



Federal Communications Commission  
Washington, D.C. 20554

April 5, 2019

Eastern Television Corporation  
P.O. Box 310  
Bayamon, PR 00960

Re: Request for Tolling  
WRUA, Fajardo, PR  
Facility ID No. 15320  
LMS File No. 0000067259

Dear Licensee,

On January 28, 2019, Eastern Television Corporation (ETC), the licensee of WRUA, Fajardo, Puerto Rico (WRUA or Station), filed the above captioned request for tolling of the Station's construction permit expiration date. For the reasons below, we grant ETC's request and toll the expiration date of WRUA's construction permit for 180 days from the date of this letter to **October 2, 2019**.

*Background.* Pursuant to Section 73.3700(b)(5) of the Commission's rules (Rules), a station that was assigned a new channel as a result of the Commission's incentive auction and repacking process may request a single extension of its construction permit deadline of up to 180 days to complete construction of its post-auction facility.<sup>1</sup> All subsequent requests for additional time to construct are subject to the Commission's tolling provisions of Section 73.3598(b) of the Rules.<sup>2</sup> The Commission's tolling provisions provide that a construction permit deadline may be tolled under specific circumstances such as acts of God, delays due to administrative or judicial review, or construction that is delayed by any cause of action pending before a court of competent jurisdiction relating to any necessary local, state, or federal requirement for the construction or operation of the station, including any zoning or environmental requirement.<sup>3</sup>

In the instant request, ETC notes that during the post-incentive auction transition period the Station's pre-auction facilities were destroyed in Hurricane Maria. After requesting and receiving a phase change from the Commission, ETC was recently able to resume operations on the Station's post-auction channel with reduced power from another temporary location that has power. ETC was granted a 180-

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<sup>1</sup> See 47 CFR § 73.3700(b)(5). 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. 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. 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).

<sup>2</sup> 47 CFR § 73.3598(b).

<sup>3</sup> *Id.*

day extension of its post-transition channel construction permit.<sup>4</sup> ETC now seeks additional time to complete construction of its post-transition channel facilities pursuant to the Commission's tolling provisions in Section 73.3598 of the rules. ETC cites to an Act of God – Hurricane Maria – as justification for tolling of its construction permit. ETC demurs, the tower remains unserved by commercial electrical power, as the substation was destroyed by the hurricane and has yet to be replaced. ETC states that it has ordered and received the antenna and transmitter for its post-auction channel facility and is “ready and willing” to build out the new facility. Therefore, ETC requests that the construction permit be tolled while it completes construction.

*Discussion.* Upon review of the facts and circumstances presented, we find that ETC has demonstrated that it was unable to complete construction of the Station's post-auction channel facilities due to Hurricane Maria – an “Act of God” tolling event that was outside of its control. We find that grant of ETC's tolling request is not likely to negatively impact the overall transition schedule and will not cause interference to other stations. The Station has already ceased operation on its pre-auction channel, has resumed operations on its post-auction channel at reduced power, and ETC is actively working towards completion of its permanent post-auction channel facilities. We believe that ETC has every incentive to ensure viewers that currently are not able to receive the Station's signal due to its reduced power are fully informed about the Station's plan to resume full operation on its post-auction channel once it is able to complete construction of its post-auction facility. Ultimately, we conclude that the public interest will be served by tolling of the Station's post-transition channel construction permit.

We note that under the circumstances affecting the Station's post-auction transition construction work in the aftermath of Hurricane Maria, we are unable to calculate the exact number of days between the time the tolling event began and ended. Given the totality of the circumstances and consistent with our precedent in similar situations, we find that a 180-day period is a reasonable tolling period. Pursuant to Section 73.3598(b) of the rules, we toll the expiration date of the Station's construction permit for a total of 180 days from the date of this letter.

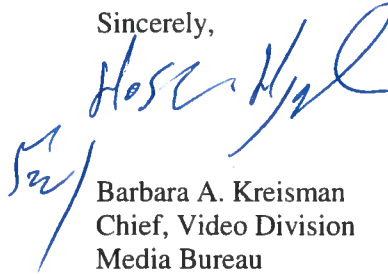
We remind ETC that pursuant to the Spectrum Act, the Station is eligible for reimbursement from the TV Broadcast Relocation Fund (Fund) of costs “reasonably incurred . . . in order for the licensee to relocate its television service from one channel to the other.” Additional expenses incurred, for instance, as a result of the grant of the Station's voluntary phase change or due to other 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. Such additional costs might include, but may not be limited to, additional legal or engineering expenses; filing fees; and interim or additional equipment that was not contemplated when the Station filed its initial estimated expenses but was subsequently necessitated due to its voluntary phase change or other changes in the Station's plans.

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<sup>4</sup> See LMS File No. 0000058611.

The above facts considered, Eastern Television Corporation's request for tolling **IS GRANTED**. The construction permit for WRUA, Fajardo, Puerto Rico **IS TOLLED to October 2, 2019**. Grant of this tolling waiver does not permit ETC to recommence operation on its pre-auction channel. We also remind ETC that any subsequent requests for tolling of its construction permit deadline will be subject to the Commission's tolling provisions.<sup>5</sup>

Sincerely,

A handwritten signature in blue ink, appearing to read "Barbara A. Kreisman", is written over the typed name and title.

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

cc (via electronic mail): Davina Sashkin, Esq.

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<sup>5</sup> See 47 § CFR 73.3598(b).