



Federal Communications Commission  
Washington, D.C. 20554

December 21, 2017

Nexstar Broadcasting, Inc.  
545 E. John Carpenter Freeway  
Suite 700  
Irving, TX 75062  
Attention: Elizabeth Ryder, Esq.

Re: Request for Modification and  
Waiver of Phase Assignment  
WSAV-TV, Savannah, GA  
Facility ID No. 48662  
LMS File No. 0000035025

Dear Licensee,

On November 8, 2017, Nexstar Broadcasting, Inc. (Nexstar) the licensee of full power television station WSAV-TV, Savannah, Georgia (Station or WSAV-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 7, and instead transition on or before June 1, 2018, with a testing period to commence immediately prior.<sup>1</sup> For the reasons below, we grant Nexstar's request for waiver and modify WSAV-TV's phase assignment to permit it to commence testing and transition to its post-auction channel on or before June 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 waiver and modification of their phase assignment.<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

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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. 0000035025 (amended Dec. 12, 2017), WSAV Out of Phase Legal STA Waiver (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). As discussed in greater detail below, Nexstar has also committed to additional consumer education efforts beyond those required by the Commission's rules. Waiver Request at 3 and Consumer Outreach-WSAV-TV.

<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*).

overall policy on 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 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>

WSAV-TV is currently licensed to operate on channel 39. It was reassigned to channel 16 in the *Closing and Channel Reassignment Public Notice* and assigned to transition Phase 7, which has a testing period start date of October 19, 2019, and phase completion date of January 17, 2020. WSAV-TV is located in the Savannah, Georgia, Designated Market Area (Savannah DMA). A total of four stations, including WSAV-TV, were repacked in the Savannah DMA. Three stations were assigned in the *Closing and Channel Reassignment Public Notice* to Phase 7 and one station was assigned to Phase 9. Nexstar requests permission to begin testing and commence operation on WSAV-TV's post-auction channel on or before June 1, 2018. Nexstar asserts that transitioning to its post-auction channel on or before June 1, 2018, is intended to promote the deployment of new wireless broadband services by enabling T-Mobile, a winning 600 MHz licensee, to deploy its new wireless broadband service in the Savannah DMA 19 months earlier than it would be able to under the current transition schedule.<sup>8</sup> Nexstar argues that its proposal will also "permit a more efficient use of resources by engaging vendors and service providers early in the process, rather than have them potentially overloaded at a later date in the transition."<sup>9</sup> Nexstar has consulted with its numerous vendors and provided letters from its antenna and transmitter manufacturer confirming that they will be able to support WSAV-TV's early transition and such a change will not impact its ability to support other stations' transition efforts.<sup>10</sup>

Nexstar also provides 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>11</sup> Nexstar notes that WSAV-TV's proposed early transition will create an additional rescan period in the Savannah DMA, increasing the total number of rescan periods for the DMA to three. This would be beyond the two rescan periods per DMA limitation used in the tool adopted by the Bureau in the *Transition Scheduling Adoption Public Notice* to assign stations to transition phases.<sup>12</sup> Nexstar states that in order to mitigate consumer impact it will engage in consumer education and outreach beyond the requirements of the Commission's rules by increasing the length of time it airs channel change

<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.* at 3.

<sup>10</sup> *Id.* at 16-17, Vendor Letters.

<sup>11</sup> *Id.* at 2-3 and 6-15, Engineering Statement.

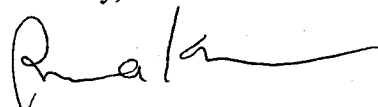
<sup>12</sup> *Id.* at 3; see *Transition Scheduling Adoption Public Notice*, 32 FCC Rcd at 898-99, paras. 20-21.

notifications from the 30 days required by Commission rules to 45 days and also provide information through its digital and social media.<sup>13</sup> Nexstar has also submitted a letter from T-Mobile which states that T-Mobile will provide additional resources and support to ensure that viewers in the DMA are well-informed about the transition schedule of WSAV-TV.<sup>14</sup>

*Discussion.* Upon review of the facts and circumstances presented, we find Nexstar's request to modify its phase assignment to permit WSAV-TV to transition to its post-auction channel on or before June 1, 2018, satisfies the requirements for a waiver. We agree that the change to WSAV-TV's transition 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 does not create any new linked station sets and will not result in new interference above the two percent permitted during the transition.<sup>15</sup> While viewers in the Savannah DMA will be subject to third rescan period, Nexstar has committed to put in place viewer outreach programs beyond those required by the Commission rules to ensure that viewers will be well-informed and can manage the additional rescan period. Nexstar has also provided evidence that the resources necessary to support its early transition are available and will not delay other transitioning stations' access to resources. As a result, we find on balance that the benefit of early deployment in the 600 MHz band, the ability to vendors to support the WSAV-TV early transition, and additional consumer education and outreach efforts, outweighs the burden of an additional rescan period in this case.

Accordingly, we **GRANT** Nexstar's *Request for Modification and Waiver of Phase Assignment* and modify the transition phase assignment for WSAV-TV **from Phase 7 and permit the Station to commence testing and transition to its post-auction channel on or before June 1, 2018, subject to completion of applicable consumer education and MVPD notice requirements under the Rules,<sup>16</sup> as well as any commitments made in its waiver request.** Furthermore, WSAV-TV must cease operation on its pre-auction channel on or before June 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>13</sup> Waiver Request at 3 and Consumer Outreach-WSAV-TV.

<sup>14</sup> Waiver Request, T-Mobile Spectrum Rescan Ltr WSAV-TV.

<sup>15</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>16</sup> See 47 CFR §§ 73.3700(c) and (d).