

Request for Extension of Time to Construct

August 2016 Update: The permittee continues to be concerned with the impact of the ongoing incentive spectrum auction on low power television operations.

The Commission's recognition of the impact of the incentive spectrum auction on LPTV operations is a matter of record. See Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations, MB Docket No. 03-185. Recognizing the challenges faced by LPTV stations as a result of the incentive spectrum auction and the post-auction repacking process, the Commission suspended the deadline for LPTV and TV translator stations to transition to digital operations and the expiration date and construction deadline for new LPTV stations and TV translator stations. See Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations, Third Notice of Proposed Rulemaking, FCC 14-151 (rel. Oct. 10, 2014); Commission Suspends Expiration Dates and Construction Deadlines for New Digital Low Power Television and TV Translator Stations, Public Notice, FCC 14-150 (rel. Oct. 10, 2014). In December 2015, the Commission established a "hard" deadline by which all LPTV stations and TV translator stations must transition to digital-only operations. The deadline is based on the conclusion of the incentive spectrum auction and the release of the post-auction "Channel Reassignment Public Notice" – i.e., 51 months after the post-auction channel assignments are announced by "Channel Reassignment Public Notice." See Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations, Third Report and Order and Fourth Notice of Proposed Rulemaking, FCC 15-175 (rel. Dec. 17, 2015). The Commission adopted this hard deadline and its related LPTV proposals "to mitigate the potential impact of the broadcast television spectrum incentive auction ("incentive auction") and the repacking process on LPTV and TV translator stations and to help preserve the important services they provide." See *id.*, ¶ 1.

The minor modification for station K45KM-D does not propose to transition the station to digital operations (it is already digital), nor is it an application for a new station (it is a minor modification to a license). Therefore, neither the suspensions nor the extended "hard" deadline announced mentioned above technically applies. Yet, the same concerns that led the Commission to suspend and then extend the deadlines for transitioning and new LPTV stations apply with the same force in this case. The impact of repacking and the spectrum auction on the authorized facility are as yet unknown until the conclusion of the auction and release of the "Channel Reassignment Public Notice". The investment to build out and license the facility are sunk (unrecoverable) costs just as the costs to build out and license a transitioning or new LPTV facility. At this time, given the uncertain impact of the repacking process, the permittee is reluctant to invest in a facility that may be impacted by repacking.

The permittee respectfully requests that the deadline to construct be extended to the same deadline set for transitioning and new LPTV and TV Translator Stations — 51 months after the release of the "Channel Reassignment Public Notice." Alternatively, the permittee requests an extension of 6 months from the current deadline of August 23, 2016 (through and including February 23, 2017).