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MAY 26 2015

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Federal Communications Commission
Office of the Secretary

**Re: TDS Broadcasting LLC
Request for Extension of Incentive Auction Protection Cutoff
Television Station KOHD, Bend, OR (Facility ID No. 166534)**

Dear Madam Secretary:

TDS Broadcasting LLC (the “Licensee”), through its counsel, hereby respectfully requests a one-month extension – **until June 29, 2015** (or such longer extension as the Commission believes appropriate) – of the period during which the above-referenced station (the “Station”) may obtain protection during the repacking process that will follow or otherwise be part of the broadcast television spectrum incentive auction.¹

At this time, the Commission has set May 29, 2015, as the Pre-Auction Licensing Deadline for the broadcast television spectrum incentive auction (the “Deadline”). As the May Notice explained:

In order to be eligible for protection in the repacking process..., all Class A and full power facilities that are subject to mandatory or discretionary protection, with limited exceptions, must be licensed or have on file a license to cover [application] ... by May 29, 2015.²

However, as the May Notice recognizes, the Commission has sufficient authority to extend the Deadline for certain stations or in particular instances.³

¹ See, e.g., *Media Bureau Reminds Full Power and Class A Licensee of the Approaching May 29, 2015 Pre-Auction Licensing Deadline*, Public Notice, DA 15-1580 (rel. May 13, 2015) (the “May Notice”); *Media Bureau Designates May 29, 2015 as Pre-Auction Licensing Deadline*, Public Notice, 30 FCC Rcd 393 (MB 2015).

² See *id.* at 1 (emphasis and footnotes omitted).

³ See, e.g., *id.* at n. 3 (noting limited exception to general cutoff for certain New York stations); *cf.* 47 C.F.R. § 1.3 (allowing waivers or suspensions of rules for good cause).

In this case, good cause calls for at least a one-month extension of the repacking protection cutoff for the Station. First, prompt completion of the proposed channel change serves the public interest. The proposed change, if implemented, “would eliminate potential interference to and from wireless operations in the Lower 700 MHz A Block located directly adjacent to channel 51 in the Portland, Oregon market, and permit the wireless licensee to expand service to additional consumers sooner than would otherwise be possible.”⁴ If the proposed change is unable to be implemented, these interference concerns and restriction on expanded wireless service likely could not be addressed for years.

Second, any question as to whether the Station will have a reasonable chance to file a license to cover application necessary to qualify any Commission-approved Channel 18 facility for repacking protection may impact the Station’s ability to move to Channel 18. As the Licensee understands the Commission’s procedures, grant of a construction permit for a Channel 18 facility for the Station may oblige the Licensee to move its operations to Channel 18. However, if the Licensee cannot obtain repacking protection for that Channel 18 facility, the Licensee is more likely to be subject to technical challenges, including a requirement to move to a different channel, during any repacking process. Without an extension of the repacking protection deadline sufficient to file the Station’s license to cover application, the Licensee may be placed in the awkward position of choosing whether to complete the Station’s change to Channel 18 without any assurance that the modified facility will be protected during the repacking process, or to withdraw any construction permit application and to remain on Channel 51 in order to retain its currently protected operations. Accordingly, this request seeks to confirm that, should the Commission grant the Licensee’s application for a construction permit for a minor change to Channel 18, which is being filed simultaneously with this request (the “Application”),⁵ the Licensee will have at least until June 29, 2015, to complete construction of its modified facilities and to file the license to cover application necessary to qualify for re-packing protection, as set forth in the May Notice and prior Commission releases.

Third, this request is consistent with the clear implication of the *Allotment Change Order*, which sensibly indicated that stations proposing to benefit the public interest by transitioning from Channel 51 should have adequate time to apply for and construct new facilities “in order for the facilities to be eligible for protection in the broadcast incentive auction.”⁶ In this case, there were unusual issues that precluded the opportunity for an earlier voluntary relocation agreement between the Licensee and T-Mobile USA, Inc., which is the current holder of the relevant wireless spectrum. These issues caused the parties to be unable to negotiate the necessary relocation agreement and to submit a petition for rulemaking until earlier this year. Despite these challenges, however, the Commission has acted with a much-appreciated alacrity entirely consistent with the principle implied in the *Allotment Change Order*. On April 10, 2015, the Media Bureau issued a notice of proposed rulemaking to change the Station’s digital television allotment from Channel 51 to

⁴ See Amendment of Section 73.622(i), *Post-Transition Table of DTV Allotments, Television Broadcast Stations (Bend, Oregon)*, Report and Order, MB Docket No. 15-88, DA 15-584, ¶ 2 (MB, May 14, 2015) (“*Allotment Change Order*”).

⁵ A copy of this request is also referenced in the Application.

⁶ *Allotment Change Order* at ¶ 5.

Channel 18.⁷ Roughly one month later, on May 14, 2015, following an appropriate comment period, the Media Bureau promptly ordered the proposed allotment change effective immediately upon Federal Register publication.⁸ The Federal Register published the *Allotment Change Order* less than one week later, on May 20, 2015. Together, these Media Bureau actions confirm the principle that a licensee seeking to move from Channel 51 should not be unnecessarily denied a chance to protect the station's facility on its new channel during the repacking process.

Fourth, the Licensee similarly has demonstrated its commitment to the proposed channel change through its timely submissions and other actions. These diligent and ongoing efforts should afford the Licensee a reasonable opportunity to qualify for protection under the incentive auction procedures. These Licensee efforts include the following:

- In response to Federal Register publication, the Licensee has finalized and is today submitting the Application (even though the *Allotment Change Order* provided up to 30 days from publication for the filing of such application),⁹ as well as this request.
- The Licensee already has conducted the tower and site analyses required, including a tower-loading review, to confirm the safety of the proposed Channel 18 facility.
- The Licensee has ordered the new transmitter and antenna necessary for the proposed facility, which are scheduled to be shipped on May 29 and June 10, respectively.
- The Licensee has done what it can to ensure delivery of the necessary equipment no later than June 17, 2015.
- The Licensee projects that it will take roughly one calendar week to complete construction, barring unforeseen weather or other issues.¹⁰

Accordingly, subject to Commission approval of the Application, and current circumstances, the Licensee is preparing to have the necessary personnel on site to complete construction as quickly as possible, to begin initial testing by Friday, June 26, and to prepare and to submit the necessary license to cover application by Monday, June 29.

Fifth, based on the Licensee's understanding of the incentive auction process, a one-month extension for the Station in light of these unusual circumstances and the overall public interest should not have a material impact on the Commission's efforts "to ensure a stable database and prepare for the reverse auction and repacking process."¹¹ Because the Commission intends to allow all stations at least 30 days to review the database technical information on file with the Commission following the release of a further public notice after May 29, 2015, an extension of time for the

⁷ See *Amendment of Section 73.622(i), Post-Transition Table of DTV Allotments, Television Broadcast Stations (Bend, Oregon)*, Notice of Proposed Rulemaking, 30 FCC Rcd 3012 (MB, April 10, 2015).

⁸ See *Allotment Change Order* at ¶ 5.

⁹ See *id.* at ¶ 6.

¹⁰ To the extent unforeseen issues may impact this timing, Licensee will promptly update the Commission and take additional steps accordingly.

¹¹ May Notice at 2.

TDS Broadcasting LLC

May 26, 2015

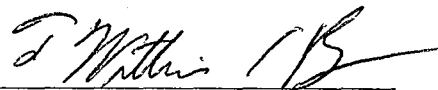
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Licensee to file its license to cover application by June 29, 2015, or such later date as deemed appropriate by the Commission, should not significantly affect the Commission's planning efforts.

In light of the foregoing, and the overall public interest, the Licensee hereby respectfully requests an extension of time to file the license to cover application necessary for spectrum protection at least until **June 29, 2015**. Should you have any questions concerning this matter, please contact the undersigned.

Respectfully submitted,

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