Federal Communications Commission
Washington, D.C. 20554

April 5, 2019

Ebenezer Broadcasting Group, Inc.
P.O. Box 13428
San Juan, Puerto Rico 00908

Re: Request for Tolling
WIDP, Guayama, PR
Facility ID No. 18410
LMS File No. 0000067291

Dear Licensee,

On January 28, 2019, Ebenezer Broadcasting Group, Inc. (EBG), the licensee of WIDP, Guayama, Puerto Rico (WIDP or Station), filed the above captioned request for tolling of the Station's construction permit expiration date. For the reasons below, we grant EBG's request and toll the expiration date of WIDP'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.[1] All subsequent requests for additional time to construct are subject to the Commission's tolling provisions of Section 73.3598(b) of the Rules.[2] 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.[3]

In the instant request, EBG notes that the Station's pre-auction facilities were destroyed in Hurricane Maria. After requesting and receiving a phase change from the Commission, EBG reports that the Station has resumed operations at reduced power on its post-auction channel. EBG was granted a

[1] *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).

[2] 47 CFR § 73.3598(b).

[3] *Id.*

180-day extension of its post-transition channel construction permit.[4] EBG 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. EBG cites to an Act of God – Hurricane Maria – as justification for tolling of its construction permit. EBG states that obtaining the necessary equipment and resources to restore the Station's facilities has been challenging, as Hurricane Maria greatly strained the accessibility of rigging services and materials in Puerto Rico. EBG maintains that it has "worked assiduously" and is continuing to work to construct the Station's post-auction transmitting facilities, but significant work remains to be done. Therefore, EBG requests that the construction permit be tolled while it completes construction.

Discussion. Upon review of the facts and circumstances presented, we find that EBG 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 EBG'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 EBG is actively working towards completion of its permanent post-auction channel facilities. We believe that EBG 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 EBG 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.

[4] See LMS File No. 0000058596.

The above facts considered, Ebenezer Broadcasting Group, Inc.'s request for tolling **IS GRANTED**. The construction permit for WIDP, Guayama, Puerto Rico **IS TOLLED to October 2, 2019.** Grant of this tolling waiver does not permit EBG to recommence operation on its pre-auction channel. We also remind EBG that any subsequent requests for tolling of its construction permit deadline will be subject to the Commission's tolling provisions.[5]

Sincerely,

For Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Francisco Montero, Esq.

[5] *See* 47 § CFR 73.3598(b).