

Request for Waiver of Construction Permit Application Filing Deadline

Univision Bakersfield LLC

KABE-CD | Bakersfield, CA

Facility ID 18747

Univision Bakersfield LLC, licensee of KABE-CD, Bakersfield, CA (Facility ID 18747) (“KABE”) respectfully requests a waiver of the deadline to request an extension of its Construction Permit (File No. 0000063353). KABE is concurrently seeking an extension of that Construction Permit.

Background. KABE currently operates on channel 39, and it has a Construction Permit for post-auction operations on channel 35. That Construction Permit is set to expire on June 21, 2019. As explained in the concurrently filed request for temporary joint use of a channel, KABE cannot begin post-auction operations until construction on a new tower has been completed for it and commonly-owned station KUVI-DT, Bakersfield, CA (Facility ID 7700) (“KUVI”), with whom KABE is co-located.

Unanticipated Delays in Construction. KABE, along with its co-located station KUVI, have been diligent in attempting to construct the permanent replacement tower that is necessary to operate on their post-auction channels. After completing the lengthy government approval process, the licensees promptly ordered materials and entered into a binding contract for construction of the new tower.

Despite repeated assurances from the licensees’ suppliers that construction would be completed by the June 21, 2019 phase transition deadline, after construction commenced in March of this year, the contractor encountered unexpected site conditions and began experiencing delays—culminating in a delay in the scheduled, April 22 date for pouring of the tower foundation. KABE thus was unable to request an extension of its Construction Permit prior to the March 25 deadline for doing so, as it was only after that deadline had passed that KABE was made aware that construction would not be completed by the June 21 expiration date of its construction permit.

Waiver Request. The FCC may grant a waiver for good cause shown.¹ A waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest.² In considering a waiver, the FCC may take into account considerations of hardship, equity, or more effective

¹ 47 C.F.R. § 1.3.

² *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

implementation of overall policy on an individual basis.³ Such a waiver is appropriate if circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.⁴

Grant of the instant request for waiver of the deadline for seeking an extension of a Construction Permit would be squarely within the Commission's policies. Circumstances outside of KABE's made it impossible for KABE to seek the Construction Permit extension by the March 25 deadline for such a filing. Moreover, the proposed waiver serve the public interest by enabling KABE to seek and obtain an extension in its Construction Permit—thereby avoiding unnecessary disruption to viewers in the market.

Conclusion. KABE respectfully requests that the Commission waive the deadline for filing a request to extend its Construction Permit, so that KABE may seek and receive an extension in its Construction Permit through September 6, 2019.

³ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular*, 897 F.2d at 1166.

⁴ *Northeast Cellular*, 897 F.2d at 1166.