



Federal Communications Commission
Washington, D.C. 20554

April 27, 2018

West Tennessee Public TV Council, Inc.
P.O. Box 966
Martin, TN 38237

Re: Request for Modification and
Waiver of Phase Assignment
WLJT-DT, Lexington, TN
Facility ID No. 71645
LMS File No.: 0000048459

Dear Licensee,

On March 9, 2018, West Tennessee Public TV Council, Inc. (West Tennessee), the licensee of Station WLJT-DT, Lexington, Tennessee (WLJT-DT 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 8, and instead transition on or before June 1, 2018, with a testing period to commence immediately prior.¹ For the reasons below, we grant West Tennessee's request for waiver and modify WLJT-DT's phase assignment to permit it to commence testing and transition to its post-auction channel on or before June 1, 2018, subject to completion of applicable consumer education requirements and any required notice to multichannel video programming distributors (MVPDs).²

Background. Pursuant to the *Transition Scheduling Adoption Public Notice*, individual stations may request waiver and modification of their phase assignment.³ 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.⁴ 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. 0000048459, WLJT-DT phase change waiver request (Waiver Request).

² Repacked stations are required to conduct consumer outreach efforts including providing on-air viewer notifications in the form of public service announcements as well as on-screen crawls at least thirty (30) days prior to transitioning to their post-auction channels. See 47 CFR § 73.3700(c). To the extent applicable, repack stations are also required to provide MVPDs with notice ninety (90) days prior to transitioning. See 47 CFR 73.3700(d).

³ 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*).

⁴ 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.⁵ 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.⁶ Requests that the staff determines would be likely to delay or disrupt the transition schedule will be viewed unfavorably.⁷

WLJT-DT is currently licensed to operate on channel 47. It was reassigned to channel 14 in the *Closing and Channel Reassignment Public Notice* and assigned to transition Phase 8, which has a testing period start date of January 18, 2020, and phase completion date of March 13, 2020. WLJT-DT is located in the Jackson, Tennessee, Designated Market Area (Jackson DMA). A total of three stations, including WLJT-DT, were repacked in the Jackson DMA and all were assigned to Phase 8. West Tennessee requests permission to begin testing and commence operation on WLJT-DT's post-auction channel on or before June 1, 2018. West Tennessee asserts that transitioning to its post-auction channel on or before June 1, 2018, 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 almost two years earlier than it would be able to under the current transition schedule.⁸ West Tennessee argues that its proposal will also "permit better utilization of resources by engaging vendors and service providers early in the process, rather than have them potentially overloaded further in the transition."⁹ West Tennessee has consulted with its numerous vendors and provided letters from its antenna and transmitter manufacturer confirming that they will be able to support WLJT-DT's early transition and that such a change will not impact the vendors ability to support other stations' transition efforts.¹⁰

West Tennessee also provides an engineering analysis demonstrating that its early transition will not create any new linked station sets or result in impermissible interference during the transition period.¹¹ West Tennessee notes that granting the waiver will create an additional rescan period in the Jackson DMA, increasing the total number of rescan periods to two. Adding an additional rescan would continue to satisfy the two rescan periods per DMA limitation used in the tool adopted by the Bureau in *Transition Scheduling Adoption Public Notice* to assign stations to transition phases.¹² West Tennessee also states that it will conduct consumer education and outreach efforts beyond what is required by Commission rules by emailing all contacts in its database, launching a social media campaign, incorporating messaging into all of its engagement events and interactions with the public, posting an article, training employees

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

⁶ *Transition Scheduling Adoption Public Notice*, 32 FCC Rcd at 912-13, para. 49 and n.163.

⁷ *Id.*

⁸ Waiver Request at 2. T-Mobile has also filed with the Commission a letter and study verifying that as a result of the Station's early transition, T-Mobile will be able to commence 600 MHz operations earlier than under the existing transition schedule. A copy of this filing has been uploaded by Video division staff under the file number for the waiver request. See LMS File No. 0000037429, T-Mobile Deployment Study-Redacted. Pursuant to Sections 0.457 and 0.459 of the Rules, T-Mobile requests confidential treatment of the information in its filing pertaining to the precise timing and location of its deployment. T-Mobile contends such information is not routinely made publicly available and should be withheld from public inspection as trade secrets, or privileged or confidential commercial, financial or technical data. See 47 CFR §§ 0.457(d)(2) and 0.459.

⁹ Waiver Request at 3.

¹⁰ *Id.*, Confirmation of Production Capacity, and Phase Change Grant Letter.

¹¹ *Id.* at 2, Engineering Statement.

¹² *Id.* at 3; see *Transition Scheduling Adoption Public Notice*, 32 FCC Rcd at 898-99, paras. 20-21.

and having an engineer on call, and devoting 90 seconds per day to viewer on-air education, PSAs, and crawls.¹³

Discussion. Upon review of the facts and circumstances presented, we find West Tennessee's request to modify its phase assignment to permit WLJT-DT to transition to its post-auction channel on or before June 1, 2018, satisfies the requirements for a waiver. We agree that the change to WLJT-DT's transition phase 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 West Tennessee has also provided evidence that the resources necessary to support its early transition are available and will not delay other transitioning stations' access to resources. While viewers in the Jackson DMA will be subject to an additional rescan period, the total number of rescan periods will be limited to two. As a result, we find on balance that the benefit of early deployment in the 600 MHz band, the ability to vendors to support WLJT-DT's early transition, and consumer education efforts beyond what is required by the rules outweighs the burden of an additional rescan period in this case.

Accordingly, we **GRANT** West Tennessee's *Request for Modification and Waiver of Phase Assignment* and modify the transition phase assignment for WLJT-DT **from Phase 8 and permit the Station to commence testing and transition to its post-auction channel on or before June 1, 2018, subject to completion of applicable consumer education requirements and any required notice to MVPDs,¹⁵ as well as any commitments made in the waiver request.** Furthermore, WLJT-DT must cease operation on its pre-auction channel no later than 11:59 pm local time on June 1, 2018.

Sincerely,



Barbara A. Kreisman
Chief, Video Division
Media Bureau

Cc:
Lawrence Miller, Esq. (via e-mail)

¹³ Waiver Request at 3-4.

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).

¹⁵ See 47 CFR § 73.3700(c), (d).