



Federal Communications Commission  
Washington, D.C. 20554

November 20, 2018

Diocese of Fresno Education Corp.  
Jaime Gonzalez  
1550 N. Fresno Street  
Fresno, CA 93703

Re: Request for Extension of  
Construction Permit  
KNXT(TV), Visalia, California  
Facility ID No. 16950  
LMS File No. 0000062822

Dear Licensee,

On October 12, 2018, Diocese of Fresno Education Corp., (the Diocese of Fresno), the licensee of Station KNXT(TV), Visalia, California, (KNXT or Station), filed the above captioned application seeking an extension of the Station's construction permit expiration date. For the reasons below, we grant the Diocese of Fresno's request and extend KNXT'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).

KNXT 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, its phase completion date.<sup>5</sup> According to the Diocese of Fresno, it is unable to complete construction of its authorized post-auction facility due to delays related to its tower crew and delivery of its antenna. In light of these facts, the Diocese of Fresno requests a 180-day extension of its construction permit until May 29, 2019. The Diocese of Fresno also requests waiver of the 90-day construction permit extension filing deadline because it was not aware until early October that it would require an extension of its construction permit.

*Discussion.* Upon review of the facts and circumstances presented, we find the Diocese of Fresno's request to extend the construction permit deadline to construct KNXT's post-auction facility meets the requirements for a construction permit extension. The Diocese of Fresno 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. The Station 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 KNXT's signal while it operates from its interim facility, we believe that the Diocese of Fresno 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, Diocese of Fresno Education Corp.'s application for extension of construction permit expiration date **IS GRANTED**. The construction permit for KNXT, Visalia, CA, **IS EXTENDED** for 180 days to **May 29, 2019** (LMS File No. 0000028226). Grant of this extension does not permit KNXT to operate on its pre-auction channel after 11:59pm local time on November 30, 2018. We also remind the Diocese of Fresno that any subsequent requests for extension of its construction permit deadline will be subject to the Commission's tolling provisions.<sup>7</sup>

Sincerely,



Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

cc (via electronic mail):  
Michelle A. McClure, Esq.

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<sup>5</sup> A request for special temporary authority (STA) has been filed and granted by the Commission. See LMS File No. 0000062753.

<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).

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