



Federal Communications Commission
Washington, D.C. 20554

June 20, 2019

Meredith Corporation
1716 Locust Street
Des Moines, IA 50309

Re: Request for Extension of
Construction Permit
WNEM-TV, Bay City, MI
Facility ID No. 41221
LMS File No. 0000072081

Dear Licensee,

On April 22, 2019, Meredith Corporation (Meredith), the licensee of Station WNEM-TV, Bay City, Michigan (WNEM 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 Meredith's requests and extend WNEM's construction permit expiration date to December 18, 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 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

WNEM was repacked from channel 22 to channel 30 and assigned to transition phase 3, which had a phase completion date of June 21, 2019. All repacked stations for Phase 3 were issued a construction permit with an expiration date of June 21, 2019. Meredith reports that it has been working

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).

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).

through the process of obtaining the necessary local zoning, environmental and FAA approvals needed to construct a replacement tower. However, it has encountered permitting delays have prevented it from being able to meet the Station's phase completion deadline. Meredith has obtained Special Temporary Authority (STA)⁵ to operate an interim facility on its post-auction channel and will begin operating that interim facility on the June 21, 2019 as it continues working towards completing its permanent post-auction channel facilities. Meredith anticipates that its permanent post-auction facility will be constructed no later than December 1, 2019 and requests an extension of its construction permit to that date. Meredith also requests a waiver of the 90-day construction permit extension filing deadline because it did not know for certain it would require an extension at the time the deadline passed.

Discussion. Upon review of the facts and circumstances presented, we find Meredith's request to extend the construction permit deadline to construct WNEM's post-auction facility meets the requirements for a construction permit extension. Meredith has demonstrated that an extension is needed because of local permitting delays outside of its control. We also find that grant of this extension request is not likely to negatively impact the overall transition schedule. WNEM will cease operations on its pre-auction channel by the June 21, 2019 phase transition deadline and will commence operation on its post-auction channel using an interim facility. To the extent some viewers are unable to receive WNEM's signal while it operates from its interim facility, we believe that Meredith 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 because at the time the construction permit extension request was due (March 25, 2019), Meredith did not yet know for certain it would require an extension of its construction permit.⁶

We remind Meredith 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."⁷ 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.

⁵ See LMS File No. 0000069078.

⁶ See *supra* note 4.

⁷ *Media Bureau Finalizes Reimbursement Form for Submission to OMB and Adopts Catalog of Expenses*, GN Docket No. 12-268, Public Notice, 30 FCC Rcd 11701, 11701-02 (MB 2015). See also *Incentive Auction R&O*, 29 FCC Rcd at 6821, para. 622 ("The appropriate scope of 'costs reasonably incurred' necessarily will have to be decided on a case-by-case basis.").

The above facts considered, Meredith Corporation's application for extension of construction permit expiration date **IS GRANTED**. The construction permit (LMS File No. 0000024833) for WNEM-TV, Bay City, Michigan, **IS EXTENDED to December 18, 2019**. Grant of this extension does not permit WNEM to recommence operation on its pre-auction channel nor does it modify the terms of the Station's STA. We also remind Meredith that any subsequent requests for extension of its construction permit deadline will be subject to the Commission's tolling provisions.⁸

Sincerely,



Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Joshua Pila, Esq.

⁸ See 47 CFR § 73.3700(b)(5)(i) (referencing 47 § CFR 73.3598(b)).