



Federal Communications Commission
Washington, D.C. 20554

January 14, 2020

NPG of Idaho, Inc.
825 Edmond Street
St. Joseph, MO 64501

Re: Request for Extension of
Construction Permit
K49ND-D, Fish Creek, etc., ID
Facility ID No. 66257
LMS File No. 0000096349

Dear Licensee,

On January 10, 2020, NPG of Idaho, Inc. (Licensee), the licensee of Station K49ND-D, Fish Creek, etc., Idaho (the 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 Licensee's requests and extend the Station's construction permit expiration date to July 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 7 stations, such application was due by October 21, 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 relieve hardship, promote equity, or produce a more effective implementation of overall policy on an individual basis.⁴

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).

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).

The Station was repacked from channel 49 to channel 34 and was assigned to transition Phase 7 which has a phase completion date of January 17, 2020. All repacked stations for Phase 7 were issued a construction permit with an expiration date of January 17, 2020. The Station pledges to cease operations on its pre-auction channel by the phase completion date and will operate a temporary facility while it completes construction of its post-auction facilities.⁵

Licensee states that Station has been unable to complete construction of its post-auction channel facilities due to the unexpected shutdown of the pre-auction channel facilities in June 2019 by causes beyond its control and the Station's equipment delivery and installation timeline which is dependent on weather at its transmitter site. Therefore, Licensee seeks an 180-day extension to July 15, 2020.

Licensee 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 of the deadline.

Discussion. Upon review of the facts and circumstances presented, we find Licensee's request to extend the construction permit deadline to construct the Station's post-auction facility meets the requirements for a construction permit extension. Licensee has demonstrated that an extension is needed because of construction and weather delays. We also find that grant of this extension request is not likely to negatively impact the overall transition schedule. The Station has pledged to cease operations on its pre-auction channel and operate a temporary facility. To the extent some viewers are unable to receive the Station's signal while it operates a temporary facility, we believe that Licensee 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 Licensee was unaware at the time an extension request was due that an extension of the Station's construction permit would be needed.⁶

We remind Licensee 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.

The above facts considered NPG of Idaho, Inc.'s application for extension of construction permit expiration date **IS GRANTED**. The construction permit (LMS File No. 0000024534) for K49ND-D, Fish Creek, etc., Idaho **IS EXTENDED to July 15, 2020**. Grant of this extension does not permit the

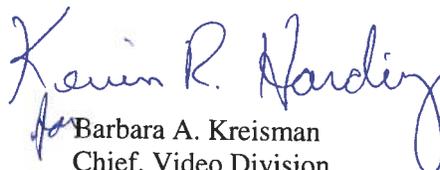
⁵ See LMS File No. 0000095732.

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.").

Station to recommence operation on its pre-auction channel after ceasing operation or after January 17, 2020, whichever occurs first. We also remind Licensee 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 written in a cursive style with a large, looping "y" at the end.

for Barbara A. Kreisman
Chief, Video Division
Media Bureau

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

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