Federal Communications Commission
Washington, D.C. 20554

January 16, 2020

Sunshine Broadcasting Company, Inc.
Randolph Weigner
1903 South Greely Hwy
#127
Cheyenne, WY 82007

Re: Request for Extension of
Construction Permit
WARP-CD, Tampa-St. Petersburg, FL
Facility ID No. 55106
LMS File No. 0000097632

Dear Licensee,

On January 15, 2020, Sunshine Broadcasting Company, Inc. (Licensee), the licensee of Station WARP-CD, Tampa-St. Petersburg, Florida (the 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 Licensee's requests and extend the Station's construction permit expiration date to July 15, 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 7 stations, such application was due by October 21, 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]

---

[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).

[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 Station was repacked from channel 20 to channel 22 and was assigned to transition Phase 7 which has a phase completion date of January 17, 2020. All repacked stations for Phase 7 were issued a construction permit with an expiration date of January 17, 2020. The Station will cease operations on its pre-auction channel by the phase completion date and remain silent while it completes construction of its post-auction facilities.[5]

Licensee states there was a delay in delivery of the Station's post-auction channel antenna. Licensee was only just notified that the antenna has been manufactured and is ready for shipment. As such, Licensee will be unable to complete construction of its post-auction channel facilities by the phase completion date and is seeking an extension to July 15, 2020.

Licensee 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 of the deadline.

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

We remind Licensee 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.

The above facts considered Sunshine Broadcasting Company, Inc's application for extension of construction permit expiration date **IS GRANTED**. The construction permit (LMS File No. 0000025104) for WARP-CD, Tampa-St. Petersburg, Florida **IS EXTENDED to July 15, 2020.** Grant of this extension does not permit the Station to recommence operation on its pre-auction channel. We also

---

[5] *See* LMS File No. 0000097722.

[6] *See supra* note 4.

[7] 47 U.S.C. § 1452(b)(4)(A)(i). *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.").

remind Licensee that any subsequent requests for extension of its construction permit deadline will be subject to the Commission's tolling provisions.[8]

Sincerely,

David Brown / for

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Kathleen Victory, Esq.

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