



Federal Communications Commission
Washington, D.C. 20554

July 27, 2018

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1500 K Street, NW
Suite 1100
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Re: Request for Extension of Time to
Construct Post-Auction Channel Facility
WIPR-TV, San Juan, Puerto Rico
Facility ID No. 53859
LMS File No. 0000055291

Dear Counsel,

On June 19, 2018, Puerto Rico Public Broadcasting Corporation (PRPBC), the licensee of station WIPR-TV, San Juan, Puerto Rico (Station or WIPR-TV), filed the above captioned application seeking a 180-day extension of its construction permit expiration date and waiver of the 90-day construction permit extension filing deadline. For the reasons below, we grant PRPBC's request.

Background. Pursuant to Section 73.3700(b)(5)(iv) 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. 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.² 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.³

On January 11, 2018, the Media Bureau, granted PRPBC's request to modify WIPR-TV's post-auction transition phase deadline to permit the Station to transition to its post-auction channels prior to the start of Phase 1 due to damage suffered to its transmission facilities during Hurricane Maria. The Station

¹ See 47 CFR § 73.3700(b)(5)(iv). All subsequent requests for additional time to construct are subject to the Commission's tolling provisions, 47 CFR § 73.3598(b).

² 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*, Report and Order, 29 FCC Rcd 6567,6804-05, paras. 581-2 (2014) (*Incentive Auction R&O*).

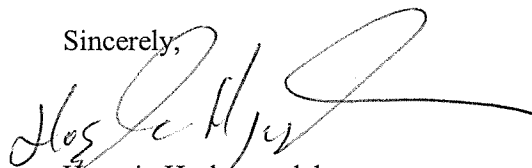
³ See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1072 (1972); 47 CFR § 1.3 (waiver for good cause shown).

was assigned a new testing period start date of July 1, 2018, and is required to cease operation on its pre-auction channel by August 1, 2018.⁴ In its pending application for an extension, PRPBC states that because of the major damage suffered throughout Puerto Rico as a result of Hurricane Maria, PRPBC now has determined that it is unable to complete construction of its final post-auction facility by August 1, 2018. However, PRPBC states that it will be able to commence operations by that date on the Station's post-auction channel using a temporary facility.⁵ PRPBC also requests waiver of the 90-day extension filing deadline stating that it was unable to file by May 3, 2018, since it has only recently determined that it would not be able to construct its complete facility by its currently assigned construction permit deadline.

Discussion. Upon review of the facts and circumstances presented, we find PRPBC's request to extend the construction permit deadline to construct WIPR-TV's post-auction facility meets the requirements for a 180-day extension. PRPBC has demonstrated that, despite reasonable efforts, the circumstances in Puerto Rico following Hurricane Maria are such that an extension is needed to complete construction of its post-auction facility. We find grant of the request will have no impact on the overall transition schedule or cause interference to other stations because PRPBC will cease operation on its pre-auction channel by 11:59 pm on August 1, 2018, and commence operation on its post-auction channel using an authorized temporary facility. We also find that grant of the request will not have any negative impact on viewers because the Station will commence operation on its post-auction channel within the timeframe set forth under the transition schedule. To the extent some viewers are not able to receive WIPR-TV's signal while it operates from its temporary facility, we note that WIPR-TV has every incentive to ensure viewers are fully informed about the Station's transition plan. Furthermore, based on the unique situation confronted by PRPBC, waiver of the 90-day extension filing deadline is in the public interest and consistent with the Commission's general waiver standard since the Station did not know, despite its best efforts, that it would not be able to complete construction of its post-auction facility until after the 90-day filing deadline.

The above facts considered, Puerto Rico Public Broadcasting Corporation's request for waiver of the construction permit extension deadline and application for extension of construction permit expiration date **ARE GRANTED**. The construction permit for WIPM-TV, Ponce, Puerto Rico, **IS EXTENDED** for 180 days to **January 28, 2019**. Grant of this extension does not alter the deadline by which the Station must discontinue operations on its pre-auction channel – 11:59pm local time on August 1, 2018. We also remind PRPBC that any subsequent requests for extension of its construction permit deadline will be subject to the Commission's tolling provisions.⁶

Sincerely,



Hossein Hashemzadeh
Deputy Chief, Video Division
Media Bureau

⁴ *Incentive Auction Task Force and Media Bureau Grant Waiver of the Post-Auction Transition Schedule and Modify the Transition Phase Assignments of Repacked Stations in Puerto Rico and the U.S. Virgin Islands*, Public Notice, 33 FCC Rcd 138 (MB 2018) (*Puerto Rico/USVI Public Notice*),

⁵ See Request for Special Temporary Authority, LMS File No. 0000055289 (granted June 29, 2018).

⁶ See 47 § CFR 73.3598(b).