



Federal Communications Commission
Washington, D.C. 20554

March 2, 2020

Nexstar Broadcasting, Inc.
Elizabeth Ryder
545 E. John Carpenter Freeway
Suite 700
Irving, TX 75062

Re: Requests for Extension of
Construction Permit
WJBF, Augusta, GA
WGMB-TV, Baton Rouge, LA
WFXV, Utica, New York
Facility ID No. 12520, 27140 and 43424
LMS File No. 0000106748,
00000106749 and 0000106750

Dear Licensee,

On February 27, 2020, Nexstar Broadcasting, Inc. (Licensee), the licensee of Stations WJBF, Augusta, Georgia (WJBF); WGMB-TV, Baton Rouge, Louisiana (WGMB); and WFXV, Utica, New York (WFXV) (collectively the Stations), filed the above captioned applications seeking an extension of the Stations' construction permit expiration dates and waivers of the 90-day construction permit extension filing deadline. For the reasons below, we grant Licensee's requests and extend the Stations' construction permit expiration dates to September 9, 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 8 stations, such application was due by December 16, 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

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).

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

WJBF was repacked from channel 42 to channel 28; WGMB from channel 45 to 24; and WFXV from channel 34 to channel 27 and all of the Stations were assigned to transition Phase 8, which has a phase completion date of March 13, 2020. All repacked stations for Phase 8 were issued a construction permit with an expiration date of March 13, 2020. The Stations pledge to cease operation on their pre-auction channels by the phase completion date and operate temporary facilities while they complete construction of their permanent post-auction facilities.⁵

Licensee states that, although the Stations had intended to transition to their post-auction channels by the phase completion date, it is experiencing delays due to various uncontrollable issues in the field ranging from weather, equipment availability and crew availability. In light of these delays, Licensee requests 180-day extensions.

Licensee 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 of the deadline.

Discussion. Upon review of the facts and circumstances presented, we find Licensee's requests to extend the construction permit deadline to construct the Stations' post-auction facilities meets the requirements for a construction permit extension. Licensee has demonstrated that extensions are needed because of weather, equipment delivery and tower crew delays. We also find that grant of these extensions is not likely to negatively impact the overall transition schedule. The Stations will cease operations on their pre-auction channels by the Phase 8 completion date and operate temporary facilities. To the extent viewers are unable to receive the Stations' signals while they operate a temporary facility, we believe that Licensee 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 Licensee was unaware at the time an extension request was due that an extension of the Stations' construction permits 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 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, Nexstar Broadcasting, Inc.'s applications for extension of construction permit expiration dates **ARE GRANTED**. The construction permits (LMS File No.

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 requests for special temporary authority for the Stations' temporary facilities, Licensee 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.").

0000027707, 0000028403 and 0000029986) for WGMB-TV, Baton Rouge, Louisiana; WJBF, Augusta, Georgia and WFXV, Utica, New York **ARE EXTENDED to September 9, 2020**. Grant of these extensions does not permit the Stations to recommence operation on their pre-auction channels after ceasing operation or after March 13, 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,



Barbara A. Kreisman
Chief, Video Division
Media Bureau

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