



Federal Communications Commission
Washington, D.C. 20554

July 3, 2019

TCT of Michigan, Inc.
PO Box 1010
Marion, IL 62959

Re: Request for Extension of
Construction Permit
WAQP, Saginaw, MI
Facility ID No. 67792
LMS File No. 0000074768

Dear Licensee,

On June 18, 2019, TCT of Michigan, Inc. (TCT), the licensee of Station WAQP, Saginaw, Michigan (WAQP 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 TCT's requests and extend WAQP'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.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 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.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

WAQP was repacked from channel 48 to channel 36 and assigned to transition Phase 3, which had a phase completion date of June 21, 2019. The Station ceased operation on its pre-auction channel by

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).

the June 21, 2019 deadline and is operating an interim facility on its post-auction channel while it completes construction of its permanent post-auction facilities.⁵ All repacked stations for Phase 3 were issued a construction permit with an expiration date of June 21, 2019.

TCT explains that a last-minute problem with the Station's antenna prevented construction of its permanent post-auction channel facilities. The Station has been informed that the replacement antenna will not be available until August 1, 2019. Meanwhile, the Station is operating at reduced power while it awaits delivery. TCT also requests a waiver of the 90-day construction permit extension filing deadline because it did not know for certain it would require an extension at the time the deadline passed.

Discussion. Upon review of the facts and circumstances presented, we find TCT's request to extend the construction permit deadline to construct WAQP's post-auction facility meets the requirements for a construction permit extension. TCT has demonstrated that an extension is needed because of unavoidable construction delays outside of its control. We also find that grant of this extension request is not likely to negatively impact the overall transition schedule. WAQP has ceased operations on its pre-auction channel and will operate an interim facility on its post-auction channel. To the extent some viewers are unable to receive WAQP's signal while it operates its interim facility, we believe that TCT 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 because TCT was unaware at the time an extension request was due that an extension of WAQP's construction permit would be needed.⁶

We remind TCT 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."⁷ 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.

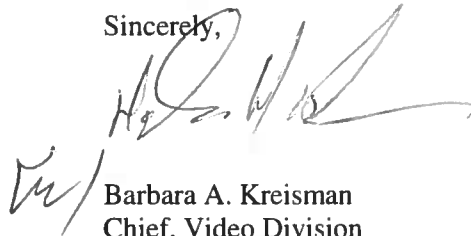
⁵ See LMS File No. 0000074679.

⁶ See *supra* note 4.

⁷ See *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.").

The above facts considered, TCT of Michigan, Inc.'s application for extension of construction permit expiration date **IS GRANTED**. The construction permit (LMS File No. 0000034899) for WAQP, Saginaw, Michigan, **IS EXTENDED to December 18, 2019**. Grant of this extension does not permit WAQP to recommence operation on its pre-auction channel. We also remind TCT that any subsequent requests for extension of its construction permit deadline will be subject to the Commission's tolling provisions.⁸

Sincerely,



Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Colby M. May, Esq.

⁸ See 47 CFR § 73.3700(b)(5)(i) (referencing 47 § CFR 73.3598(b)).