



Federal Communications Commission
Washington, D.C. 20554

December 11, 2018

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

Re: Request for Extension of
Construction Permit
KASW, Phoenix, AZ
Facility ID No. 7143
LMS File No. 0000063733

Dear Licensee,

On November 26, 2018, Nexstar Broadcasting, Inc. (Nexstar), the licensee of Station KASW(TV), Phoenix, Arizona (KASW or 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 Nexstar's requests and extend KASW's construction permit expiration date to January 29, 2019.

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 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*, 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).

KASW has ceased operation on its pre-auction channel and commenced operation on its post-auction channel from an interim facility.⁵ According to Nexstar, it is unable to complete construction of its authorized post-auction facility as the result of delays caused by local permitting and tower rigging issues. In light of these facts, Nexstar requests an extension of its construction permit until January 29, 2019. Nexstar also requests waiver of the 90-day construction permit extension filing deadline because it claims it was not aware until after the filing deadline had passed that it would require an extension of its construction permit.

Discussion. Upon review of the facts and circumstances presented, we find Nexstar's request to extend the construction permit deadline to construct KASW's post-auction facility meets the requirements for a construction permit extension. Nexstar has demonstrated that an extension is needed due to tower rigging and local permitting issues beyond its control. We also find that grant of this extension request is not likely to negatively impact the overall transition schedule. The Station has ceased operation on its pre-auction channel and commenced operation on its post-auction channel from an interim facility. To the extent some viewers are unable to receive signal while it operates from its interim facility, we believe that Nexstar 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.⁶

The above facts considered, Nexstar's application for extension of construction permit expiration date **IS GRANTED**. The construction permit for KASW, Phoenix, AZ, **IS EXTENDED** for 60 days to **January 29, 2019** (LMS File No. 0000048389). Grant of this extension does not permit KASW to recommence operation on its pre-auction channel. We also remind Nexstar that any subsequent requests for extension of its construction permit deadline will be subject to the Commission's tolling provisions.⁷

Sincerely,



Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail):
Christine Reilly, Esq.

⁵ See Transition Progress Report, LMS File No. 0000063973 (indicating the station has ceased operations on its pre-auction channel). A request for special temporary authority (STA) to operate at variance from the parameters in the Station's post-auction construction permit has been filed and granted by the Commission. See LMS File No. 0000063677.

⁶ See *supra* note 4.

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