

Request for Tolling of WNEM-TV Construction Permit File No. 000080625

Meredith Corporation (“Meredith”), licensee of Digital TV Station WNEM-TV, Bay City, Michigan (Facility ID No. 41221), herein requests, pursuant to Section 73.3598(b) of the FCC’s rules, that the construction permit to move WNEM-TV to its post-Incentive Auction channel (the “Repack CP”) be tolled. This request is necessary due to delays in the construction of the new tower that will support the station’s permanent post-auction facilities.

Background: WNEM-TV was assigned to Phase 3 (June 21, 2019) for its transition. Meredith initially planned to upgrade the station’s current tower but as the station began its preparations, it became apparent that upgrading the current tower would be very costly and that it would be less expensive to construct a new tower at the same site. Meredith therefore promptly began working through the process of construction of a new tower, obtaining the requisite zoning, environmental and FAA approvals.

Because of permitting delays related to the construction of the new tower, WNEM-TV obtained Special Temporary Authority (“STA”) to operate on its pre-auction channel with an interim antenna (FCC File Number 0000069078). On June 21, 2019, WNEM-TV began operating pursuant to STA on its post-auction channel with a re-tuned interim antenna (FCC File Number 0000075172). The station transitioned to its post-auction channel on time and did not request (or need) a Phase Waiver for a Phase change. Because the construction of the new tower was not complete, Meredith also submitted an application for extension of the Repack CP (FCC File Number 0000072081). The Repack CP expiration date was extended to December 18, 2019.

Meredith is now filing this request for a tolling waiver as it seems likely that the tower will not be completed and the permanent facilities installed by the current deadline of December 18, 2019. While the new foundations are in place, tower construction has not yet started. The original tower company that was expected to construct the tower recently backed out of the project. While a substitute had been identified, the substitute has now also withdrawn. Meredith is continuing to seek a tower crew to complete the project, but at this time will not be able to start the project in time to meet a December 18, 2019 construction deadline.

Request for Waiver: In the *Incentive Auction Report and Order*, the Commission stated that it would grant six-month extensions of post-auction construction permits pursuant to the incentive auction rules, and that further extensions of time would be subject to the tolling provisions contained in Section 73.3598 of the Commission’s rules.¹ The Media Bureau has noted that in the event that construction of a station has been disrupted by circumstances other than those provided for in its tolling rules, “[s]tatements may also seek a

¹ See Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, *Report and Order*, 29 FCC Rcd 6567, 6804-8806 (2014) (“*Incentive Auction Report and Order*”); 47 C.F.R. §73.3598.

waiver of the tolling rule to receive additional time to construct in cases where ‘rare or exceptional circumstances’ prevent construction.”²

Section 73.3598(b) of the Commission’s rules lists certain causes not under the control of the permittee that shall toll the period of construction for a construction permit. Among those causes are construction delays relating to any necessary local, state or federal requirement for the construction of the station, including zoning requirements. Here, construction on the new tower could not begin until numerous federal, state and local approvals were received including zoning, FAA, environmental, and a Michigan State Tall Structure approval. While all of these approvals have now been received, the station was unable to start construction before tower crew scheduling became difficult and construction delays began. Weather will also soon become a factor, as the station is located in Bay City, Michigan, on Saginaw Bay.

Furthermore, there is good cause for grant of a waiver here. Grant of a waiver will not negatively impact the overall transition schedule and will not cause interference to other stations, as WNEM-TV has already ceased operation on its pre-auction channel and is operating on its post-auction channel with temporary facilities. Good cause therefore exists to waive the tolling provisions of Section 73.3598(b) of the Commission’s rules and extend the expiration of WNEM-TV’s construction permit for six months (*e.g.*, until June 18, 2020), at which point WNEM-TV expects to have licensed its post-transition facilities.

² Public Notice, Incentive Auction Task Force and Media Bureau Remind Repacked Stations of Certain Post-Auction Transition Requirements and Deadlines, 33 FCC Rcd 8240, 8245 n.24 (MB and IATV 2018) *citing* 1998 Regulatory Review – Streamlining of Mass Media Applications, Rules and Processes, *Memorandum Opinion and Order*, 14 FCC Rcd 17525, 17536 at ¶ 42 (1999).