

**Request for Extension of WICZ-TV Construction Permit (File No. 0000034576)**

Stainless Broadcasting, L.P. (“Stainless”), licensee of digital television broadcast station WICZ-TV, Binghamton, New York (the “Station”), hereby seeks a 180-day extension, to and including December 30, 2020, of its construction permit for modification of the Station facilities, File No. 0000034576 (the “CP”). The Station has been assigned to Phase 10 of the post-Incentive Auction “repack” of the television band, and the CP accordingly now carries an expiration date of July 3, 2020, the Phase 10 completion date. For a variety of reasons, Stainless seeks additional time to construct the Station facilities specified in the CP. Stainless emphasizes that, with Commission grant of its contemporaneously filed request for Special Temporary Authority, it will commence operation with interim facilities on its new Channel 7 by the July 3, 2020 Phase 10 deadline.

By Public Notice released August 27, 2018, DA 18-884, the Chief of the Commission’s Media Bureau reminded television licensees that, *inter alia*, the deadline for Phase 10 station construction permit extension requests was April 6, 2020. At the time of that deadline, Stainless anticipated that it would be able to complete installation of the permanent Station facilities in a timely fashion. Since that deadline, Stainless has worked diligently to meet the deadline. However, despite those efforts, given the project’s scope and complexity, Stainless cannot be certain that it will be able to complete construction of the permanent Channel 7 facilities by July 3, 2020. It is therefore prudent for Stainless to seek this CP extension and related waiver of the April 6, 2020 deadline. Both are respectfully requested.

Grant of the requested extension is warranted for multiple reasons. The project’s complexity derives in substantial part from the fact that the new Channel 7 antenna is being installed as part of a candelabra formation at the top of a tower that overall measures 934 feet

above ground. As is commonly recognized, tall towers (i.e., those more than 500 feet above ground) make for more difficult, complicated, and risky installations.<sup>1</sup> In the case of WICZ-TV, this translates to a multifaceted installation plan that entails removal of an old antenna before installation of the new, along with coordination of the project's tower and helicopter crews, all subject to certain circumstances beyond Stainless' control, including weather.

It is also relevant that this spring, Stainless encountered unanticipated delays in the performance of a geo-tech soil boring test under the tower foundation in conjunction with the tower structure analysis. An additional delay was caused by the need to take additional tower measurements for the antenna/tower structure "wedding cake" adapter. A further complicating factor has been the unfortunate advent of COVID-19, which has forced Stainless' engineers and many helping to implement the television industry repack to reshape their routines. Against this background, Stainless has worked to place itself in position to accomplish the switch to interim Channel 7 facilities by July 3. Stainless, however, cannot be certain of its ability to complete by that same deadline installation of the permanent Station facilities authorized by the CP. Stainless' current assessment is that it will be able to complete the permanent installation within 30 days of July 3. Out of an abundance of caution, Stainless nonetheless here seeks the standard, one-time 180-day extension.

Stainless notes that its request is entirely consistent with FCC rules and policies. That is, the FCC may grant a waiver for good cause shown.<sup>2</sup> A waiver is appropriate where the

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<sup>1</sup> In its tower equipment and rigging costs section, FCC Form 399 recognizes towers above 500' AGL as "tall." See also American Tower's *Broadcast Buzz*, Jan. 2019 Edition, at ¶ 8 ("on-tower work requires special skill sets, particularly construction on tall broadcast towers."), available at <https://www.americantower.com/us/news-and-events/broadcast-buzz/January-2019.html>.

<sup>2</sup> 47 C.F.R. § 1.3.

particular facts make strict compliance inconsistent with the public interest.<sup>3</sup> 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.<sup>4</sup> Such a waiver is appropriate if circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.<sup>5</sup>

The facts and circumstance presented above clearly justify both grant of the CP extension and waiver of the filing deadline. Stainless has acted with diligence during the repack in a good faith effort to meet the Phase 10 deadline. Those efforts have put the Station in position to transition on or before July 3 to interim facilities on new RF Channel 7, with permanent operations pursuant to the CP to follow after the Phase 10 deadline passes. Grant of these requests will therefore have no cognizable impact on the FCC's overall repack timelines, while allowing Stainless to complete the WICZ-TV transition in an orderly fashion and thereby continue to provide service to the public through continuous Station operation.

Stainless notes that grant of this request would provide substantial public interest benefits. The Station provides an important voice in the Binghamton NY DMA. Grant of this extension will directly promote the continuation of service from this Station.

For all of the foregoing reasons, a waiver of the extension request filing deadline and an extension of an additional 180 days to construct the Station's repacked facilities is amply justified, relief which is respectfully requested.

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<sup>3</sup> *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>4</sup> *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular*, 897 F.2d at 1166.

<sup>5</sup> *Northeast Cellular*, 897 F.2d at 1166.