



Federal Communications Commission  
Washington, D.C. 20554

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MAR 20 2014

In Reply Refer to: 1800B3-VM

MAILED

In re: KQTC(FM), Eldorado, Texas  
Facility ID No. 1904504  
MAY 07 2014  
FCC Mail Room

Tolling request

Dear Mr. Peltzman:

Saver Media, Inc. ("SMI"), permittee of Station KQTC(FM), Eldorado, Texas,<sup>1</sup> filed a Request for Tolling on December 16, 2013. SMI bases its request for tolling on the delays that it is experiencing in getting a grant of a pending application for modification of CP to move the transmitter site to a new location.<sup>2</sup> Pursuant to Section 73.3598(b), tolling is not available under the circumstances listed in BBC's request.<sup>3</sup>

In support of its request, SMI states that the CP was granted on February 20, 2013, after being contested by a local competitor, Danny Ray Boyer. It expires on February 20, 2016. The original permittee was Tony Cuellar, who subsequently filed and was granted a short-form application for assignment of CP to SMI, which is wholly owned by Mr. Cuellar and his wife. At the same time, SMI filed the Application, which is also opposed by Danny Ray Boyer, and remains pending.

The request for tolling does not offer *any* reason, much less a reason beyond its control within the meaning of Section 73.3598(b), why SMI can't build at its authorized site. SMI's entire request is based on its inability to get its Application granted to change its transmitter site. Site-related difficulties generally do not qualify for tolling because applicants select the proposed site. In the limited situations in which a site-related matter falls within the tolling rule, such as site-related litigation, the Commission has consistently based tolling decisions on factors related to construction impediments at authorized sites, and not on construction impediments at proposed alternate sites. A request based on difficulties involving an alternate, not-yet-authorized, site cannot provide the basis for tolling at the authorized site.<sup>4</sup> Based on the foregoing, the Request for Tolling filed by Saver Media, Inc., IS DENIED.

Sincerely,

Peter H. Doyle, TH  
Peter H. Doyle  
Chief, Audio Division  
Media Bureau

<sup>1</sup> File No. BNPH-20120520ALB ("CP").

<sup>2</sup> File No. BMPH-20130725ADU ("Application").

<sup>3</sup> Tolling of the construction period can be granted under the following circumstances: 1) Act of God (e.g., tornado, flood, hurricane, earthquake); 2) administrative review of the grant of the permit; 3) judicial review of the grant of the permit; or 4) failure of a condition precedent on the permit (e.g., prior channel substitution of another station). See 47 C.F.R. §73.3598(b); 1998 Biennial Regulatory Review—Streamlining of Mass Media Application Rules and Processes, Report and Order, 13 FCC Rcd 23056 (1998), recon. granted in part and denied in part, Memorandum Opinion and Order, 14 FCC Rcd 17525, 17540 (1999).

<sup>4</sup> See Christopher Imlay, et al., Letter, 24 FCC Rcd 11809 (2009), aff'd, 28 FCC Rcd 4857 (2013).