



Federal Communications Commission
Washington, D.C. 20554

July 24, 2019

Winston Broadcasting Network, Inc.
2690 State Road
Cuyahoga Falls, OH 44223

Re: Request for Extension
Construction Permit
WBNX-TV, Akron, OH
Facility ID No. 72958
LMS File No. 0000072204

Dear Licensee,

On April 29, 2019, Winston Broadcasting Network, Inc. (WBN), the licensee of Station WBNX-TV, Akron, Ohio, (WBNX or Station) filed the above captioned application seeking an extension of the Station's construction permit expiration date. For the reasons below, we grant WBN's application and extend WBNX's construction permit expiration date 180 days to January 29, 2020.

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 For Phase 4 stations, such application was due by May 6, 2019. 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

WBNX was repacked from channel 30 to channel 17 and assigned to transition Phase 4, which has a phase completion date of August 2, 2019. The Station pledges to cease operation on its pre-auction channel by the August 2, 2019 deadline and operate an auxiliary facility on its post-auction channel while it completes construction of its permanent post-auction facilities.⁴ All repacked stations for Phase 4 were issued a construction permit with an expiration date of August 2, 2019.

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 LMS File No. 0000068182.

WBN explains that it has experienced delays in installing a side-mount interim/auxiliary antenna to prevent tower workers from being exposed to excessive levels of RF radiation which caused delays in installing WBNX's post-auction, top-mounted antenna. WBNX will cease operations on its pre-auction channel by the Phase 4 deadline and operate on its licensed auxiliary facility. WBN requests an additional 180 days to construct its full, authorized post-auction channel facilities. Although WBN believes it can complete this process in less than 180 days, it is requesting a 180-day extension out of an abundance of caution in the event that circumstances change, particularly since the Station is located in northeast Ohio, where the weather could delay implementation.

Discussion. Upon review of the facts and circumstances presented, we find WBN's request to extend the construction permit deadline to construct WBNX's post-auction facility meets the requirements for a construction permit extension. WBN has demonstrated that an extension is needed because of construction delays outside of its control resulting from delays in installing its interim antenna. We also find that grant of this extension request is not likely to negatively impact the overall transition schedule. WBNX will cease operations on its pre-auction channel by the Phase 4 deadline and will operate an auxiliary facility on its post-auction channel. To the extent some viewers are unable to receive WBNX's signal while it operates its auxiliary, we believe that WBN has every incentive to ensure viewers are fully informed about the Station's transition plan.

We remind WBN 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."⁵ 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.

The above facts considered, Winston Broadcasting Network Inc.'s application for extension of construction permit expiration date **IS GRANTED**. The construction permit (LMS File No. 0000028072) for WBNX-TV, Akron, Ohio, **IS EXTENDED 180 days to January 29, 2020**. Grant of this extension does not permit WBNX to recommence operation on its pre-auction channel after ceasing operation on its pre-auction channel or August 2, 2019, whichever occurs first. We also remind WBN

⁵ See *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.").

that any subsequent requests for extension of its construction permit deadline will be subject to the Commission's tolling provisions.⁶

Sincerely,

A handwritten signature in black ink, appearing to read 'B A K' with a stylized flourish at the end.

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Stephen Hartzell, Esq.

⁶ See 47 CFR § 73.3700(b)(5)(i) (referencing 47 § CFR 73.3598(b)).