



Federal Communications Commission  
Washington, D.C. 20554

July 16, 2018

Telemundo Las Vegas License, LLC  
Margaret Tobey  
C/O NBCUniversal  
300 New Jersey Avenue, NW  
Washington, DC 20001

Re: Request for Modification and  
Waiver of Phase Assignment  
KBLR, Paradise, NV  
Facility ID No. 63768  
LMS File No. 0000055501

Dear Licensee,

On June 28, 2018, Telemundo Las Vegas License, LLC (Telemundo), the licensee of Station KBLR, Paradise, Nevada ( 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 1, and instead transition on August 13, 2018, with a testing period to commence immediately prior.<sup>1</sup> For the reasons below, we grant Telemundo's request for waiver and modify KBLR's phase assignment to permit it to commence testing and transition to its post-auction channel as requested, subject to completion of applicable consumer education requirements and any required notice to multichannel video programming distributors (MVPDs),<sup>2</sup> compliance with FCC Form 2100, Schedule 387 reporting requirements (Schedule 387),<sup>3</sup> and any additional commitments made in its waiver request.

*Background.* Pursuant to the *Transition Scheduling Adoption Public Notice*, individual stations may request waiver and modification of their phase assignment.<sup>4</sup> A waiver is appropriate where the

<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. 0000055501, Request to Modify Transition Repack Schedule (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 Release Transition Progress Report and Filing Requirements for Stations Eligible for Reimbursement from the TV Broadcast Relocation Fund & Seek Comment on the Filing of the Report by Non-Reimbursable Stations*, Public Notice, 32 FCC Rcd 256 (MB 2017) (subsequent history omitted). In addition to filing on a quarterly basis, repacked stations are required to file an FCC Form 2100, Schedule 387 (1) 10 weeks before the end of their assigned construction deadline; (2) 10 days after they complete all work related to construction of their post auction facilities; and (3) five days after they cease broadcasting on their pre-auction channel. *Id.* at 258-59, para. 8.

<sup>4</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*).

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>5</sup> 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 other broadcasters as well as viewers, in order to facilitate a timely and orderly transition.<sup>6</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>7</sup> Requests that the staff determines would be likely to delay or disrupt the transition schedule will be viewed unfavorably.<sup>8</sup>

KBLR is currently licensed to operate on channel 40. It was reassigned to channel 20 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. KBLR is located in the Las Vegas, Nevada, Designated Market Area (Las Vegas DMA). A total of two stations, KBLR and K43FO-D, Las Vegas (K43FO-D), were repacked in the Las Vegas DMA. Both were assigned to Phase 1 and have requested authority to transition to their post-auction channel on August 13, 2018, with a testing period to commence immediately prior.<sup>9</sup> If both requests are granted, the total number of rescan periods for the Las Vegas DMA would remain at one.

Telemundo states that it "has completed construction of the post-auction repacked channel facilities for KBLR."<sup>10</sup> Telemundo also provides an engineering analysis demonstrating that its early transition will not create any new linked-station sets or result in increased pairwise interference greater than two percent during the transition period.<sup>11</sup> In order to minimize any potential viewer confusion caused by the early transition, Telemundo states that it will conduct expanded consumer education and outreach efforts beyond what is required by Commission rules and targeted at its Spanish speaking audience by (1) airing at least double the amount of required viewer notifications and seven days prior to the channel change provide a "count down" in conjunction with the airing of KBLR's station ID throughout the broadcast day; (2) using the Station's website and social media accounts; (3) issuing a press release announcing KBLR's channel change to newspapers and radio stations throughout the market; and (4) establishing both an e-mail and phone "hotline" to field and respond to viewer inquiries.<sup>12</sup>

*Discussion.* Upon review of the facts and circumstances presented, we find Telemundo's request to modify its phase assignment to permit KBLR to transition to its post-auction channel on August 13, 2018, with a testing period immediately prior, satisfies the requirements for a waiver and is in the public

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<sup>5</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>6</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).

<sup>7</sup> *Transition Scheduling Adoption Public Notice*, 32 FCC Rcd at 912-13, para. 49 and n.163.

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

<sup>9</sup> See LMS File No. 0000055499. K43FO-D is licensed to HC2 Station Group, Inc.

<sup>10</sup> Waiver Request at 1.

<sup>11</sup> *Id.* at 2 and Engineering Statement.

<sup>12</sup> *Id.* at 1-2.

interest. We agree that the change to KBLR's 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 will not result in new increased pairwise interference above the two percent permitted during the post-auction transition period.<sup>13</sup> Because KBLR is already assigned to Phase 1, an early transition will not delay or divert other transitioning stations' access to resources. Although viewers in the Las Vegas DMA will have to conduct a rescan earlier than expected rescan, we have also granted K43FO-D's waiver request thereby keeping the total number of rescan periods in the Las Vegas DMA at one. In order to ensure that viewers will be well-informed about the early transition Telemundo has committed to put in place viewer outreach programs beyond those required by the Commission rules. As a result, we find on balance that Telemundo's stated ability to complete the Station's transition by August 13, coordination of transition timing with K43FO-D to maintain a single market-wide rescan, and additional consumer education and outreach efforts, outweighs any potential viewer burden of conducting an earlier than scheduled transition.

Accordingly, we **GRANT** Telemundo's *Request for Modification and Waiver of Phase Assignment* and modify the transition phase assignment for KBLR **from Phase 1** and permit the Station to transition to its post-auction channel **on August 13, 2018, with a testing period immediately prior**, subject to completion of applicable consumer education requirements and any required notice to MVPDs,<sup>14</sup> compliance with the Schedule 387 reporting requirements,<sup>15</sup> coordination of its transition timing with K43FO-D, and the additional consumer education commitments made in the waiver request. The Station's construction permit expiration date will also be modified to correspond to its new phase completion date.<sup>16</sup> Furthermore, KBLR must cease operation on its pre-auction channel **no later than 11:59 pm local time on August 13, 2018**.

Sincerely,



Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

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<sup>13</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>14</sup> See 47 CFR § 73.3700(c), (d).

<sup>15</sup> See *supra* note 3; 47 CFR § 73.3700(e)(5).

<sup>16</sup> *Closing and Channel Reassignment Public Notice*, 32 FCC Rcd at 2806, para. 64 ("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. 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); see *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 871-72, paras. 40-45. 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.