



Federal Communications Commission
Washington, D.C. 20554

March 10, 2020

Renard Broadcasting Corp.
Craig Fox
401 W. Kirkpatrick St.
Syracuse, NY 13204

Re: Requests for Extension of
Construction Permit
WIXT-CD, DeWitt, NY
WONO-CD, Syracuse, etc., NY
WHSU-CD, Syracuse, etc., NY
Facility ID No. 629, 14312, 14315
LMS File No. 0000107507,
00000107510 and 0000107513

Dear Licensee,

On March 9, 2020, Renard Broadcasting Corp. (Licensee), the licensee of Stations WIXT-CD, DeWitt, New York (WIXT-CD); WONO-CD, Syracuse, etc., New York (WONO-CD); and WHSU-CD, Syracuse, etc., New York (WHSU-CD) (collectively the Stations), filed the above captioned applications seeking an extension of the Stations' construction permit expiration dates and waivers of the 90-day construction permit extension filing deadline. For the reasons below, we grant Licensee's requests and extend the Stations' construction permit expiration dates to September 9, 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 8 stations, such application was due by December 16, 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

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).

relieve hardship, promote equity, or produce a more effective implementation of overall policy on an individual basis.⁴

WIXT-CD was repacked from channel 40 to channel 27; WONO-CD from channel 34 to 24; and WHSU-CD from channel 51 to channel 23 and all of the Stations were assigned to transition Phase 8, which has a phase completion date of March 13, 2020. All repacked stations for Phase 8 were issued a construction permit with an expiration date of March 13, 2020. The Stations pledge to cease operation on their pre-auction channels by the phase completion date and operate temporary facilities while they complete construction of their permanent post-auction facilities.⁵

Licensee states that, due to the widespread Coronavirus outbreak in Italy, the Stations' transmitter manufacturer has had a delay in the production of the Stations' post-auction channel transmitters. Licensee reports that the manufacturer has supplied sufficient equipment for the Stations to commence operation by the Phase 8 completion date at 50% power. Upon receipt of the remaining equipment, Licensee pledges to complete construction and commence operations at full power. In light of these delays, Licensee requests 180-day extensions.

Licensee also requests waivers of the 90-day construction permit extension filing deadline because it did not know for certain it would require extensions at the time of the deadline.

Discussion. Upon review of the facts and circumstances presented, we find Licensee's requests to extend the construction permit deadline to construct the Stations' post-auction facilities meets the requirements for a construction permit extension. Licensee has demonstrated that extensions are needed because of an equipment delivery delay. We also find that grant of these extensions is not likely to negatively impact the overall transition schedule. The Stations will cease operations on their pre-auction channels by the Phase 8 completion date and operate temporary facilities. To the extent viewers are unable to receive the Stations' signals while they operate a temporary facility, we believe that Licensee 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 Licensee was unaware at the time an extension request was due that an extension of the Stations' construction permits 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 Stations' transition plans that are not related to the post-incentive auction channel change, may not be reimbursable from the Fund.

The above facts considered, Renard Broadcasting Corp.'s applications for extension of construction permit expiration dates **ARE GRANTED**. The construction permits (LMS File No. 0000100177, 0000105580 and 0000105578) for WIXT-CD, DeWitt, New York; WONO-CD, Syracuse,

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).

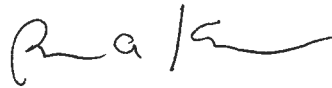
⁵ See LMS File No. 0000107506, 0000107509 and 0000107511.

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.").

etc., New York; and WHSU-CD, Syracuse, etc., New York **ARE EXTENDED to September 9, 2020.** Grant of these extensions does not permit the Stations to recommence operation on their pre-auction channels after ceasing operation or after March 13, 2020, whichever occurs first. We also remind Licensee 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 'Ba / K', with a stylized flourish at the end.

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): James Oyster, Esq.

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