



Federal Communications Commission
Washington, D.C. 20554

June 17, 2020

Parker Broadcasting of Dakota License, LLC
Ravi Kapur
2118 Walsh Avenue
Suite 208
Santa Clara, CA 95050
FCC@CHICAGO22.COM

Re: Request for Tolling Waiver
KRDK-TV, Valley City, ND
Facility ID No. 49134
LMS File No. 0000116138

Dear Licensee,

On June 15, 2020, Parker Broadcasting of Dakota License, LLC (Parker), the licensee of Station KRDK-TV, Valley City, North Dakota (KRDK or Station), filed the above-referenced request for waiver of the Commission's tolling provisions and tolling of the Station's construction permit. For the reasons below, we grant the Station's waiver request and toll KRDK's construction permit to December 14, 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 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

¹ Because 180 days from the Stations' current construction expiration dates falls on Saturday December 12, 2020, we will extend the construction permit to the next business day, which would be Monday December 14, 2020. *See* 47 CFR § 1.4.

² *See* 47 CFR § 73.3700(b)(5).

³ *See* 47 CFR § 73.3700(b)(5)(i) citing 47 CFR § 73.3598(b).

⁴ *Id.*

demonstrate that “rare and exceptional circumstances” prevented construction by the station’s construction permit expiration date.⁵

Parker requests waiver of the tolling rule and tolling of its construction permit for its post-incentive auction channel facilities to December 14, 2020. KRDK is currently operating on its post-auction channel with temporary facilities.⁶ KRDK was previously granted a construction permit extension and subsequent tolling through June 15, 2020.⁷

Parker states that construction delays have prevented the completion of the Station’s post-auction channel facilities that are housed on a tower that is over 2,000 feet tall. Construction has most recently been delayed by the inclement weather and delays resulting from the COVID-19 pandemic.⁸ Parker states that a crew is currently on-site to complete construction and is in the process of removing old and laying new transmission line. While the Station is on track to complete construction of its post-auction channel facilities soon, it will be unable to do so before its current construction permit expiration date of June 15, 2020. Therefore, given the delays Parker requests tolling of the Station’s construction permit to December 14, 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 December 14, 2020.⁹ Parker has demonstrated it did not complete construction of its post-auction channel facilities due to construction delays. We also find that grant of Parker’s waiver and tolling request is not likely to negatively impact the overall transition schedule and will not cause interference to other stations. KRDK has already ceased operation on its pre-auction channel and initiated operations on its post-auction channel using an interim facility. To the extent some viewers are unable to receive KRDK’s signal while it operates using its interim facility, we believe that Parker 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 Parker 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

⁵ 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).

⁶ See LMS File No. 0000116140. KRDK was repacked from channel 38 to channel 24.

⁷ See LMS File Nos. 0000086819 and 0000107577.

⁸ The World Health Organization has classified COVID-19 as a pandemic and the President declared it a national emergency.

⁹ 47 CFR § 73.3598(b).

to relocate its television service from one channel to the other.”¹⁰ 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, Parker Broadcasting of Dakota License, LLC’s request for waiver of the Commission’s tolling provisions **IS GRANTED**. The construction permit (LMS File No. 0000028708) for KRDK-TV, Valley City, North Dakota, **IS TOLLED to December 14, 2020**. Grant of this tolling waiver does not permit KRDK to recommence operation on its pre-auction channel. We also remind Parker that any subsequent requests for tolling of its construction permit deadline will be subject to the Commission’s tolling provisions.¹¹

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Dennis Corbett, Esq.

¹⁰ 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.”).

¹¹ See 47 CFR § 73.3598(b).