

Request for Extension of Time to Construct WVTM-TV's Full CP Facility

Pursuant to Section 73.3700(b)(5)(iv) of the Commission's Rules, WVTM Hearst Television Inc. (the "licensee" or "applicant"), licensee of WVTM-TV, Birmingham, Alabama (Fac. ID No. 74173) ("WVTM-TV"), respectfully requests an extension of time to complete construction of its full, authorized post-transition facilities, as specified in WVTM-TV's repack construction permit ("CP") issued in LMS File No. [0000025155](#) as modified by LMS File No. [0000034568](#). WVTM-TV has been assigned to Phase 10, which has a deadline of July 3, 2020.

With respect to the applicant's request to extend the deadline for construction of WVTM-TV's full post-transition repack CP facility, Rule Section 73.3700(b)(5) authorizes the Media Bureau to grant a "reassigned" station (such as WVTM-TV) an extension of time to construct its full repack facilities of up to 180 days for a variety of reasons, which

"include but are not limited to:

- (A) Weather-related delays, including a tower location in a weather-sensitive area;
- (B) Delays in construction due to the unavailability of equipment or a tower crew;
- (C) Tower lease disputes;
- (D) Unusual technical challenges, such as the need to construct a top-mounted or side-mounted antenna or the need to coordinate channel changes with another station; and
- (E) Delays faced by licensees that must obtain government approvals, such as land use or zoning approvals, or that are subject to competitive bidding requirements prior to purchasing equipment or services."

47 C.F.R. § 73.3700(b)(5)(ii). *See also Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition*, Public Notice, 32 FCC Rcd 858 (2017), ¶ 41.

WVTM-TV's pre-transition primary antenna is, and post-transition antenna will be, a top-mounted antenna broadcasting from a tower located near the station's studios. The licensee anticipated that some tower modifications would be required to complete the WVTM-TV repack project, but initially expected all work to be completed by the Phase 10 deadline. That changed, however, once the structural studies came back and revealed a need for more extensive modifications than the licensee had been anticipating. As a result, since the fourth quarter 2018 Transition Plan Progress Report filed in early January 2019, the licensee has been adverting to the possibility that WVTM-TV's repack project may not be complete by the Phase 10 deadline. *See, e.g.,* LMS File No. [0000064970](#) ("The structural analysis revealed more extensive modifications than expected. Scheduling a tower crew to complete the modifications, even for Phase 10, is questionable."). Significantly, too, the top-mount primary antenna installation will be conducted using a helicopter pick/lift, and the vendor performing the helicopter services will not have completed the operation until after the Phase 10 deadline.

The licensee's plan for WVTM-TV's transition is to timely commence (by the end of Phase 10) post-transition channel operations using interim facilities, which will use the station's post-transition aux antenna. A construction permit application for the aux antenna was recently filed in LMS File No. [0000109767](#). To that end, the aux antenna has been installed, the transmitter installation is already underway, and then work will still need to be done to extend the aux transmission line all the way to the transmitter. The licensee is cautiously optimistic that this work will be complete—and the aux antenna will be ready to serve as an interim facility—by the end of Phase 10, notwithstanding the challenges presented by the COVID-19 pandemic.

Indeed, the COVID-19 pandemic has thrown WVTM-TV's repack construction schedule somewhat into disarray as the licensee's tower services vendor (Coast to Coast) informed the licensee on March 13, 2020, that the vendor would be implementing (and did implement) a suspension of field operations for a period of at least two weeks in response to the rapidly evolving COVID-19 public health crisis. And a couple of business days later, on March 17, the Commission recognized the challenge that the COVID-19 pandemic was presenting for some repacked stations—particularly in Phase 9—and issued a Public Notice providing some relief to affected Phase 9 stations.¹ While the COVID-19 Repack PN is not directly applicable to WVTM-TV's Phase 10 repack project, the Commission's recognition that COVID-19 circumstances are affecting repack projects is germane to understanding WVTM-TV's inability to currently forecast a specific date for completion of its full repack construction and the attendant need for a full 180-day extension of the repack CP.

In short, the proximate cause affecting the licensee's ability to fully construct the final WVTM-TV post-transition facility (including installation of the new, post-transition top-mount antenna) by the Phase 10 deadline is the safety/efficiency-based decision to use a helicopter lift for the primary antenna and the timing of the availability of the third-party property necessary for the helicopter lift. These factors are the types of situations referred to in Section 73.3700(b)(5)(ii)(B) and (D). And it remains to be seen whether and to what extent the COVID-19 pandemic further affects WVTM-TV's final construction timeline. Thus, the licensee's transition plan for WVTM-TV is to (i) use interim facilities to meet the Phase 10 transition deadline and (ii) complete WVTM-TV's final transition as soon as practicable after the Phase 10 deadline (subject to the contingencies referenced above). Moreover, because WVTM-TV's transition plan includes the successful termination of pre-transition channel 13 operations by the Phase 10 deadline (and cutover to the interim antenna facility to effectuate the timely channel change), the extension of WVTM-TV's repack CP will not affect the nationwide transition. For all these reasons, WVTM-TV respectfully requests the full 180-day extension of its repack construction permit so that the extended CP expiration date would be December 30, 2020.

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¹ See *Guidance for Stations in Phase 9 of the Post-Incentive Auction as a Result of the Novel Coronavirus (COVID-19) Pandemic*, Public Notice, DA 20-282, (rel. Mar. 17, 2020) (“COVID-19 Repack PN”).