



Federal Communications Commission
Washington, D.C. 20554

October 9, 2019

Tribune Broadcasting Indianapolis, LLC
Steve Zanolini
6910 Network Place
Indianapolis, IN 46221

Re: Requests for Extension of
Construction Permit
WTTK, Kokomo, IN
WXIN, Indianapolis, IN
Facility ID No. 146 and 56526
LMS File No. 0000083946 and
0000083949

Dear Licensee,

Tribune Broadcasting Indianapolis, LLC (Tribune), the licensee of Station WTTK, Kokomo, Indiana (WTTK) and WXIN, Indianapolis, Indiana (WXIN) (collectively Stations), filed the above captioned applications seeking extensions of the Stations' construction permit expiration dates and waiver of the 90-day construction permit extension filing deadline. For the reasons below, we grant Tribune's requests and extend the Stations' construction permit expiration dates 180 days to April 15, 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 6 stations, such application was due by July 22, 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 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

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*, GN Docket No. 12-268 et. al., 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).

relieve hardship, promote equity, or produce a more effective implementation of overall policy on an individual basis.⁴

WTTK was repacked from channel 29 to channel 15 and WXIN was repacked from channel 45 to 22. The Stations were assigned to transition Phase 6, which has a phase completion date of October 18, 2019. All repacked stations for Phase 6 were issued a construction permit with an expiration date of October 18, 2019. The Stations pledge to cease operation on their pre-auction channels by the phase completion date and operate interim facilities on their post-auction channels while they complete construction of their permanent post-auction facilities.⁵

Tribune states that the Stations' use a shared antenna and that, due to circumstances beyond its control, construction of the Stations' post-auction channel facilities is not yet complete. Therefore, Tribune requests 180-day extensions. Tribune also requests waivers of the 90-day construction permit extension filing deadline because it did not know for certain it would require extensions at the time the deadline passed.

Discussion. Upon review of the facts and circumstances presented, we find Tribune's requests to extend the construction permit deadline to construct the Stations' post-auction facilities meet the requirements for a construction permit extension. Tribune has demonstrated that an extension is needed because of construction delays outside of its control. We also find that grant of these extension requests is not likely to negatively impact the overall transition schedule. The Stations will cease operations on their pre-auction channels by the Phase 6 completion date and will operate interim facilities on their post-auction channels. To the extent some viewers are unable to receive the Stations' signals while they operate an interim facility, we believe that Tribune 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 because Tribune was unaware at the time an extension request was due that extensions of the Stations' construction permits would be needed.⁶

We remind Tribune 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 Stations' transition plans that are not related to the post-incentive auction channel change, may not be reimbursable from the Fund.

The above facts considered, Tribune Broadcasting Indianapolis, LLC's applications for extension of construction permit expiration date **ARE GRANTED**. The construction permits (LMS File No. 0000034055 and 0000034056) for WTTK, Kokomo, Indiana and WXIN, Indianapolis, Indiana **ARE EXTENDED 180 days to April 15, 2020**. Grant of these extensions does not permit the Stations to recommence operation on their pre-auction channel after ceasing operation or after October 18, 2019,

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 Although it has yet to file for Special Temporary Authority to operate the Stations with interim facilities, Tribune has pledged to do so.

⁶ See *supra* note 4.

⁷ 47 U.S.C. § 1452(b)(4)(A)(i). 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.").

whichever occurs first. We also remind Tribune that any subsequent requests for extension of its construction permit deadline will be subject to the Commission's tolling provisions.⁸

Sincerely,

A handwritten signature in blue ink that reads "Kevin R. Harding". The signature is fluid and cursive, with the first name "Kevin" being the most prominent.

for Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Jason Roberts, Esq.

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