



Federal Communications Commission
Washington, D.C. 20554

March 31, 2020

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WBAL Hearst Television Inc. Stephen Hartzell 150 Fayetteville Street Suite 1700 Raleigh, NC 27601 shartzell@brookspierce.com	WHYY, INC. K. McGrath 150 N 6 th Street Philadelphia, PA 19106 kmcgrath@whyy.org
ION Media Martinsburg License, Inc. Bianca Frye 601 Clearwater Park Road West Palm Beach, FL 33401 BiancaFrye@ionmedia.com	Mission Broadcasting, Inc. Dennis Thatcher 901 Indiana Avenue, Suite 375 Wichita Falls, TX 76301 missionbroadcasting@gmail.com

Re: Request for Modification and
Waiver of Phase Assignment
WJZ-TV, Baltimore, MD
Facility ID No. 25455
LMS File No. 0000108425

WNET(TV), Newark, NJ
Facility ID No. 18795
LMS File No. 0000108563

WBAL-TV, Baltimore, MD
Facility ID No. 65696
LMS File No. 0000108967

WHYY-TV, Wilmington, DE
Facility ID No. 72338
LMS File No. 0000109656

WWPX-TV, Martinsburg, WV
Facility ID No. 23264
LMS File No. 0000110488

WYOU(TV), Scranton, PA
Facility ID No. 17010
LMS File No. 0000110370

Dear Licensees,

On March 19, 2020, CBS Television Licenses LLC, the licensee of WJZ-TV, Baltimore, Maryland (WJZ-TV); on March 20, 2020 WNET, the licensee of WNET(TV), Newark, NJ (WNET); on

March 24, 2020, WBAL Hearst Television Inc., the licensee of WBAL-TV, Baltimore, MD (WBAL-TV); on March 27, 2020, WHYY, Inc., the licensee of WHYY-TV, Wilmington, DE (WHYY-TV); on March 30, 2020, ION Media Martinsburg License, Inc., the licensee of WWPX-TV, Martinsburg, WV (WWPX-TV); and on March 30, 2020 Mission Broadcasting, Inc., the licensee of WYOU(TV), Scranton, PA (WYOU) (each a Licensee, and together Licensees, of the above-referenced Stations), each filed a *Request for Modification and Waiver of Phase Assignment* requesting to modify the post-incentive auction transition phase assigned to their respective Station in the *Closing and Channel Reassignment Public Notice* from Phase 9 to Phase 10 due to circumstances related to the COVID-19 pandemic.¹ We grant the requests for waiver and modify each Station's phase assignment to Phase 10, as conditioned herein.

On March 17, 2020, the Commission issued guidance to all repacked stations assigned to Phase 9, noting that the Centers for Disease Control and Prevention is closely monitoring an outbreak of respiratory illness COVID-19 caused by a novel coronavirus, the World Health Organization classified it as a pandemic, and the President declared it a national emergency. The guidance stated that any station scheduled to complete its transition in phase 9 that believes it may be unable to meet the May 1, 2020, deadline will be granted a waiver of the phase 9 deadline and reassignment to phase 10, which begins on May 2, 2020, and ends on July 3, 2020.²

The Licensees' requests to modify the phase assignments for the Stations to transition to their post-auction channels due to circumstances related to the COVID-19 pandemic satisfy the requirements for waiver pursuant to the March 17, 2020, guidance and are in the public interest. WJZ-TV, WBAL-TV, WWPX-TV, WHYY-TV, WNET, and WYOU are part of Linked Station Set 65 and directly linked. These Stations must therefore coordinate their transitions in order to prevent any increased levels of temporary pairwise interference beyond two percent.³ Consistent with the Stations' existing obligations to coordinate with each other in Phase 9, the Stations must continue to coordinate their transition plans in Phase 10. Staff has otherwise confirmed that changing the stations transition phase to Phase 10 will not create any new linked-station sets or increased temporary pairwise interference beyond two percent.

Accordingly, we **GRANT** the Licensees' *Request for Modification and Waiver of Phase Assignment* and modify the transition phase assignment for the Stations **from Phase 9 to Phase 10**, subject to all the commitments made in the waiver requests, requirements to continue to coordinate with the linked-Stations identified herein, and compliance with all other Rules applicable to transitioning stations.⁴ Absent Commission authorization to the contrary, testing on the Stations' post-auction channels

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*, GN Docket No. 12-268 et al., Public Notice, 32 FCC Rcd 2786 (WTB & MB 2017) (*Closing and Channel Reassignment Public Notice*).

² *Guidance for Stations in Phase 9 of the Post-Incentive Auction Transition as a Result of the Novel Coronavirus (COVID-19) Pandemic*, MB Docket No. 16-306 and GN Docket No. 12-268, Public Notice, DA 20-282 (IATF & MB, Mar. 17, 2020).

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, Public Notice, 32 FCC Rcd 890, 897, para. 16 (allowing temporary increased pairwise (station-to-station) interference of up to two percent during the transition period).

⁴ See generally 47 CFR § 73.3700 and *Incentive Auction Task Force and Media Bureau Remind Repacked Stations of Certain Post-Auction Transition Requirements and Deadlines*, MB Docket No. 16-306 and GN Docket No. 12-268, Public Notice, 33 FCC Rcd 8240 (IATF & MB 2018).

may not begin until 12:01 am local time on May 2, 2020. The Stations are required to cease operating on their pre-auction channels **no later than 11:59 pm local time on July 3, 2020.**⁵ The Stations' construction permit expiration date will also be modified to correspond to the new phase completion date set forth in this letter.⁶

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

Cc (via electronic mail)

Keith Murphy, Esq. (WJZ-TV)

Sally Buckman, Esq. (WNET)

Melodie Virtue, Esq. (WHYY-TV)

Terri Santisi (WWPX-TV)

Gregory Masters, Esq. (WYOU)

⁵ Each transition phase has a testing period during which a station in that phase may begin testing equipment on its new channel and a phase completion date on which 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 as modified herein will be operating in violation of Commission rules.

⁶ *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.