



Federal Communications Commission  
Washington, D.C. 20554

November 20, 2018

Gray Television Licensee, LLC  
4370 Peachtree Road, NE  
Atlanta, GA 30319

Re: Request for Extension of  
Construction Permit  
KYTV(TV), Springfield, MO  
Facility ID No. 36003  
LMS File No. 0000063059

Dear Licensee,

On October 24, 2018, Gray Television Licensee, LLC (Gray), the licensee of Station KYTV(TV), Springfield, Missouri, (KYTV or Station), filed the above captioned application seeking an 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 Gray's requests and extend KYTV'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).

KYTV has already commenced operation on its post-auction channel pursuant to special temporary authority (STA).<sup>5</sup> According to Gray, to complete construction of KYTV's authorized post-auction facility, the station's current top-mounted antenna must be removed and replaced. The existing transmission line must be refurbished and then its new post-auction transmitter must be installed. KYTV has encountered delays with regards to the installation of its new top mounted antenna and delivery of its new transmitter. Gray represents that KYTV's tower crew has been delayed multiple times and the tower work requires a specialist in top-mounted antennas. At the time of filing, Gray was expecting KYTV's tower crew to arrive at KYTV's tower site on November 26, 2018. The tower work and antenna replacement are expected to take 34 days—subject to weather. In light of these facts, Gray requests a 180-day extension of its construction permit until May 29, 2019. Gray also requests waiver of the 90-day construction permit extension filing deadline because it did not have confirmation until only recently that its vendors would not be able to complete the build out by its phase completion deadline.

*Discussion.* Upon review of the facts and circumstances presented, we find Gray's request to extend the construction permit deadline to construct KYTV's post-auction facility meets the requirements for a construction permit extension. Gray has demonstrated that an extension is needed due to tower crew and equipment delivery delays beyond its control. We also find that grant of this extension request is not likely to negatively impact the overall transition schedule. KYTV has already commenced operation on its post-auction channel using an interim facility and its tower crew is scheduled to conduct the necessary work by the end of the month. To the extent some viewers are unable to receive KYTV's signal while it operates from its interim facility, we believe that Gray 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>6</sup>

The above facts considered, Gray Television Licensee, LLC's application for extension of construction permit expiration date **IS GRANTED**. The construction permit for KYTV, Springfield, MO, **IS EXTENDED** for 180 days to **May 29, 2019** (LMS File No. 0000044986). Grant of this

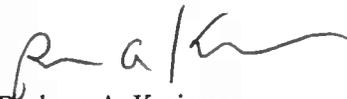
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<sup>5</sup> See LMS File No. 0000058832.

<sup>6</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).

extension does not permit KYTV to recommence operation on its pre-auction channel. We also remind Gray that any subsequent requests for extension of its construction permit deadline will be subject to the Commission's tolling provisions.<sup>7</sup>

Sincerely,

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

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

cc (via electronic mail):  
Joan Stewart, Esq.

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<sup>7</sup> See 47 CFR § 73.3700(b)(5)(i) (referencing 47 § CFR 73.3598(b)).