² See *Tougaloo College Request for Modification and Waiver of Phase Assignment of WLOO(TV), Vicksburg, MS*, Letter Decision, LMS File No. 0000030407 (Vid. Div. Oct. 27, 2017).

efforts though digital and social media, newscasts, and through other local stations and print media to ensure viewers are well-informed.¹³

Discussion. Upon review of the facts and circumstances presented, we find American Spirit Media's request to modify its phase assignment to Phase 1 satisfies the requirements for a waiver. We agree that the change to the Station's phase assignment should not have an adverse impact on the overall 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 and will not result in new interference above the two percent permitted during the transition.¹⁴ As a result of WLOO's reassignment to Phase 1 viewers in the Jackson DMA will continue to only have one rescan period. American Spirit Media has also committed to provide viewer notices beyond those required by the Commission's rules in order to ensure that viewers are well-informed about the transition. It has also provided evidence that the resources necessary to support its phase change are available and will not delay other transitioning stations' access to resources. As a result, we find on balance that the benefit of early deployment in the 600 MHz band, the ability of vendors to support the phase change without impacting repack resources for other stations, and the additional consumer education and outreach efforts outweighs any potential burdens in this case.

Accordingly, we **GRANT** American Spirit Media's *Request for Modification and Waiver of Phase Assignment* and modify the transition phase assignment for WLOO **from Phase 3 to Phase 1. WDBD may not commence testing on its post-auction channel until September 14, 2018 and must discontinue operation on its pre-auction channel by November 30, 2018.**

Sincerely,

A handwritten signature in black ink, appearing to read 'B a K', followed by a long horizontal flourish.

Barbara A. Kreisman
Chief, Video Division
Media Bureau

¹³ Waiver Request at 3.

¹⁴ 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).