



Federal Communications Commission
Washington, D.C. 20554

January 6, 2020

Unimas Partnership of San Antonio
Christopher G. Wood
5999 Center Drive
Los Angeles, A 90045

Re: Requests for Tolling Waiver
KCOR-CD, San Antonio, TX
Facility ID No. 48837
LMS File Nos. 0000093290

Dear Licensee,

Unimas Partnership of San Antonio, the licensee of KCOR-CD, San Antonio, Texas (KCOR-CD) filed the above-referenced request for waiver of the Commission's tolling provisions and tolling of the Station's construction permit expiration date. For the reasons below, we grant Unimas' request and toll the expiration date of the Station's construction permit to June 18, 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.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 If a station does not qualify for tolling under these criteria, good cause may exist to waive the Commission's tolling provisions and tolling may still be warranted where the licensee can demonstrate that "rare and exceptional circumstances" prevented construction by the station's construction permit expiration date.⁴

Unimas requests waivers of the tolling rule and tolling of its construction permit for the Station's post-incentive auction channel facilities to June 18, 2020. KCOR-CD ceased operations on its pre-

¹ See 47 CFR § 73.3700(b)(5).

² See 47 CFR § 73.3700(b)(5)(i) citing 47 CFR § 73.3598(b).

³ *Id.*

⁴ See 1998 Biennial Regulatory Review -- Streamlining of Mass Media Applications, Rules, and Processes, Memorandum Opinion and Order, 14 FCC Rcd 17525, 17542, para. 42 (1999) (recognizing that there may be "rare and exceptional circumstances" beyond the control of the licensee that do not fall under the tolling provisions, but "which would warrant the tolling of construction time." The Commission concluded that in such "limited circumstances," it would entertain requests for waiver of its "strict tolling provisions"); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1072 (1972); 47 CFR § 1.3 (waiver for good cause shown).

auction channel and is currently silent.⁵ KCOR-CD was previously granted a construction permit extension through December 18, 2019.⁶ Unimas notes that it was previously unable to complete construction of the KCOR-CD because of a delay in the delivery of a custom mounting pole for its antenna. Since that time, Unimas states that KCOR-CD has made significant progress toward building out its post-auction channel facility, and it anticipates final construction to be completed sometime in February 2020. To account for additional delays that may occur, however, Unimas requests tolling for KCOR-CD until June 18, 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 dates of the Station's construction permits to June 18, 2020. Unimas has demonstrated that KCOR-CD did not complete construction of its post-auction channel facilities due to construction delays. We also find that grant of Unimas' waiver and tolling request is not likely to negatively impact the overall transition schedule and will not cause interference to other stations. The Station has ceased operations on its pre-auction channel and is currently silent. To the extent viewers are unable to receive KCOR-CD's signal while it is silent, we believe that Unimas has every incentive to ensure viewers are fully informed about the Stations' transition plans. Specifically, we note that KCOR-CD's programming is currently carried on KNIC-DT, Blanco, Texas. Ultimately, we conclude that the public interest will be served by grant of waiver and tolling of the Station's construction permit.

We remind Unimas 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."⁷ Additional expenses incurred, such as expenses resulting from changes in a Stations' transition plans that are not related to the post-incentive auction channel change, may not be reimbursable from the Fund.

The above facts considered, Unimas Partnership of San Antonio, LLC's request for waiver of the Commission's tolling provisions **IS GRANTED**. The construction permits (LMS File Nos. 0000030591) for KCOR-CD, San Antonio, Texas **IS TOLLED to June 18, 2020**. Grant of this tolling waiver does not permit the Station to recommence operation on their pre-auction channels. We also remind Unimas that

⁵ See LMS File No. 0000093276. KCOR-CD was repacked from channel 34 to 27.

⁶ See LMS File No. 0000068560.

⁷ 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.").

any subsequent requests for tolling of its construction permit deadline will be subject to the Commission's tolling provisions.⁸

Sincerely,

A handwritten signature in black ink, appearing to read 'Barbara A. Kreisman', with a long horizontal flourish extending to the right.

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Matthew S. Delnero, Esq.

⁸ See 47 § CFR 73.3598(b).