



Federal Communications Commission  
Washington, D.C. 20554

November 15, 2019

Wanda Rolon  
P.O. Box 24  
Toa Alta, PR 00954

Re: Request for Tolling  
WSJN-CD, San Juan, PR  
Facility ID No. 48239  
LMS File No. 0000082470

Dear Licensee,

On September 27, 2019, Wanda Rolon (Rolon), the licensee of WSJN-CD, San Juan, Puerto Rico (WSJN-CD or Station), filed the above captioned request for tolling, as amended, of the Station's construction permit expiration date. For the reasons below, we grant Rolon's request and toll the expiration date of WSJN-CD's construction permit for 180 days to **March 30, 2020**.

*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>

Rolon requests waiver of the tolling rule and tolling of its construction permit for its post-incentive auction channel facilities to March 30, 2020. On April 5, 2019, WSJN-CD was granted a waiver of the tolling rule and its construction permit was tolled to October 2, 2019.<sup>4</sup> WSJN-CD is currently operating an interim facility on its post-auction channel.<sup>5</sup> In the instant request, Rolon states that she has worked diligently to construct the Station's new tower, but according to Rolon significant work remains outstanding. Rolon states that the Station has been working to obtain local permits for the new antenna structure facilities and that surveyor and engineering studies have been completed.

<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.*

<sup>4</sup> LMS File No. 0000067028.

<sup>5</sup> LMS File No. 0000079890.

However, Rolon states, on June 1, 2019, new local construction codes for antennas structures went into effect. As a result, design changes were necessary to comply with the new regulation. In addition, Rolon maintains that obtaining the necessary resources to restore the Station's facilities remains challenging, as Hurricane Maria has greatly strained the availability of riggers and materials in Puerto Rico. Accordingly, Rolon seeks a waiver of the tolling rules and tolling of its construction permit deadline to March 30, 2020.

*Discussion.* Upon review of the facts and circumstances presented, we find that sufficient circumstances exist to waive Section 73.3598(b) of the Rules and to toll the expiration date of the Station's construction permit to March 30, 2020. Specifically, Hurricane Maria, resource limitations, and permitting requirements have resulted in construction delays. We find that grant of Rolon'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 and has resumed operations on its post-auction channel with an interim facility. To the extent some viewers are unable to receive WSJN-CD's signal while it operates using its interim facility, we believe that Rolon has every incentive to ensure viewers are fully informed about the Station's transition plan. Ultimately, we conclude that the public interest will be served by grant of waiver and tolling of the Station's construction permit.

We remind Rolon 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."<sup>6</sup> Additional expenses incurred, such as expenses resulting from changes in a Station's transition plan that are not related to the post-incentive auction channel change, may not be reimbursable from the Fund.

The above facts considered, Wanda Rolon's request for tolling **IS GRANTED**. The construction permit for WSJN-CD, San Juan, Puerto Rico **IS TOLLED to March 30, 2020**. Grant of this tolling waiver does not permit WSJN-CD to recommence operation on her pre-auction channel. We also remind Rolon that any subsequent requests for tolling of its construction permit deadline will be subject to the Commission's tolling provisions.<sup>7</sup>

Sincerely,

A handwritten signature in blue ink that reads "Barbara A. Kreisman / for". The signature is written in a cursive, flowing style.

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

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

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<sup>6</sup> 47 U.S.C. § 1452(b)(4)(A)(i). *See also Incentive Auction R&O*, 29 FCC Rcd at 6821, para. 622 ("The appropriate scope of 'costs reasonably incurred' necessarily will have to be decided on a case-by-case basis.").

<sup>7</sup> *See* 47 § CFR 73.3598(b).