



Federal Communications Commission
Washington, D.C. 20554

April 27, 2020

Woods Communications Corporation
David Woods
1 WCOV Avenue
Montgomery, AL 36111
david@wcov.com

Re: Request for Extension of
Construction Permit
WIYC, Troy, AL
Facility ID No. 62207
LMS File No. 0000112490

Dear Licensee,

On April 21, 2020, Woods Communications Corporation (Licensee), the licensee of Station WIYC, Troy, Alabama (the Station), filed the above captioned application seeking reinstatement and 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

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

The Station was repacked from channel 48 to channel 19 and assigned to transition phase 7.⁵ The Station has ceased operations on its pre-auction channel and is operating an interim facility while it completes construction of its permanent post-auction facilities.⁶

Licensee states that it implemented operation on its post-auction channel, but due to “extensive difficulties” with the tower firm engaged to handle the construction, it has not been able to complete construction. Licensee explains that the tower crew ceased work between January and March due to weather issues. Currently, the tower crew has replaced the antenna, installed and connected three tower guy anchors, and has almost completed replacement on one side of the tower. Two sides have not been replaced. Licensee states further that it faced delays relative to the COVID-19 pandemic and difficulty in obtaining necessary personnel to complete construction.⁷ As a result, Licensee requests reinstatement of its construction permit and an extension of it 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 reinstate and extend the construction permit deadline to construct the Station’s post-auction facility is in the public interest and meets the requirements for a construction permit extension. Licensee has demonstrated that an extension is needed because of weather and construction 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 is operating an interim facility on its post-auction channel. To the extent viewers are unable to receive the Station’s signal while it operates its interim facility, 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.⁸

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.”⁹ 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 See LMS File No. 0000079043.

⁶ See LMS File No. 0000112513.

⁷ The World Health Organization has classified COVID-19 as a pandemic and the President declared it a national emergency.

⁸ See *supra* note 4.

⁹ 47 U.S.C. § 1452(b)(4)(A)(i). See also *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, 6821, para. 622 (2014) (“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 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, Woods Communications Corporation's application for reinstatement and extension of construction permit expiration date **IS GRANTED**. The construction permit (LMS File No. 0000089226) for WIYC, Troy, Alabama, **IS REINSTATED AND EXTENDED to July 15, 2020**. Grant of this extension does not permit the Station to recommence operation on its pre-auction channel. We also remind Licensee that any subsequent requests for extension of its construction permit deadline will be subject to the Commission's tolling provisions.¹⁰

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Aaron P. Shainis, Esq.

¹⁰ See 47 CFR § 73.3700(b)(5)(i) (referencing 47 § CFR 73.3598(b)).