

Request for Construction Permit Extension and Waiver of Tolling Rule KSTR-DT Facility ID 60534

UniMás Dallas LLC, licensee of KSTR-DT, Irving, Texas, Facility ID 60534 (the “Station”) seeks an extension of its construction permit and waiver of the tolling rule, for the reasons described below.

The Station holds a construction permit authorizing construction of its post-auction channel facilities, originally set to expire on June 21, 2019, and extended to December 18, 2019. Because the main facility would not be built out by this initial deadline, the Station filed for an extension of its Construction Permit (“CP”) (LMS File No. 0000068691), granted on April 19, 2019, and it commenced operations using its licensed auxiliary facility on June 21, 2019, allowing the station the time needed to buildout its main post-transition facility.

Since the Station has now been constructed, its intention was to move its operations onto its finalized main facility. However, in preparing the required License to Cover application, the Station became aware that an updated antenna pattern inadvertently was not entered into the LMS form that was submitted as part of the October 24, 2018 modification application (LMS File no. 0000063075), which resulted in the Station’s current CP. The correct antenna pattern data was included in the modification as an uploaded attachment, but the pattern data from the previous antenna and CP was accidentally retained in the LMS record and now pre-loads into the license to cover application form. In order to allow the Station time to file a corrective modification of its CP, the Station respectfully requests that the Commission grant a second six-month extension of the Station’s CP deadline, until June 18, 2020.

The Station further requests a waiver of the Commission’s tolling rule to permit grant of this further extension of time to construct.¹ The Media Bureau has explained that where construction of a station has been disrupted by circumstances other than those expressly provided for in its tolling rules, “[s]tations may also seek a waiver of the tolling rule to receive additional time to construct in cases where ‘rare or exceptional circumstances’ prevent construction.”² In considering a waiver, the FCC may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.³ Ultimately, a waiver is appropriate if circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.⁴

Grant of the instant request for waiver of the tolling rule would be appropriate under the circumstances. The Station has made diligent efforts to complete its post-transition buildout and in fact has completed construction. But because of an inadvertent error in completing its form in LMS, the Station is unable to meet its CP deadline. The Station regrets this error and is diligently pursuing the correction of its CP, and as soon as this corrective application is granted, the Station will promptly file its post-transition license to cover application. The proposed

¹ See *Incentive Auction Task Force and Media Bureau Remind Repacked Stations of Certain Post-Auction Transition Requirements and Deadlines*, Public Notice, DA 18-884, ¶ 13 n.34 (2018) (citing *1998 Regulatory Review—Streamlining of Mass Media Applications, Rules and Processes*, Memorandum Opinion and Order, 14 FCC Rcd 17525, 17536, ¶ 42 (1999)).

² *Id.*

³ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

⁴ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

waiver would therefore serve the public interest by enabling the Station to extend its CP to take account of this unanticipated obstacle, and thereby avoid unnecessary disruption to viewers in the market.