



Federal Communications Commission  
Washington, D.C. 20554

November 20, 2018

LR Telecasting, LLC  
William H. Pollack  
5500 Poplar Avenue, Suite 1  
Memphis, TN 38119

Re: Request for Extension of  
Construction Permit  
KMYA-DT, Camden, AR  
Facility ID No. 86534  
LMS File No. 0000063557

Dear Licensee,

On November 14, 2018, LR Telecasting, LLC (LR Telecasting), the licensee of Station KMYA-DT, Camden, Arkansas (KMYA-DT or Station), filed the above captioned application seeking an extension of the Station's construction permit expiration date and request for waiver of the 90-day filing deadline (Extension Request). For the reasons below, we grant LR Telecasting's requests and extend KMY-DT's construction permit expiration date to May 29, 2019.

*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.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup>

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<sup>1</sup> 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).

<sup>2</sup> 47 CFR § 73.3700(b)(5)(iv).

<sup>3</sup> 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*); 47 CFR § 73.3700(b)(5)(ii) and (iii).

<sup>4</sup> 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).

LR Telecasting acquired KMYA-DT from I Squared Media (ISM) in March 2018.<sup>5</sup> According to LR Telecasting, ISM “had done no meaningful planning toward the transition.”<sup>6</sup> While ISM had filed its initial reimbursement estimate (FCC Form 2100, Schedule 399) in July 2017, LR Telecasting contends that the Station’s transition plan “had not been well developed.”<sup>7</sup> In addition to the uncertainty that flowed from the former licensees underdeveloped transition plan, multiple delays in consummation of the transaction due to an open legal proceeding prevented LR Telecasting from being able to undertake efforts related to the Station’s post-auction transition.<sup>8</sup> Following consummation of the transaction, LR Telecasting undertook efforts to reevaluate the Station’s transition plan, obtain quotes from equipment manufacturers and service vendors, and obtain necessary financing to pay for the equipment and services.<sup>9</sup> LR Telecasting anticipates delivery of equipment will occur in the first quarter of 2019.<sup>10</sup> A tower crew has been scheduled and LR Telecasting estimates that construction of its fully authorized post-auction facility will be completed by the end of February 2019.<sup>11</sup>

LR Telecasting will be utilizing an interim facility until its authorized post-auction facility is complete and will cease operating on its post-auction channel commerce operation on its post-auction channel no later than November 30, 2018.<sup>12</sup> All necessary interim equipment has been obtained and a tower crew is scheduled to install KMYA-DT’s temporary equipment beginning on November 23, 2018.<sup>13</sup> LR Telecasting notes that the viewers that would most likely be impacted by the Station’s interim operations and loose access to its signal will be able to obtain the same programming from KMYA’s sister station, KMYA-LP and other translator stations.<sup>14</sup> In light of these facts, LR Telecasting requests a 180-day extension of its construction permit until May 29, 2019. LR Telecasting also requests waiver of the 90-day construction permit extension filing deadline because it did not have confirmation until only recently that its equipment would not be able to be delivered in time for the Station to meet its phase completion date.

*Discussion.* Upon review of the facts and circumstances presented, we find LR Telecasting’s request to extend the construction permit deadline to construct KMYA-DT’s post-auction facility meets the requirements for a construction permit extension. KMYA-DT has demonstrated that an extension is needed as the result of the previous owners delay in finalizing the Station’s transition plan and acquiring its post-auction equipment. We also find that grant of this extension request is not likely to negatively impact the overall transition schedule. KMYA-DT will cease operation on its pre-auction channel and commence operation on its post-auction channel from an interim facility no later than November 30, 2018. To the extent some viewers are unable to receive KMYA-DT’s signal while it operates from its

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<sup>5</sup> See File No. BALCDT-20160108AAQ.

<sup>6</sup> Extension Request at 2.

<sup>7</sup> *Id.* and Transition Progress Report for Third Quarter 2017, FCC Form 2100, Schedule 387, LMS File No. 0000033417.

<sup>8</sup> Extension Request at 3.

<sup>9</sup> *Id.* at 5.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 1.

<sup>12</sup> *Id.* at 6. A request for special temporary authority has been filed. See LMS File No. 0000063608.

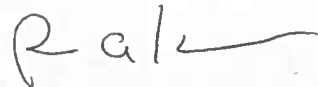
<sup>13</sup> Extension Request at 5.

<sup>14</sup> *Id.* at 7.

interim facility or from other LPTV and translator stations that air its programming, we believe that LR Telecasting 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.<sup>15</sup>

The above facts considered, LR Telecasting's application for extension of construction permit expiration date **IS GRANTED**. The construction permit for KMYA-DT, Camden, AR, **IS EXTENDED** for 180 days to **May 29, 2019** (LMS File No. 0000027512). Grant of this extension does not permit KMYA-DT to operate on its pre-auction channel after 11:59pm local time on November 30, 2018. operation on its pre-auction channel. We also remind LR Telecasting that any subsequent requests for extension of its construction permit deadline will be subject to the Commission's tolling provisions.<sup>16</sup>

Sincerely,

A handwritten signature in black ink, appearing to read 'B A Kreisman', with a long horizontal flourish extending to the right.

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

cc (via electronic mail):  
Charles R. Naftalin, Esq.

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<sup>15</sup> A waiver of the rules 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. 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).

<sup>16</sup> See 47 CFR § 73.3700(b)(5)(i) (referencing 47 § CFR 73.3598(b)).