



Federal Communications Commission
Washington, D.C. 20554

December 3, 2019

Board of Trustees of Southern Illinois University
Jak Tichenor
PO Box 62708
Mailcode 6602
Carbondale, IL 62901

WICS Licensee, LLC
Harvey Arnold
10706 Beaver Dam Road
Cockeysville, MD 21030

Gocom Media of Illinois, LLC
400 Main Street Suite 200F
Hilton Head Island, SC 29926

Re: Request for Modification and
Waiver of Phase Assignment
WSEC, Jacksonville, IL
Facility ID No. 70536
LMS File No. 0000080342

WICS, Springfield, IL
Facility ID No. 25686
LMS File No. 0000080937

WRSP-TV, Springfield, IL
Facility ID No. 62009
LMS File No. 0000081885

Dear Licensee,

The Board of Trustees of Southern Illinois University (SIU), licensee of WSEC, Jacksonville, Illinois (WSEC); WICS Licensee, LLC, licensee of WICS, Springfield, Illinois (WICS); and Gocom Media of Illinois, LLC, the licensee of WRSP-TV, Springfield, Illinois (WRSP-TV) (collectively Licensees and Stations) have each filed a *Request for Modification and Waiver of Phase Assignment* requesting to modify the post-incentive auction transition phases assigned to the Stations in the *Closing and Channel Reassignment Public Notice* from Phase 7 to Phase 9.¹ For the reasons below, we grant the Licensees' requests for waiver and modify the Stations' phase assignments to Phase 9, as conditioned herein.

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*).

Background. Pursuant to the *Transition Scheduling Adoption Public Notice*, individual stations may request waiver and modification of their phase assignment.² 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.³ 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.⁴ 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.⁵ Requests that the staff determines would be likely to delay or disrupt the transition schedule will be viewed unfavorably.⁶

The Stations were each reassigned to new channels in the *Closing and Channel Reassignment Public Notice* and are currently assigned to transition Phase 7, which had a phase testing period start date of October 19, 2019, and has a phase completion date of January 17, 2020.⁷ The Stations are all located in the Champaign-Springfield-Decatur, Illinois, Designated Market Area (Champaign DMA). A total of 10 stations were repacked in the Champaign DMA, with one station having transitioned in the period prior to the Phase 1 testing period start date, eight stations, including WICS, WSEC and WRSP-TV, being assigned to Phase 7, and one station being assigned to Phase 9. SIU states that it is constructing a new tower for WSEC because the existing tower cannot not support the station's new antenna. SIU states that its tower company has informed SIU that it will be unable to complete construction of the new tower by the end of Phase 7, but construction will be complete in time for WSEC to transition to its post-auction channel by the end of Phase 9. SIU examined alternative approaches to meet WSEC's Phase 7 deadline but following consultation with FCC staff, it was determined that the most efficient solution would be to have WSEC modify its phase assignment. To accommodate a phase change for WSEC, both WICS and WRSP-TV have also agreed to move from Phase 7 to Phase 9. Because WICS is moving to WSEC's pre-auction channel, WICS must transition at the same time as or after WSEC vacates its pre-auction channel. In addition, WRSP-TV must delay its transition because it will share a common antenna, transmission line, and combiner with WICS. As a result, the Licensees request that the Stations' transition phase assignments be modified from Phase 7 to Phase 9, which has a testing period start date of March 14, 2020, and a phase completion date of May 1, 2020.

² 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, 912-14, paras. 47-52 (IATF & MB 2017) (*Transition Scheduling Adoption Public Notice*).

³ 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.

⁴ 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*, MB Docket No. 16-306 and GN Docket No. 12-268, Public Notice, 32 FCC Rcd 858, 881-82, para. 73 (IATF & MB 2017).

⁵ *Transition Scheduling Adoption Public Notice*, 32 FCC Rcd at 912-13, para. 49 and n.163.

⁶ *Id.*; see *Incentive Auction Task Force and Media Bureau Remind Repacked Stations of Certain Post-Auction Transition Requirements and Deadlines*, Public Notice, 33 FCC Rcd 8240, 8244-45, para. 14 (IATF & MB 2018) (*Transition Reminder Public Notice*).

⁷ WSEC is currently operating on channel 15 and is moving to channel 18; WICS is currently operating on channel 42 and is moving to channel 15; WRSP-TV is currently operating on channel 44 and is moving to channel 16.

Discussion. Upon review of the facts and circumstances presented, we find that the Licensees' requests to modify the phase assignment for the Stations to transition to their post-auction channels satisfies the requirement for a waiver and is in the public interest. We agree that changing the Stations' transition phase to Phase 9 should not have an adverse impact on the overall transition schedule or a negative impact on other stations or viewers. Staff has confirmed that grant of the Stations' phase change requests will not create any increased temporary pairwise interference or create any new linked station sets.⁸ By moving the Stations to Phase 9, the total number of rescan periods in the Champaign DMA will remain the same and the Stations will be transitioning in the same phase as other repacked stations in the DMA. Furthermore, modifying the Stations' transition phase will ensure that the Stations are able to continue to serve their viewers without interruption. As a result, we find the facts and circumstances discussed above outweigh any viewer burden caused by a change in the Stations' transition plans or a short delay in access by wireless licensees to WICS and WRSP-TV's pre-auction channels.

We remind the Licensees that pursuant to the Spectrum Act, the Stations are eligible for reimbursement from the TV Broadcast Relocation Fund (Fund) of costs "reasonably incurred . . . in order for the licensee to relocate its television service from one channel to the other."⁹ Additional expenses incurred such as expenses resulting from changes in a station's transition plan that are not related to the post-incentive auction channel change, may not be reimbursable from the Fund.

Accordingly, we **GRANT** the above captioned *Request for Modification and Waiver of Phase Assignment* and modify the transition phase assignments for the Stations **from Phase 7 to Phase 9**, subject to all the commitments made in its waiver request and compliance with all Commission rules applicable to transitioning stations.¹⁰ Testing on the Stations' post-auction channels **may not begin until 12:01 am local time on March 14, 2020**, and the Stations are required to cease operating on their pre-

⁸ 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).

⁹ 47 U.S.C. § 1452(b)(4)(A)(i). See also *Incentive Auction R&O*, 29 FCC Rcd at 6821, para. 622 ("The appropriate scope of 'costs reasonably incurred' necessarily will have to be decided on a case-by-case basis.").

¹⁰ See generally 47 CFR § 73.3700 and *Transition Reminder Public Notice*, 33 FCC Rcd 8240.

auction channels **no later than 11:59 pm local time on May 1, 2020.**¹¹ The Stations' construction permit expiration dates will also be modified to correspond to their new phase completion date.¹²

Sincerely,

A handwritten signature in black ink, appearing to read 'Barbara A. Kreisman', with a stylized flourish at the end.

Barbara A. Kreisman
Chief, Video Division
Media Bureau

Cc: (via electronic mail):
Melodie A. Virtue, Esq.
Paul Cicelski, Esq.
Frank R. Jazzo, Esq.

¹¹ 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.

¹² *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.