



Federal Communications Commission
Washington, D.C. 20554

September 3, 2019

South Carolina Educational TV Commission
1041 George Rogers Boulevard
Columbia, SC 29201

Re: Requests for Extension of
Construction Permit
WEBA-TV, Allendale, SC
WRLK-TV, Columbia, SC
WNEH(TV), Greenwood, SC
WJPM-TV, Florence, SC
WNSC-TV, Rock Hill, SC
Facility ID Nos. 61003, 60931, 61013,
61008 and 61009
LMS File Nos. 0000079660,
0000079651, 0000079665, 0000079655,
0000079661 and 0000078707

Dear Licensee,

On August 1, 2019, South Carolina Educational TV Commission (SCETV), the licensee of Stations WEBA-TV, Allendale; WRLK-TV, Columbia; WNEH(TV), Greenwood; WJPM-TV, Florence; and WNSC-TV, Rock Hill; all South Carolina (collectively Stations), filed the above captioned applications seeking extensions of the Stations' construction permit expiration dates and waivers of the 90-day construction permit extension filing deadline. For the reasons below, we grant SCETV's requests and extend the Stations' construction permit expiration dates 180 days to March 4, 2020.

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 5 stations, such application was due by June 10, 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

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*, GN Docket No. 12-268 et. al., 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).

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

WRLK was repacked from channel 32 to channel 33; WEBA from channel 33 to 21; WNEH from channel 18 to 26; WJPM from channel 45 to 16; and WNSC from channel 15 to 34; and all of the Stations were assigned to transition Phase 5, which has a phase completion date of September 6, 2019. The Stations pledge to cease operations on their pre-auction channels by the September 6, 2019 deadline and operate interim facilities on their post-auction channels while they complete construction of their permanent post-auction facilities.⁵ All repacked stations for Phase 5 were issued a construction permit with an expiration date of September 6, 2019.

SCETV states that it is the statewide public television network for the State of South Carolina and that nine of its eleven television stations were assigned new channels in the incentive auction reorganization. SCETV had intended to complete each of the Stations' transition by the September 6, 2019 Phase 5 deadline but state purchasing requirements delayed its ability to secure timing commitments from its tower crews. SCETV states it will cease operations on each of the Stations' pre-auction channels by the deadline and transition to its post-auction channels using interim facilities while it completes its permanent facilities. SCETV requests a 180-day extension for each of the Stations to complete this process. SCETV also requests a waiver of the 90-day construction permit extension filing deadline because it did not know for certain it would require extensions at the time the deadline passed.

Discussion. Upon review of the facts and circumstances presented, we find SCETV's requests to extend the construction permit deadlines to construct the Stations' post-auction facility meet the requirements for a construction permit extension. SCETV has demonstrated that extensions are needed because of State of South Carolina purchasing requirements delayed the scheduling of tower crews. We also find that grant of these extension requests is not likely to negatively impact the overall transition schedule. The Stations have pledged to cease operations on their pre-auction channels and will operate interim facilities on their post-auction channels. To the extent some viewers are unable to receive the Stations' signals while they operate interim facilities, we believe that SCETV has every incentive to ensure viewers are fully informed about the Stations' transition plans. 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 SCETV was unaware at the time extension requests were due that extensions of the Stations' construction permits would be needed.⁶

We remind SCETV 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

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).

⁵ Although the Stations have yet to file for STA for interim operations, SCETV has pledged to do so.

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.").

instance, as a result of the grant of changes in the Stations' transition plan that are not related to the post-incentive auction channel change, may not be reimbursable from the Fund.

The above facts considered, South Carolina Educational TV Commission's applications for extension of construction permit expiration dates **ARE GRANTED**. The construction permits (LMS File No. 0000025032, 0000020522, 0000025027, 0000025028, and 0000025025) for WEBA-TV, Allendale; WRLK-TV, Columbia; WNEH(TV), Greenwood; WJPM-TV, Florence; and WNSC-TV, Rock Hill; all South Carolina, **ARE EXTENDED 180 days to March 4, 2020**. Grant of these extensions does not permit the Stations to recommence operation on their pre-auction channels after ceasing operation or after September 6, 2019, whichever occurs first. We also remind SCETV that any subsequent requests for extension of its construction permit deadline will be subject to the Commission's tolling provisions.⁸

Sincerely,

A handwritten signature in black ink, appearing to read 'B A K' with a long horizontal flourish extending to the right.

Barbara A. Kreisman
Chief, Video Division
Media Bureau

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

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