

INSTRUCTIONS FOR FCC 337

APPLICATION FOR EXTENSION OF TIME TO CONSTRUCT A DIGITAL TELEVISION BROADCAST STATION

GENERAL INSTRUCTIONS

- A. This FCC Form is to be used by all permittees to apply for an extension of time within which to construct a commercial or noncommercial educational digital television (DTV) broadcast station. The DTV construction timetable established by the Commission is set forth in 47 C.F.R. Section 73.624(d)(1). FCC Form 337 should be filed at least 60 days, but no more than 90 days, prior to the applicable construction deadline. See 47 C.F.R. Section 73.624(d)(3).
- B. This FCC Form must be filed electronically. Paper versions of FCC Form 337 will not be accepted for filing, unless accompanied by an appropriate request for waiver of the electronic filing requirement. Filers can access the electronic filing system via the Internet from the Media Bureau's Web site at: <http://www.fcc.gov/mb>.
- C. Applicants should provide all information requested by this application. If any portions of the application are not applicable, the applicant should so state. **Defective or incomplete applications will be returned without consideration.** Inadvertently accepted applications are also subject to dismissal.
- D. In accordance with 47 C.F.R. Section 1.65, applicants have a continuing obligation to advise the Commission, through amendments, of any substantial and material changes in the information furnished in this application. This requirement continues until the FCC action on this application is no longer subject to reconsideration by the Commission or review by any court.
- E. A copy of the completed application and all related exhibits shall be made available for inspection by the public in the applicant's public inspection file pursuant to 47 C.F.R. Sections 73.3526 or 73.3527, unless the applicant requests confidentiality consistent with 47 C.F.R. Section 0.459.
- F. **The applicant must sign the application.** Depending on the nature of the applicant, the application should be signed as follows: if a sole proprietorship, personally; if a partnership, by a general partner; if a corporation, by an officer; for an unincorporated association, by a member who is an officer; if a governmental entity, by such duly elected or appointed official as is competent under the laws of the particular jurisdiction. Counsel

may sign the application for his or her client, but only in cases of the applicant's disability or absence from the United States. If the application is filed electronically, the signature will consist of the electronic equivalent of the typed name of the individual. See Report and Order in MM Docket No. 98-43. 13 FCC Rcd 23056, 23064 (1998), on reconsideration, 14 FCC Rcd 17525 (1999).

QUESTION-BY-QUESTION INSTRUCTIONS

- A. **Item 1: Applicant Name.** The legal name of the applicant must be stated exactly in Item 1. If the applicant is a corporation, the applicant should list the exact corporate name; if a partnership, the name under which the partnership does business; if an unincorporated association, the name of an executive officer, his/her office, and the name of the association; and, if an individual applicant, the person's full legal name.

Applicants should use only those state abbreviations approved by the U.S. Postal Service.

FCC Registration Number (FRN). To comply with the Debt Collection Improvement Act of 1996, the applicant must enter its FRN number, a ten-digit unique entity identifier for anyone doing business with the Commission. The FRN can be obtained through the FCC webpage at <http://www.fcc.gov> or by manually submitting FCC Form 160. FCC Form 160 is available for downloading from <http://www.fcc.gov/formpage.html> or by calling 1-800-418-3676. Questions concerning the FCC Registration Number can be directed to the Commission's Registration System help desk at <http://www.CORES@fcc.gov> or by calling 1-877-480-3201.

Facility ID Number. TV Facility ID Numbers can be obtained at the FCC's Internet Website at www.fcc.gov/mb. Once at this website, scroll down and select CDBS Public Access. You can also obtain your TV Facility ID Number by calling (202) 418-1600. Further, the Facility ID Number is now included on all TV authorizations and postcards.

- B. **Item 2: Contact Representative.** If the applicant is represented by a third party (for example, legal counsel), that person's name, firm or company, mailing address and telephone/electronic mail address may be specified in Item 2.

- C. **Item 3: Facility Information.** This question asks the applicant to specify: (1) whether commercial or noncommercial educational DTV operation is proposed; and (2) the community to which the station will be licensed.
- D. **Item 4: Purpose of Application.** This question asks whether FCC Form 337 is being filed for additional time within which to construct a new DTV station or to modify the facilities authorized in an outstanding construction permit. It also requires that the applicant identify the permit covered.
- E. **Item 5: Reason for Delay in Construction.** In the Fifth Report and Order in MM Docket No. 87-268, 12 FCC Rcd 12809 (1997), on reconsideration, 13 FCC Rcd 6860 (1998), the Commission announced its willingness to grant, on a case-by-case basis, an extension to the applicable DTV construction deadline where a broadcaster has been unable to complete construction due to circumstances that are either unforeseeable or beyond the permittee's control, provided the broadcaster has taken all reasonable steps to resolve the problem expeditiously. The Commission also stated that it would modify its existing policies regarding extensions, taking into account problems encountered that are unique to the DTV conversion.

In the Report and Order in MB Docket No. 07-91, __ FCC Rcd __ (2007), the Commission adopted a stricter standard for the grant of an extension of the applicable DTV construction deadline. See 47 C.F.R. § 73.624(d)(3) (2007).

First, stations may no longer obtain an extension because of technical reasons, such as equipment delays. Second, the Commission tightened the financial showing required for an extension. While previously requiring a showing that the cost of meeting the minimum build-out requirements exceeded the station's financial resources, the Commission now requires a showing that the station is (1) the subject of a bankruptcy or receivership proceeding, or (2) experiencing severe financial hardship, as defined by negative cash flow for the past three years. In order to be considered for an extension due to financial hardship, a station must: (1) submit proof that they have filed for bankruptcy or that a receiver has been appointed, or (2) submit an audited financial statement for the previous three years. In addition, the station must submit a schedule that outlines the time period for the completion of construction. To the extent that an applicant's description of its financial condition sets forth information that is proprietary and not customarily disclosed to the public, the applicant may request that the Commission treat the information as confidential. See 47 C.F.R. Section 0.459.

The Commission will continue to consider extension requests where the station is facing legal obstacles, where resolution of the issue is truly beyond the control

of the station. Such circumstances may include, for example, where a station is awaiting Commission action on an application for a DTV construction permit and action is delayed for reasons beyond the station's control (e.g., obtaining required governmental approvals such as FAA, Canadian and Mexican clearance) or where the Commission's action on the application is the subject of a court appeal.

In addition, the Commission will continue to consider other circumstances that are either unforeseeable or beyond the station's control. Such circumstances may include, for example, acts of God, terrorism, and such natural disasters as floods, tornadoes, hurricanes, earthquakes and other calamities that are unforeseeable events warranting additional time to construct.

In responding to this question, the applicant should attest to the nature of the problem(s) preventing the timely completion of construction and provide a detailed explanation of the reason(s) requiring an additional time to construct its station's DTV facilities.

NOTE: Underlying documentation need not be filed with FCC Form 337. However, such documentation fully detailing and supporting the representations and descriptions provided in response to question 5 and, if applicable, question 6 below shall be kept at the station for as long as the extension of time is in effect and shall be made available upon request by the Commission. With respect to a station's claimed financial condition, the applicant should have available an audited profit and loss statement for its most recent fiscal year at the time of the filing of FCC Form 337 or similar probative financial documentation.

- F. **Item 6: Most Recent Construction Period.** Where the station had previously received an extension of time to construct, the "most recent construction period" is the period between the grant date and the expiration date of the latest extension. This application for extension of time will be evaluated according to the progress and efforts made, or circumstances which occurred, during the most recent construction period. See, Rainbow Broadcasting Company, 11 FCC Rcd 1167 (1995).
- G. **Item 7: Construction Completion Date.** In accordance with its station's DTV construction plan, the applicant should set forth the date by which it reasonably expects, under its circumstances, to complete construction. Pursuant to the Commission's rules, the staff may grant no more than two, six-month extensions of time to construct DTV facilities. See 47 C.F.R. 73.624(d)(3). Where the applicant is unable now to project its anticipated construction completion date, it should describe the reasonable, good faith measures it is and will be taking to expeditiously resolve its incapacity to construct the station's DTV facilities.

H. **Item 8: Anti-Drug Abuse Act Certification.** This question requires the applicant to certify that neither it nor any party to the application is subject to denial of federal benefits pursuant to the Anti-Drug Act of 1988, 21 U.S.C. Section 862.

Section 5301 of the Anti-Drug Abuse Act of 1988 provides federal and state court judges the discretion to deny federal benefits to individuals convicted of offenses consisting of the distribution or possession of controlled substances. Federal benefits within the scope of the statute include FCC authorizations. A “Yes” response to Item 8 constitutes a certification that neither the applicant nor any party to this application has been convicted of such an offense or, if it has, it is not ineligible to receive the authorization sought by this application because of Section 5301.

NOTE: With respect to this question, the term “party to the application” includes if the applicant is an individual, that individual; if the applicant is a corporation or unincorporated association, all officers, directors, or persons holding 5 percent or more of the outstanding stock or shares (voting and/or non-voting) of the applicant; all members if a membership association; and if the applicant is a partnership, all general partners and all limited partners, including both insulated and non-insulated limited partners, holding a 5 percent or more interest in the partnership.

FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT

We have estimated that each response to this collection of information will take 1 hour. Our estimate includes the time to read the instructions, look through existing records, gather and maintain the required data, and actually complete and review the form or response. If you have any comments on this burden estimate, or on how we can improve the collection and reduce the burden that it causes you, please e-mail them to pra@fcc.gov or send them to the Federal Communications Commission, AMD-PERF, Paperwork Reduction Project (3060-0407), Washington, DC 20554. Please DO NOT SEND COMPLETED APPLICATIONS TO THIS ADDRESS. Remember - you are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0407.

THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, P.L. 104-13, OCTOBER 1, 1995, 44 U.S.C. Section 3507.

FCC 337

APPLICATION FOR EXTENSION OF TIME TO CONSTRUCT A DIGITAL TELEVISION BROADCAST STATION

FOR
FCC
USE
ONLY

FOR COMMISSION USE ONLY
FILE NO.

1. Legal Name of the Applicant		
Mailing Address		
City	State or Country (if foreign address)	ZIP Code
Telephone Number (include area code)		E-Mail Address (if available)
FCC Registration Number	Call Sign	Facility Identifier

2. Contact Representative (if other than Applicant)		Firm or Company Name
Mailing Address		
City	State or Country (if foreign address)	ZIP Code
Telephone Number (include area code)		E-Mail Address (if available)

3. **Facility Information.**

- a. Commercial b. Noncommercial Educational

c. Community of License:

City	State
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4. **Purpose of Application.** Applicant requests an extension of time in which to complete the construction authorized pursuant to (check one):

- a permit for a new DTV station Permit No. _____ Expiration Date _____
- a modification of a DTV construction permit Permit No. _____ Expiration Date _____

5. Applicant certifies that construction cannot be completed due to (check all that apply):

- legal reasons beyond station's control (e.g., litigation, international coordination).
- severe financial hardship (e.g., bankruptcy, negative cash flow).
- other reasons (e.g., natural disasters).

Exhibit No. 1

Describe in an Exhibit the specific reason(s) requiring additional time to construct, including the steps taken by the applicant to solve or mitigate the problem(s).

6. Has the construction period for this station been previously extended?

Yes No

a. If Yes, describe in an Exhibit the applicant's diligent efforts during the most recent construction period to overcome the circumstance(s) preventing construction.

Exhibit No. 2

7. Applicant requests that the time within which to complete construction be extended until: _____

a. If applicant is not able to state now when construction is expected to be completed, describe in an Exhibit the reasonable steps it is taking to resolve the problem(s) preventing timely construction.

Exhibit No. 3

8. **Anti-Drug Abuse Act Certification.** Applicant certifies that neither applicant nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.

Yes No

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations. I hereby waive any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and request an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

Typed or Printed Name of Person Signing	Typed or Printed Title of Person Signing
Signature	Date

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION I 001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).