

Request for Tolling of Construction Permit – WRAZ(TV)

Pursuant to Section 73.3598(b) of the Commission’s rules, 47 C.F.R. § 73.3598(b), WRAZ-TV, Inc. (“WRAZ”), the licensee of WRAZ(TV), Raleigh, North Carolina, Facility ID 8688 (“WRAZ(TV)”), respectfully requests a waiver of the Commission’s tolling provisions as applied to WRAZ’s construction permit for its main post-auction facilities (File No. 0000075888) (the “WRAZ Construction Permit”). WRAZ and WRAL-TV are co-owned by Capitol Broadcasting Company, Inc. (“CBC”) and are collocated on the same tower. CBC is concurrently filing a tolling request for WRAL-TV.

The WRAZ Construction Permit is scheduled to expire on March 9, 2020, following grant of a cumulative 180-day extension (*see* File Nos. 0000088423, 0000080708). WRAZ is currently operating on its post-auction channel with a side-mounted auxiliary antenna. The station ceased operations on its pre-auction channel at the end of Phase 5 of the transition. WRAZ is unable to complete construction of the WRAZ(TV) main antenna facilities until WRAZ and other stations in the market are able to complete their construction of a top-mounted candelabra antenna configuration at the top of the tower. In light of the unusual, rare and extraordinary circumstances presented by the Commission’s unprecedented repacking of hundreds of television stations, and as further described below, out of an abundance of caution WRAZ seeks tolling of the WRAZ Construction Permit for an additional three months, i.e., until **June 9, 2020**.

A station that has previously obtained a 180-day extension of its post-auction construction permit may seek additional time to construct its post-auction facility pursuant to a request to waive the tolling standard set forth in Section 73.3598(b) of the Commission’s rules, upon a showing of rare and exceptional circumstances.¹ The Commission may waive a rule where the particular facts make strict compliance inconsistent with the public interest, special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.² As explained below, such special, rare and extraordinary circumstances are present in the case of WRAZ.

Since WRAZ(TV)’s transition to its post-auction channel at the end of Phase 5, WRAZ has been working diligently to complete construction of the main WRAZ(TV) facility. However, due to severe winter weather and other delays beyond its control, WRAZ has faced significant challenges in scheduling a helicopter crew and other workers needed for the installation. As the Commission is aware, due to the post-auction transition, there is a shortage of qualified crews and, once scheduled, it is not uncommon for a crew to be delayed or rescheduled due to work on other incentive-related construction projects.

WRAZ anticipates that the main antenna will be fully installed and operational in the near future, but it is possible that construction of the WRAZ Construction Permit facility will not be

¹ *See Incentive Auction Task Force and Media Bureau Remind Repacked Stations of Certain Post-Auction Transition Requirements and Deadlines*, Public Notice, 33 FCC Rcd 8240, ¶ 13 & n.34 (2018) (“Stations may also seek a waiver of the tolling rule to receive additional time to construct in the case where ‘rare or exceptional circumstances’ prevent construction”) (citing *1998 Regulatory Review - Streamlining of Mass Media Applications, Rules and Processes*, Memorandum Opinion and Order, 14 FCC Rcd 17525, 17536, para. 42 (1999)).

² *See Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

completed by March 9, 2020 for reasons beyond WRAZ's control. Accordingly, out of an abundance of caution, WRAZ is filing the instant request to toll the expiration date of the WRAZ Construction Permit for three months, to and including June 9, 2020. A grant of this tolling request will not disserve the public interest because WRAZ has ceased broadcasting on its pre-auction channel and is presently serving viewers on its post-auction channel with a side-mounted auxiliary antenna.