



Federal Communications Commission  
Washington, D.C. 20554

October 6, 2017

Word of God Fellowship, Inc.  
Arnold Torres  
3901 Highway 121 South  
Bedford, TX 76201

Robert L. Olender, Esq.  
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Re: Request for Modification and  
Waiver of Phase Assignment  
KWOG-TV, Springdale, AR  
Facility ID No. 67347  
LMS File No. 0000029867

Dear Licensee,

On September 13, 2017, Word of God Fellowship, Inc. (WOGF) the licensee of Station KWOG-TV, Springdale, Arkansas (Station or KWOG-TV), 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 2, and instead transition on or before April 1, 2018, with a testing period to commence immediately prior.<sup>1</sup> For the reasons below, we grant the request for modification and waiver of KWOG-TV's phase assignment and modify its phase assignment to permit it to transition to its post-auction channel as soon as it is able to make the transition and before April 1, 2018, subject to completion of applicable consumer education requirements and any required notice to multichannel video programming distributors (MVPDs).<sup>2</sup>

*Background.* Pursuant to the *Transition Scheduling Adoption Public Notice*, individual stations may request waivers of their phase assignments.<sup>3</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

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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. 0000029867, KWOG-TV Legal STA (Waiver Request).

<sup>2</sup> 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).

<sup>3</sup> 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*).

an individual basis.<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup> Requests that the staff determines would be likely to delay or disrupt the transition schedule will be viewed unfavorably.<sup>7</sup>

KWOG-TV is currently licensed to operate on channel 39 and was reassigned to channel 29 in the *Closing and Channel Reassignment Public Notice* and assigned to transition phase 2, which has a testing period start date of December 1, 2018, and phase completion date of April 12, 2019. KWOG-TV is located in the Ft. Smith-Fayetteville-Springdale-Rogers Designated Market Area (Station DMA). A total of six stations, including KWOG-TV, were repacked in the Station DMA and were all assigned to Phase 2. WOGF requests permission to begin testing and commence operation on KWOG-TV's post-auction channel on or before April 1, 2018. WOGF states that if KWOG-TV were to transition in early 2018, then T-Mobile, a winning 600 MHz licensee, would be able to deploy its new wireless broadband service within the Station DMA a full 12-months ahead of schedule.<sup>8</sup> WOGF argues that its proposal will "permit better utilization of resources by engaging vendors and service providers early in the process."<sup>9</sup> Additionally, WOGF notes that it will be using internal engineering resources for each of its five relocating stations and that permitting KWOG-TV to transition early will assist WOGF in using its internal resources more efficiently.<sup>10</sup> WOGF has consulted with its numerous vendors and provided a letter from its antenna manufacturer confirming its ability to support KWOG-TV's early transition project without interrupting its ability to support other transitioning stations.<sup>11</sup>

WOGF goes on to state that it is not part of a linked station set, and that its early transition will not create a new linked station set. In support, WOGF has provided 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.<sup>12</sup> While KWOG-TV's proposed early transition will create an additional rescan in the Station DMA,<sup>13</sup> WOGF notes that there is currently only one rescan period for the Station DMA and that adding an additional rescan would continue to satisfy the two rescans per DMA limitation included in the tool used by the Commission in *Transition Scheduling Adoption Public Notice*

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<sup>4</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>5</sup> 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).

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

<sup>7</sup> *Id.*

<sup>8</sup> Waiver Request at 2.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> LMS File No. 0000029867, Lead Time Statement.

<sup>12</sup> See Waiver Request at 1-2; LMS File No. 0000029867, Engineering Statement.

<sup>13</sup> Waiver Request at 3-4.

to assign stations to a particular phases.<sup>14</sup> Additionally, WOGF states that in addition to screen crawls, 30 days in advance of the transition date, viewers and donors will receive e-mails, text messages, and information in the monthly newsletter from the station that will provide viewers with notice and information related to the channel change and necessary rescan. Viewers will also be able to call the WOGF call center for information on rescanning instructions.<sup>15</sup>

*Discussion.* Upon review of the facts and circumstances presented, we find that the Word of God Fellowship, Inc.'s request to modify its phase assignment to permit the station to transition to its post-auction channel on or before April 1, 2018, satisfies the requirements for a waiver. We agree that the change to the transition plan 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.<sup>16</sup> While viewers in the Station DMA will be subject to an additional rescan, the total number of rescans will be limited to two, and WOGF has committed to put in place viewer outreach programs in addition to those required by the Commission rules in order to ensure that viewers will have available additional information and support from the station to manage the additional rescan. As a result, we find on balance that the benefit of early deployment in the 600 MHz band, and of the early use of repack resources to free up such resources for other stations in subsequent transition phases, outweighs the burden of an additional rescan in this case. Finally, WOGF has provided evidence that the resources necessary to support its early transition are available now and will not delay other transitioning stations' access to resources.

Accordingly, we **GRANT** Word of God Fellowship, Inc.'s *Request for Modification and Waiver of Phase Assignment* and modify the transition phase assignment for KWOG-TV **from Phase 2 and permit the Station to commence testing and transition to its post-auction channel on or before April 1, 2018, subject to completion of applicable consumer education requirements and any required notice to MVPDs.**<sup>17</sup> Furthermore, the KWOG-TV must cease operation on its pre-auction channel on or before April 1, 2018, upon commencement of operation pursuant to program test authority, or upon the filing of an application for license to cover, whichever occurs first.

Sincerely,



Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

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<sup>14</sup> *Id.*; see *Transition Scheduling Adoption Public Notice*, 32 FCC Rcd at 898-99, paras. 20-21.

<sup>15</sup> Waiver at 4.

<sup>16</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).

<sup>17</sup> See 47 CFR § 73.3700(c), (d).