

Fifth Street Enterprises
CP Extension Request – June 2019 Amendment
WWAT-CD (FID 257)

Fifth Street Enterprises, LLC (“FSE”), the licensee of WWAT-CD (FID 257), hereby requests an extension of its post-auction construction permit for WWAT. The station will transition to its post-auction channel and operate with special temporary authority at parameters at variance from the construction permit prior to its specified repack deadline (See File No. 0000072893). However, this station will be unable to complete construction of its final repack facility due to circumstances outside of its control.¹ FSE requests an extension of up to one hundred and eighty days (180) to complete construction of the station’s post-auction facility.

Section 73.3700(b)(5) provides that the Media Bureau may grant an extension of time up to six months for stations that are unable to complete construction of their post-auction facilities “due to circumstances that are either unforeseeable or beyond licensee’s control.”²

FSE is unable to meet its construction deadline is because the default of its buyer. FSE entered into an agreement to sell the station to HC2 Station Group, Inc. (“HC2”) (the “Sale Agreement”). The FCC granted consent to the assignment of station to HC2 on March 18, 2019 (FCC File No. BAL-20190131AAK). By the terms of the Sale Agreement, the parties were required to close on the assignment or before May 15, 2019. Because this transaction was scheduled to close in May (two-and-a-half months before the Phase 4 deadline), the parties agreed that HC2 would be responsible for ordering all needed equipment and constructing the Station’s post auction facilities. HC2 did not close the transaction on May 15, 2019 and is now in breach of the Sale Agreement. FSE, as required by the Sale Agreement, has provided HC2 with the opportunity to cure this breach and complete the transaction. However, given the fast-approaching Phase 4 deadline, FSE has sought permission to transition to its post-auction channel using interim facilities as specified in its application for special temporary authority.

FSE will be unable to complete construction of the facilities specified in this construction permit by the repack phase deadline, therefore, it respectfully requests an extension of time of up to 180 days to complete construction of these facilities.

¹ FSE requests that the Media Bureau accept this request for extension of its construction permit as late filed. 73.3700(b)(5)(iv) requires the filing of an extension request at least ninety (90) days prior to a station’s construction permit deadline. As explained above, the station did not have confirmation until recently that its vendors would not be able to complete the build out by the deadline.

² 73.3700(b)(5)(i).