



PUBLIC NOTICE

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DA 09-784

Released: April 7, 2009

MEDIA BUREAU PROVIDES GUIDANCE ON REQUESTS FOR ADDITIONAL TIME TO CONSTRUCT NEW BROADCAST STATIONS ASSIGNED TO ELIGIBLE ENTITIES PURSUANT TO SECTION 73.3598(a)

By: Chief, Media Bureau

The Commission recently provided certain broadcast assignees with an opportunity to receive additional time to complete construction of new broadcast stations with expiring construction permits.¹ Section 73.3598(a), as revised, provides that an eligible entity acquiring an “issued and outstanding” construction permit for a new unbuilt broadcast station shall have the time remaining on the construction permit or eighteen months from the consummation of the assignment or transfer of control, whichever is longer, within which to complete construction and file a license application.² The Media Bureau (“Bureau”) is issuing this Public Notice to provide additional guidance concerning how it will process assignment applications from eligible entities requesting additional time to construct. Additionally, the Bureau is establishing a transition period, through May 2009, in which it will provide such applicants greater flexibility.

Both Section 73.3598(a) and the *Diversification Order* assume that the eligible assignee seeking additional time will be acquiring a permit that has not yet expired.³ Neither, however, provides specific guidance, and the Bureau has received numerous inquiries from applicants contemplating transactions for which insufficient time remains to consummate prior to permit expiration.

Broadcast permits forfeit automatically by operation of law upon expiration.⁴ The mere filing of an assignment application is not a basis for additional construction time.⁵ An eligible assignee wishing to avail itself of the additional time provided by the new rule must, therefore, consummate the transaction

¹ See *In the Matter of Promoting Diversification of Ownership in the Broadcast Services*, Report and Order and Third Further Notice of Proposed Rulemaking, 23 FCC Rcd 5922 (2008) (“*Diversification Order*”).

² 47 C.F.R. § 73.3598(a).

³ *Id.* (requiring that the permit be “outstanding”); *Diversification Order*, 23 FCC Rcd at 5928-31 (providing additional time when an eligible entity acquires an “expiring construction permit”).

⁴ See *1998 Biennial Regulatory Review, Streamlining of Mass Media Applications*, Report and Order, 13 FCC Rcd 23056, 23091 (1998); 47 C.F.R. § 73.3598(e).

⁵ See *1998 Biennial Regulatory Review, Streamlining of Mass Media Applications*, Memorandum Opinion and Order, 14 FCC Rcd 17,525, 17533 (1999). See, e.g., *Letter to Kevin Ortiz, K286BI, Tonto Basin, AZ* (MB Jan. 23, 2008) (denial of additional time and dismissal of assignment application filed only one day prior to permit expiration).

prior to the permit's existing expiration date. Applications invoking Section 73.3598(a) should generally be on file at least 90 days prior to permit expiration to allow sufficient time for the staff to act on the application and for the applicant to close on the transaction, once approved. Recognizing, however, that the rule is new and that a transition period would be useful, the Bureau will apply relaxed processing standards to eligible entity applications for a limited time. Specifically, the Bureau will accept an application proposing the assignment of an expiring permit to an eligible entity provided that the application is filed on or before May 31, 2009, and the permit has not expired prior to application filing. Any such assignment will be conditioned upon consummation within 30 days of grant.

Beginning with applications filed June 1, 2009, the Bureau will require that an eligible entity consummate an authorized acquisition of a construction permit prior to its expiration date to avail itself of the additional time provided by Section 73.3598(a).

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