

Tolling Waiver Request
CBS Television Licenses LLC
WBZ-TV Boston, Massachusetts
Facility ID 25456

CBS Television Licenses LLC (ViacomCBS), licensee of WBZ-TV Boston, MA (the “Station”), herein seeks a waiver of the Commission’s tolling provisions, pursuant to §73.3598(b), for construction of the main WBZ-TV post-transition facility.¹ As discussed below, this request is necessary due to delays beyond *ViacomCBS*’ control, including an antenna failure requiring immediate attention of the tower crew, permitting delays, adverse weather and the anticipated impact from the COVID-19 pandemic.

WBZ-TV was assigned to repack Phase 4 (August 2, 2019) and made a timely transition to post-transition channel 20 using the station’s permanent auxiliary antenna.² The Station did not require or request a Phase Waiver. As replacement of the main antenna system could not begin until the Phase 4 transition was completed, *ViacomCBS* sought and was granted a 180-day Construction Permit extension.³ Subsequent delays beyond the Station’s control were detailed in a Tolling Waiver Request that resulted in tolling until April 30, 2020 based on the prior construction estimates of American Tower Corporation (“ATC” or the “Tower Owner”).⁴ Due to further delays beyond the Station’s control described below, *ViacomCBS* now seeks a further waiver of the tolling rule to extend tolling for 180 days until October 27, 2020.

In the *Incentive Auction and Order*, the Commission stated that after granting a six-month extension, further extensions of time would be subject to the tolling provisions contained in §73.3598 of the Commission’s Rules. The Media Bureau has also 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]tations may also seek a waiver of the tolling rule to receive

¹ See LMS file number 0000034573.

² See LMS file numbers 0000072329 and 0000080192.

³ See LMS file number 0000072330.

⁴ See LMS file number 0000092274.

Tolling Waiver Request
CBS Television Licenses LLC

additional time to construct in cases where ‘rare or exceptional circumstances’ prevent construction.”⁵

§73.3598(b) of the Commission’s Rules lists causes not under the control of the permittee that can toll the period of construction for a Construction Permit, including construction delays relating to local permitting. In this instance, *ViacomCBS* is requesting continued tolling following delays imposed by the town of Needham, MA, where the WBZ-TV tower is located, which required the Tower Owner to have a Special Permit before top-mounted antennas could be installed. Although such a permit was ultimately approved, New England’s harsh winter weather prevented tower crews from resuming working until February.

Once the tower crew was back on the job, it was immediately diverted to the interim tower for emergency repairs of the broadband antenna system now being utilized by WBZ-TV and other Boston area DTV stations.⁶ According to the Tower Owner, the tower crew returned to work at the primary tower on March 16th. As might be expected after a one-month interruption, the most recent Tower Owner projections now predict primary site will not be completed by April 30, 2020.

As we have learned from other projects, additional delays are likely due to typical springtime weather and other problems related to the COVID-19 pandemic. Given the evolving and unpredictable nature of the pandemic crisis, we believe it appropriate to anticipate as much as 6 months of delay.

⁵ 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).

⁶ See *Reduced Power Notification for a DTV Station Application*, LMS file number 0000106561 and *Resumption of Operations of a DTV Station*, LMS file number 0000108000. The WBZ-TV event lasted from February 16 until March 13, 2020.

Tolling Waiver Request
CBS Television Licenses LLC

Without question, this confluence of events is both rare and exceptional. Grant of a tolling waiver will not adversely impact the overall transition schedule and will not cause interference to other stations, as WBZ-TV has already ceased operation on its pre-auction channel and is operating on its post-auction channel using its permanent auxiliary antenna. WBZ-TV has every incentive to complete construction of its technically superior main antenna facility as soon as possible and intends to aggressively pursue the best-case scenario outlined above as long as doing so remains legal and safe.

For reasons outlined above, we believe good cause exists to continue tolling the expiration of the WBZ-TV Construction Permit for an additional 180 days until October 27, 2020.