



Federal Communications Commission
Washington, D.C. 20554

August 9, 2019

ION Media Syracuse License, Inc.
ION Media Philadelphia License, Inc.
ION Media Washington License, Inc.
ION Media of Scranton, Inc.
ION Media License Company, LLC
601 Clearwater Park Road
West Palm Beach, FL 33401

Re: Request for Extension of
Construction Permit
WSPX-TV, Syracuse, NY
WPPX-TV, Wilmington, DE
WPXW-TV, Manassas, VA
WINP-TV, Pittsburgh, PA
WPXN-TV, New York, NY
Facility ID Nos. 2325, 41314, 51954,
74091, and 73356
LMS File Nos. 0000072539,
0000072540, 0000072542, 0000076687,
and 0000078618

Dear Licensees,

ION Media Syracuse License, Inc., licensee of WSPX-TV, Syracuse, New York (WSPX); ION Media Philadelphia License, Inc., licensee of WPPX-TV, Wilmington, Delaware (WPPX); ION Media Washington License, Inc., licensee of WPXW-TV, Manassas, Virginia (WPXW); ION Media of Scranton, Inc., licensee of WINP-TV, Pittsburgh, Pennsylvania, and ION Media License Company, LLC, licensee of WPXN-TV, New York, New York (WPXN) (collectively "ION" and "Stations") have all filed the above captioned applications seeking extensions of the Stations' construction permit expiration dates and waivers of the 90-day construction permit extension filing deadline. For the reasons below, we grant ION's requests and extend the Stations' construction permit expiration dates 180 days to January 29, 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 4 stations, such application was due by May 6, 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

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

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

WPPX was repacked from channel 31 to channel 34; WSPX from channel 15 to channel 36; WPXW from channel 34 to channel 35; WINP from channel 38 to channel 16; and WPXN from channel 31 to channel 34. All of the Stations were assigned to transition Phase 4, which had a phase completion date of August 2, 2019. The Stations all ceased operation on their pre-auction channels by the August 2, 2019 deadline and are currently operating from interim facilities on their post-auction channel while they complete construction of their permanent post-auction facilities. All repacked stations for Phase 4 were issued a construction permit with an expiration date of August 2, 2019.

ION explains that the Stations had intended to transition to their post-auction channels during Phase 4 using their permanent post-auction facilities, however due to unanticipated construction delays and technical challenges at each of the Stations' construction sites, ION had to transition the Stations to their post-auction channels utilizing interim facilities. ION also requests waivers of the 90-day construction permit extension filing deadline.

Discussion. Upon review of the facts and circumstances presented, we find ION's requests to extend the construction permit deadlines to construct the Stations' post-auction facilities meet the requirements for a construction permit extension. In each request, ION has demonstrated that an extension is needed because of unanticipated construction delays and/or technical challenges. We also find that grant of this extension request is not likely to negatively impact the overall transition schedule. The Stations have all ceased operations on their pre-auction channels and are currently operating interim facilities on their post-auction channels. To the extent some viewers are unable to receive the Stations' signals while they operate an interim facility, we believe that ION 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.⁵

We remind ION 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."⁶ Additional expenses incurred, for instance,

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*, 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).

⁵ *Id.*

⁶ See *Media Bureau Finalizes Reimbursement Form for Submission to OMB and Adopts Catalog of Expenses*, GN Docket No. 12-268, Public Notice, 30 FCC Rcd 11701, 11701-02 (MB 2015). 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.").

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, ION's applications for extension of construction permit expiration date and waivers of the construction permit extension filing deadline **ARE GRANTED**. The construction permits (LMS File Nos. 0000034405, 0000034931, 0000064525, 0000068032, and 0000034356) for the above captioned Stations **ARE EXTENDED 180 days to January 29, 2020**. Grant of these extension requests does not permit the Stations to recommence operation on their pre-auction channels. We also remind ION that any subsequent requests for extension of its construction permit deadline will be subject to the Commission's tolling provisions.⁷

Sincerely,

A handwritten signature in black ink, appearing to read 'Barbara A. Kreisman', with a long horizontal flourish extending to the right.

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail):
Bianca Frye
Terri Santisi

⁷ See 47 CFR § 73.3700(b)(5)(i) (referencing 47 § CFR 73.3598(b)).