



Federal Communications Commission
Washington, D.C. 20554

March 30, 2020

Televiscentro of Puerto Rico, LLC
Javier Maynulet
P.O. Box 362050
Sam Juan, PR 00936

Re: Requests for Tolling
WNJX-TV, Mayaguez, PR
WTIN-TV, Ponce, PR
Facility ID No. 26681 and 73326
LMS File No. 0000109003 and
0000109004

Dear Licensee,

On March 24, 2020, Televiscentro of Puerto Rico, LLC (TPR), the licensee of WNJX-TV, Mayaguez, Puerto Rico (WNJX) and WTIN-TV, Ponce, Puerto Rico (WTIN) (collectively Stations), filed the above captioned requests for tolling of the Stations' construction permit expiration dates. For the reasons below, we grant TPR's requests and toll the expiration dates of the Stations' construction permits to September 28, 2020.¹

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.² All subsequent requests for additional time to construct are subject to the Commission's tolling provisions of Section 73.3598(b) of the Rules.³ 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.⁴

TPR requests waiver of the tolling rule and tolling of its construction permits for its post-incentive auction channel facilities to September 28, 2020. The Stations are currently operating interim

¹ Because 180 days from the Station's current construction expiration date falls on Saturday, September 26, 2020, we will extend the construction permit to the next business day, which would be Monday, September 28, 2020. *See* 47 CFR 1.4.

² *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).

³ 47 CFR § 73.3598(b).

⁴ *Id.*

facilities on their post-auction channels.⁵ The Stations were each granted an extension and then two waivers of the tolling rule and their construction permits currently expire on March 30, 2020.⁶ TPR states that extensive modifications to each of the Stations' towers is still needed before the Stations' permanent antennas can be installed. Work on the Stations' towers has been delayed due to the high demand for tower crews that have the necessary equipment due to the increasing number of television stations going through the repack process. TPR also maintains that these difficulties have been exacerbated because of the travel restrictions and quarantines resulting from the COVID-19 global pandemic. TPR states that crews that would need to travel to Puerto Rico to conduct the tower work are unable to do so and the Governor of Puerto Rico has instituted a lock down of most businesses. After the restrictions with respect to the pandemic are lifted, TPR states that it will continue its efforts towards completing its final post-auction facility.

In the case of WNJX, TPR states that the work is also delayed because the necessary tower reinforcement must be coordinated with two other stations that operate from the same tower—WIPM-TV, Mayaguez, Puerto Rico, and WJWN-TV, San Juan, Puerto Rico, both of which are also repacked and have similarly sought extensions and tolling of the construction permits for their post-incentive auction channel facilities.⁷ Accordingly, TPR seeks a waiver of the tolling rules and tolling of its construction permit deadline.

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 Stations' construction permits. Specifically, construction delays related to limited resources, as well as most recently the COVID-19 pandemic, have caused TPR to be unable to complete construction of the Stations' post-auction facilities by its construction permit deadline. We find that grant of TPR's tolling requests is not likely to negatively impact the overall transition schedule and will not cause interference to other stations. The Stations have already ceased operation on their pre-auction channels and have resumed operations on their post-auction channels with interim facilities. To the extent some viewers are unable to receive the Stations' signals while they operate using interim facilities, we believe that TPR has every incentive to ensure viewers are fully informed about the Stations' transition plans. Ultimately, we conclude that the public interest will be served by grant of waiver and tolling of the Stations' construction permits.

We remind TPR 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."⁸ 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, Telecentro of Puerto Rico, LLC's requests for tolling **ARE GRANTED**. The construction permits for WNJX-TV, Mayaguez, Puerto Rico and WTIN-TV, Ponce,

⁵ LMS File Nos. 0000064215 and 0000064216.

⁶ LMS File Nos. 0000058592, 0000058593, 0000067112, 0000067113, 0000083475, and 0000083476.

⁷ See, e.g., LMS File Nos. 0000082557 and 0000108043.

⁸ 47 U.S.C. § 1452(b)(4)(A)(i). See also *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268 et. al., Report and Order, 29 FCC Rcd 6567,6821, para. 622 (2014) ("The appropriate scope of 'costs reasonably incurred' necessarily will have to be decided on a case-by-case basis.").

Puerto Rico **ARE TOLLED to September 28, 2020.** Grant of this tolling waiver does not permit the Stations to recommence operation on their pre-auction channels. We also remind TPR that any subsequent requests for tolling of its construction permit deadline will be subject to the Commission's tolling provisions.⁹

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Sally Buckman, Esq.

⁹ See 47 § CFR 73.3598(b).