



Federal Communications Commission  
Washington, D.C. 20554

June 20, 2019

Radio Perry, Inc., Debtor-in-Possession  
1691 Forsyth Street  
Macon, GA 31202

Re: Request for Extension of  
Construction Permit  
WPGA-TV, Perry, Georgia  
Facility ID No. 54728  
LMS File No. 0000068677

Dear Licensee,

On March 25, 2019, Radio Perry, Inc. Debtor in Possession (RPI), the licensee of Station WPGA-TV, Perry, Georgia (WPGA or Station), filed the above captioned application seeking an extension of the Station's construction permit expiration date. For the reasons below, we grant RPI's application and extend WPGA's construction permit expiration date 180 days to December 18, 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.<sup>1</sup> 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.<sup>2</sup> For Phase 3 stations, such application was due by March 25, 2019. 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.<sup>3</sup>

WPGA was repacked from channel 32 to channel 23 and assigned to transition phase 3, which has a phase completion date of June 21, 2019. RPI intends to discontinue operations on its pre-auction channel by the June 21, 2019 phase deadline and operate a temporary facility on its post-auction channel while it completes construction of its permanent post-auction channel facilities.<sup>4</sup> All repacked stations for Phase 3 were issued a construction permit with an expiration date of June 21, 2019.

RPI explains that the Station is currently the subject of a bankruptcy proceeding. RPI states that it lacks any cash flow or other financial resources with which to finance the construction costs involved in

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<sup>1</sup> 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).

<sup>2</sup> 47 CFR § 73.3700(b)(5)(iv).

<sup>3</sup> 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).

<sup>4</sup> See LMS File No. 0000074624.

transitioning to the Station's post-auction channel facilities and the Station relies on payments from the TV Broadcaster Relocation Fund. RPI states that it will seek to mitigate the effects of these circumstances by timely complying with all requirements imposed on it by the bankruptcy court, by working in good faith with the purchaser of its foreclosed real property to gain or retain access to the tower for construction purposes, and by timely submitting invoices to the TV Broadcaster Relocation Fund, and regularly following up with the Fund Administrator,. For these reasons, RPI requests that the Commission grant a 180-day extension of the Station's construction permit deadline, until December 18, 2019.

*Discussion.* Upon review of the facts and circumstances presented, we find RPI's request to extend the construction permit deadline to construct WPGA's post-auction facility meets the requirements for a construction permit extension. WPGA has demonstrated that an extension is needed because the Station is in bankruptcy. We also find that grant of this extension request is not likely to negatively impact the overall transition schedule. RPI has pledged to discontinue operations on its pre-auction channel by the Phase 3 transition deadline. Although some viewers will not be able to receive WPGA's signal while it operates its temporary facility, we believe that RPI has every incentive to ensure viewers are fully informed about the Station's transition plan.

We remind RPI that pursuant to the Spectrum Act, the Station is eligible for reimbursement from the TV Broadcast Relocation Fund (Fund) of costs "reasonably incurred . . . in order for the licensee to relocate its television service from one channel to the other."<sup>5</sup> Additional expenses incurred, for instance, as a result of the grant of changes in the Station's transition plan that are not related to the post-incentive auction channel change, may not be reimbursable from the Fund.

The above facts considered, Radio Perry, Inc., Debtor in Possession's application for extension of construction permit expiration date **IS GRANTED**. The construction permit (LMS File No. 0000028377) for WPGA-TV, Perry, Georgia, **IS EXTENDED** for 180 days **to December 18, 2019**. Grant of this extension does not permit WPGA to recommence operation on its pre-auction channel after it goes silent. We also remind RPI that any subsequent requests for extension of its construction permit deadline will be subject to the Commission's tolling provisions.<sup>6</sup>

Sincerely,  
  
Barbara A. Kreisman For/  
Chief, Video Division  
Media Bureau

cc (via electronic mail): Tom W. Davidson, Esq.

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<sup>5</sup> *Media Bureau Finalizes Reimbursement Form for Submission to OMB and Adopts Catalog of Expenses*, GN Docket No. 12-268, Public Notice, 30 FCC Rcd 11701, 11701-02 (MB 2015). See also *Incentive Auction R&O*, 29 FCC Rcd at 6821, para. 622 ("The appropriate scope of 'costs reasonably incurred' necessarily will have to be decided on a case-by-case basis.").

<sup>6</sup> See 47 CFR § 73.3700(b)(5)(i) (referencing 47 § CFR 73.3598(b)).