



Federal Communications Commission
Washington, D.C. 20554

October 5, 2018

Board of Governors of Missouri State University
Tammy Wiley
901 S. National Avenue
Springfield, MO 65897

Re: Request for Extension of
Construction Permit
KOZK(TV), Springfield, MO
Facility ID No. 51102
LMS File No. 0000059628

Dear Licensee,

On September 17, 2018, the Board of Governors of Missouri State University (Missouri State), the licensee of Station KOZK(TV), Springfield, Missouri (KOZK or Station), filed the above captioned application seeking an extension of the Station's construction permit expiration date and waiver of the 90-day construction permit extension filing deadline. For the reasons below, we grant Missouri State's requests and extend KOZK's construction permit expiration date to May 29, 2019.

Background. Pursuant to Section 73.3700(b)(5) of the Commission's rules, a station may request a single extension of its construction permit deadline of up to 180 days to complete construction of its post-auction facility.¹ Grant of an extension of the construction permit deadline does not alter the deadline by which a station must cease operating on its pre-auction channel. A station anticipating the need for an extension must submit an extension application using FCC Form 2100, Schedule 337, not less than 90 days before the assigned construction permit deadline.² The application must demonstrate that the station is unable to complete construction on time due to circumstances that were either unforeseeable or beyond the station's control.³ In addition, a waiver of the application filing deadline 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.⁴

¹ See 47 CFR § 73.3700(b)(5). All subsequent requests for additional time to construct are subject to the Commission's tolling provisions, 47 CFR § 73.3598(b).

² 47 CFR § 73.3700(b)(5)(iv).

³ The *Incentive Auction R&O* provides examples of six circumstances that might justify an 180-day extension of a station's post-auction construction permit: (1) weather related delays; (2) delays in construction due to the unavailability of equipment or a tower crew; (3) tower lease disputes; (4) unusual technical challenges; or (5) delays caused by the need to obtain government approvals, such as land use or zoning approvals, or to observe competitive bidding requirements prior to purchasing equipment or services; and (6) financial hardship with sufficient supporting evidence. See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567,6804-05, paras. 581-2 (2014) (*Incentive Auction R&O*); 47 CFR § 73.3700(b)(5)(ii) and (iii).

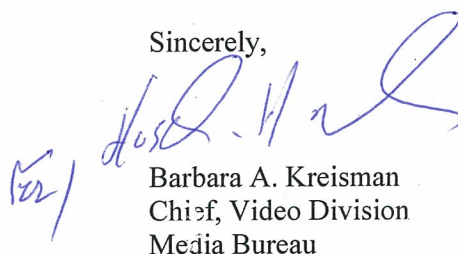
⁴ See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1072 (1972); 47 CFR § 1.3 (waiver for good cause shown).

On April 19, 2018, the Station suffered the total collapse of its broadcast tower. According to Missouri State, the Station's existing equipment for its pre-transition channel was rendered unusable. The tower collapse and related issues required KOZK to find a new plan to transition to its post-auction channel. As of the date of this letter, KOZK has ceased operations on its pre-auction channel and commenced operations on its post-auction channel using a temporary facility.⁵ However, Missouri State states that it requires additional time to finalize long term plans and construct a permanent post-auction facility. KOZK requests a 180-day extension of its construction permit until May 29, 2019. Missouri State also requests waiver of the 90-day construction permit extension filing deadline.

Discussion. Upon review of the facts and circumstances presented, we find Missouri State's request to extend the construction permit deadline to construct KOZK's post-auction facility meets the requirements for a construction permit extension. Missouri State's tower collapsed and it is still developing a permanent solution. We find based on the facts and circumstances that grant of the request is not likely to negatively impact the overall transition schedule or viewers, and will not cause interference to other stations. To the extent some viewers are unable to receive KOZK's signal while it operates from its temporary facility, we believe that Missouri State has every incentive to ensure viewers are fully informed about the Station's transition plan. Finally, we find that waiver of the 90-day CP extension filing deadline is in the public interest and consistent with the Commission's general waiver standard in light of the rapidly evolving nature of KOZK's transition plan following collapse of the Station's broadcast tower.⁶

The above facts considered, the Board of Governors of Missouri State University's request for waiver of the construction permit extension deadline and application for extension of construction permit expiration date **ARE GRANTED**. The construction permit for KOZK(TV), Springfield, Missouri, **IS EXTENDED** for 180 days to **May 29, 2019**. Grant of this extension does not permit the Station to recommence operation on its pre-auction channel. We also remind Missouri State that any subsequent requests for extension of its construction permit deadline will be subject to the Commission's tolling provisions.⁷

Sincerely,



Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Margaret M. Miller, Esq.

⁵ See LMS File No. 0000059636 (Transition Progress Report five days after ceasing pre-auction operations); LMS File No. 0000059636 (Engineering STA).

⁶ A waiver of the rules 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. See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), cert. denied, 409 U.S. 1072 (1972); 47 CFR § 1.3 (waiver for good cause shown).

⁷ See 47 § CFR 73.3598(b).