



Federal Communications Commission
Washington, D.C. 20554

May 7, 2019

Nexstar Broadcasting, Inc.
545 E. John Carpenter Freeway
Suite 700
Irving, TX 75062
Attention: Elizabeth Ryder

Re: Request for Extension of
Construction Permit
KNWA-TV, Rogers, AR
Facility ID No. 29557
LMS File No. 0000069353

WEUX(TV), Chippewa Falls, WI
Facility ID No. 2709
LMS File No. 0000069270

KTAL-TV, Texarkana, TX
Facility ID No. 35648
LMS File No. 0000069242

Dear Licensee,

On April 3, 2019, Nexstar Broadcasting, Inc. (Nexstar), the licensee of Stations KNWA-TV, Rogers, Arkansas, WEUX, Chippewa Falls, Wisconsin, and KTAL-TV, Texarkana, Texas, filed the above captioned applications seeking an extension of the Stations' construction permit expiration dates and waiver of the 90-day construction permit extension filing deadline. For the reasons below, we grant Nexstar's requests and extend the Stations' construction permit expiration date to October 9, 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.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.² 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.³ In addition, a waiver of the application filing deadline is appropriate

¹ 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).

² 47 CFR § 73.3700(b)(5)(iv).

³ 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).

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.⁴

KNWA was repacked from channel 50 to channel 33, WEUX was repacked from channel 49 to channel 14 and then filed and was granted a major modification to move to 21 instead, and KTAL was repacked from channel 26 to channel 15. All three stations were assigned to transition Phase 2, which had a phase completion date of April 12, 2019. Each of the Stations discontinued operations on their pre-auction channel by their assigned phase completion date and are operating on their post-auction channel using an interim facility pursuant to special temporary authority (STA) while they complete construction of their permanent post-auction channel facilities.⁵ All repacked stations for Phase 2 were issued a construction permit with an expiration date of April 12, 2019.

Nexstar explains that construction of the Stations' permanent post-auction channel facilities are not yet complete due to construction delays. In particular, Nexstar represents that each Station must install a new post-auction channel antenna and that those antennas have not yet been installed due to weather and tower rigging delays. As a result, Nexstar requests an extension of its post-auction construction permit until May 31, 2019. Nexstar also requests a waiver of the 90-day construction permit extension filing deadline. Nexstar states that it made every effort to meet the Stations' construction permit deadlines and only determined shortly before its deadline that installation of the Stations' antennas would be delayed until after April 12, 2019.

Discussion. Upon review of the facts and circumstances presented, we find Nexstar's requests to extend the construction permit deadlines to construct the Stations' post-auction facilities meets the requirements for a construction permit extension. Nexstar has demonstrated that an extension is needed because of unavoidable construction and weather delays outside of its control. We also find that grant of the extension requests is not likely to negatively impact the overall transition schedule. The Stations have ceased operations on their pre-auction channel and are operating from authorized interim facilities on their post-auction channels. To the extent some viewers are unable to receive the Stations' signals while operating on their interim facilities, we believe that Nexstar has every incentive to ensure viewers are fully informed about the Stations' transition plans. 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.⁶

We remind Nexstar that pursuant to the Spectrum Act, the Station is eligible for reimbursement from the TV Broadcast Relocation Fund (Fund) of costs "reasonably incurred . . . in order for the licensee to relocate its television service from one channel to the other." Additional expenses incurred, for instance, as a result of the grant of changes in the Station's transition plan that are not related to the post-incentive auction channel change, may not be reimbursable from the Fund. Such additional costs might include, but may not be limited to, additional legal or engineering expenses; filing fees; and interim or additional equipment that was not contemplated when the Station filed its initial estimated expenses but was subsequently necessitated due to voluntary changes in the Station's plans.

⁴ 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).

⁵ See LMS File Nos. 0000069351 (KNWA); 0000068589 (WEUX), and 0000068568 (KTAL).

⁶ See *supra* note 4.

The above facts considered, Nexstar's applications for extension of the Stations' construction permit expiration dates **ARE GRANTED**. As requested, the construction permits for KNWA-TV, Rogers, Arkansas (LMS File No. 0000027617); WEUX, Chippewa Falls, Wisconsin (LMS File No. 0000053767); and KTAL-TV, Texarkana, Texas (LMS File No. 0000068332) **ARE EXTENDED to October 9, 2019**. Grant of these extensions does not permit the Stations to recommence operation on their pre-auction channel, nor does it modify the terms of the Stations' STAs. We also remind Nexstar that any subsequent requests for extension of its construction permit deadline will be subject to the Commission's tolling provisions.⁷

Sincerely,

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

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Christine Reilly, Esq.

⁷ See 47 CFR § 73.3700(b)(5)(i) (referencing 47 § CFR 73.3598(b)).