



Federal Communications Commission
Washington, D.C. 20554

June 24, 2019
*Revised**

WTVX Licensee, LLC
10706 Beaver Dam Road
Cockeysville, MD 21030

Re: Request for Extension of
Construction Permit
WTVX(TV), Fort Pierce, FL
Facility ID No. 35575
LMS File No. 0000071538

Dear Licensee,

On April 11, 2019, WTVX Licensee, LLC (Sinclair), the licensee of Station WTVX(TV), Fort Pierce, Florida (WTVX 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 Sinclair's requests and extend WTVX's construction permit expiration date to October 9, 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

* This letter revises a typo in the letter dated April 30, 2019 to correct the stations new construction permit expiration.

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).

WTVX was repacked from channel 34 to channel 20 and assigned to transition phase 2, which had a phase completion date of April 12, 2019. WTVX has discontinued operations on its pre-auction channel prior to the April 12, 2019 phase completion deadline and is operating on its post-auction channel with an interim facility pursuant to special temporary authority while it completes construction of its permanent post-auction channel facility.⁵ All repacked stations for Phase 2 were issued a construction permit with an expiration date of April 12, 2019. Sinclair requests an extension of its post-auction construction permit stating that the Station experienced technical difficulties because its RF transmission line did not work correctly. Sinclair also requests a waiver of the 90-day construction permit extension filing deadline arguing that the time the filing was due (January 14, 2019) Sinclair had no way of knowing an extension would be required.

Discussion. Upon review of the facts and circumstances presented, we find Sinclair's request to extend the construction permit deadline to construct WTVX's post-auction facility meets the requirements for a construction permit extension. Sinclair has demonstrated that an extension is needed because the Station's installed RF transmission line experienced technical difficulties and did not work correctly. We also find that grant of this extension request is not likely to negatively impact the overall transition schedule. WTVX has ceased operations on its pre-auction channel and is operating an authorized interim facility on its post-auction channel. To the extent some viewers are unable to receive WTVX's signal while it operates its interim facility, we believe that Sinclair has every incentive to ensure viewers are fully informed about the Station's transition plan. Finally, we find that waiver of the 90-day construction permit extension filing deadline is in the public interest and consistent with the Commission's general waiver standard.⁶

We remind Sinclair 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." 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. Such additional costs might include, but may not be limited to, additional legal or engineering expenses; filing fees; and interim or additional equipment that was not contemplated when the Station filed its initial estimated expenses but was subsequently necessitated due to voluntary changes in the Station's plans.

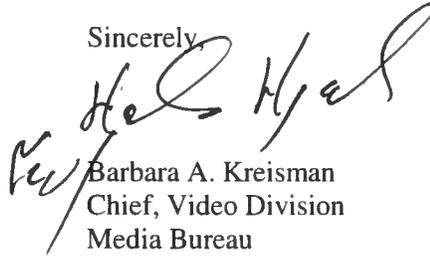
The above facts considered, Sinclair's application for extension of construction permit expiration date **IS GRANTED**. The construction permit (LMS File No. 0000033779) for WTVX, Fort Pierce, Florida, **IS EXTENDED** for 180 days **to October 9, 2019**. Grant of this extension does not permit WTVX to recommence operation on its pre-auction channel nor does it modify the terms of the Station's

⁵ See LMS File No. 0000071528.

⁶ See *supra* note 4.

STA: We also remind Sinclair that any subsequent requests for extension of its construction permit deadline will be subject to the Commission's tolling provisions.⁷

Sincerely,

A handwritten signature in black ink, appearing to read "Barbara A. Kreisman". The signature is written in a cursive style with a large initial "B" and "K".

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Paul A. Cicelski, Esq.

⁷ See 47 CFR § 73.3700(b)(5)(i) (referencing 47 § CFR 73.3598(b)).