



Federal Communications Commission  
Washington, D.C. 20554

November 30, 2018

Unimas Fresno, LLC  
Christopher G. Wood  
5999 Center Drive  
Los Angeles, CA 90045

Re: Request for Modification and  
Waiver of Phase Assignment  
KTFF-DT, Porterville, CA  
Facility ID No. 35512  
LMS File No. 0000063670

Dear Licensee,

On November 21, 2018, Unimas Fresno LLC (Unimas), the licensee of Station KTFF-DT, Porterville, California, (KTFF-DT or the Station), filed a request for waiver of the Station's phase completion date from November 30, 2018 to December 14, 2018.<sup>1</sup> For the reasons below, we grant Unimas's request for waiver and reassign the Station from Phase 1 to Phase 2, 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) 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*, Public Notice, 32 FCC Rcd 2786 (WTB & MB 2017) (*Closing and Channel Reassignment Public Notice*). See LMS File No. 0000063670, Request for Extension for Operations on Pre-Repack Channel (Waiver Request).

<sup>2</sup> See *Incentive Auction Task Force and Media Bureau Adopt a Post-Incentive Auction Transition Scheduling Plan*, Public Notice, MB Docket No. 16-306 and GN Docket No. 12-268, 32 FCC Rcd 890, 912-14, paras. 47-52 (IATF & 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*, 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>

KTFF-DT is currently licensed to operate on channel 48. It was reassigned to channel 23 in the *Closing and Channel Reassignment Public Notice* and assigned to transition Phase 1, which has a testing period start date of September 14, 2018, and phase completion date of November 30, 2018. Unimas seeks a brief extension of KTFF-DT's phase completion date in order to continue operating on its pre-auction channel until December 14, 2018. Although KTFF-DT's post-auction antenna was installed on November 16 and installation of the Station's transmission line is ongoing, the Station's tower crew, Beckman Tower, had to suspend installation in order assist in the restoration of first responder communications during the recent California wildfires.<sup>7</sup> While the Beckham Tower has returned to KTFF-DT's tower site, there is not enough time to finish construction and allow the Station to complete the necessary testing and tuning of its equipment before November 30, 2018.<sup>8</sup> If a brief extension of the Station's phase completion date were not granted, the Station would have to go silent.

*Discussion.* Upon review of the facts and circumstances presented, we find that Unimas's request for a brief extension of its phase completion date is in the public interest and satisfies the requirements for a waiver. We find that a brief extension should not have an adverse impact on the overall transition schedule or a negative impact on other stations or viewers. A staff analysis also confirms that the phase change will not result in new increased pairwise interference above the two percent permitted during the post-auction transition period.<sup>9</sup> The delay in construction was beyond the control of Unimas and resulted from the need for the tower crew to assist in repairing first responder communications links impacted by the recent California wildfires. The tower crew is on site and the Station will be ready to cease operation on its pre-auction channel and commence operation on its post-auction channel by December 14, 2018, which is during the early portion of the Phase 2 testing period. Grant of Unimas's waiver request will extend the Phase 1 rescan period for viewers by no more than two weeks. We believe that KTFF-DT has every incentive to ensure its viewers are fully informed of its change in transition timing. As a result, we find the public interest benefits of this brief extension to KTFF-DT's phase completion date and modification of its phase assignment outweigh the extended rescan period for viewers and limited delay in access by wireless providers to the 600 MHz band.

We caution Unimas that any additional expenses incurred as a result of the grant of KTFF-DT's voluntary phase change may not be reimbursable from the TV Broadcasters Relocation Fund. Such additional costs might include, but may not be limited to, additional legal or engineering expenses; filing fees; and interim or additional equipment that was not contemplated when the station filed its initial estimated expenses but was subsequently necessitated to complete the transition to its post-auction channel due to its phase change.

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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, MB Docket No. 16-306 and GN Docket No. 12-268, DA 18-884 (IATF & MB, rel. Aug. 27, 2018) (*Transition Reminder Public Notice*).

<sup>7</sup> Waiver Request at 1.

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

<sup>9</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).

Accordingly, we **GRANT** Unimas's request for wavier to modify the Station's phase completion date to **December 14, 2018**, subject to compliance with all Commission rules applicable to transitioning stations.<sup>10</sup> KTFF-DT will also be **reassigned from Phase 1 to Phase 2, however it is permitted to commence testing on its post-auction channel immediately and must cease operating on its pre-auction channel no later than 11:59 pm (local time) on December 14, 2018.**<sup>11</sup> The Station's construction permit expiration date will also be modified to correspond to its new phase completion date.<sup>12</sup>

Sincerely,



Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

Cc (via electronic mail):  
Christopher G. Wood  
Ann West Bobeck, Esq.

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<sup>10</sup> See generally 47 CFR § 73.3700; *Transition Reminder Public Notice*.

<sup>11</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>12</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.