

WNTV(TV) – Request for Tolling of Construction Permit
LMS File No. 34598

South Carolina Educational TV Commission (“SCETV”), licensee of noncommercial educational TV station WNTV(TV), Greenville, South Carolina (“WNTV”), respectfully requests ten months of additional time to construct its permanent post-auction facilities pursuant to a waiver of the tolling provisions contained in Section 73.3598 of the Commission’s rules. As set forth herein, WNTV has been unable to construct its permanent facilities due to rare and exceptional circumstances beyond its control.

Background

WNTV was assigned to transition from Channel 9 to Channel 8 in Phase 10 of the repack. WNTV’s transition plan calls for, among other things, replacement of the station’s transmitter and construction of a new tower for the station’s facilities.

A structural study conducted early in the repack process determined that WNTV’s existing tower, built in the 1980s, was inadequate to meet the applicable TIA-222-G building standard. In fact, the engineering firm conducting the study recommended that the tower be decommissioned and torn down. Upon learning this, SCETV decided to look into purchasing land adjacent to the existing tower and to construct a new tower for WNTV’s permanent post-repack facilities. SCETV had been in discussions to purchase the property since summer of 2017, but its efforts ran into numerous internal and external delays, from state government processes to staff turnover at SCETV. SCETV resolved all of the outstanding real estate issues earlier in 2020 and has been working to complete the design, permitting, and construction of the new tower. SCETV hopes to complete these efforts in 2021. As of the date of this request, the NEPA study begun in the summer of 2019 has been completed, as has the ASR registration process. Site engineering is expected to be completed this month, at which time focus will shift to selection of a tower design and local pre-construction permitting.

SCETV conservatively estimates that the local permitting process will take between three and five months, that construction of the new tower will take three to four months, and that an additional month will be needed to hang and test the WNTV antenna and line.

WNTV has requested special temporary authority to operate on its post-repack channel from its current facilities until such time as the new tower can be built and the station’s permanent facilities can be constructed.

Waiver Request

In the *Incentive Auction Report and Order*, the Commission stated that it would grant six-month extensions of post-auction construction permits pursuant to the incentive auction rules, and that further extensions of time would be subject to the tolling provisions contained in Section 73.3598 of the Commission’s rules.¹ The Media Bureau has noted that in the event that

¹ See Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, *Report and*

construction of a station has been disrupted by circumstances other than those provided for in its tolling rules, “[s]tations may also seek a waiver of the tolling rule to receive additional time to construct in the case where ‘rare or exceptional circumstances’ prevent construction.”² The Media Bureau has waived the tolling rules to provide additional construction time for a station that was unable to timely construct its post-auction facilities, in that case due to delays associated with Canadian frequency coordination.³

WNTV has been unable to construct its permanent facilities due to rare and exceptional circumstances beyond its control. WNTV has been required by FCC rules and local regulations to undertake the various steps described herein prior to constructing a new tower. As the FCC is aware, this process can be time consuming. Grant of a waiver is not likely to negatively impact the overall transition schedule and will not cause interference to other stations, as WNTV already has ceased operation on its pre-auction channel and is operating on its post-auction channel with temporary facilities. Good cause thus exists to waive the tolling provisions of Section 73.3598 of the Commission’s rules and extend the expiration of WNTV’s construction permit for ten months (*e.g.*, until October 30, 2021).

Order, 29 FCC Rcd 6567, 6804-6806, paras. 580-584 (2014) (“*Incentive Auction Report and Order*”); 47 C.F.R. § 73.3598.

² Public Notice, Incentive Auction Task Force and Media Bureau Remind Repacked Stations of Certain Post-Auction Transition Requirements and Deadlines, 33 FCC Rcd 8240, 8245, n.34 (MB and IATF 2018), *citing* 1998 Regulatory Review - Streamlining of Mass Media Applications, Rules and Processes, *Memorandum Opinion and Order*, 14 FCC Rcd 17525, 17536, para. 42 (1999).

³ Letter from Barbara A. Kreisman, Chief, Video Division, Media Bureau to Cross Hill Communications, LLC (Mar. 22, 2019) available at LMS file No. 0000064627.