



Federal Communications Commission  
Washington, D.C. 20554

January 8, 2021

Wanda Rolon  
P.O. Box 24  
Toa Alta, PR 00954  
[pastorawandarolon@yahoo.com](mailto:pastorawandarolon@yahoo.com)  
(via electronic mail)

Re: Request for Tolling Waiver  
WSJN-CD, San Juan, PR  
Facility ID No. 48239  
LMS File No. 0000121817

Dear Licensee,

Wanda Rolon (Rolon), the licensee of WSJN-CD, San Juan, Puerto Rico (WSJN-CD or Station), filed the above captioned request for waiver of the Commission's tolling rules and tolling of the Station's construction permit expiration date. For the reasons below, we grant Rolon's request and toll the expiration date of WSJN-CD's construction permit for 180 days to **March 29, 2021**.<sup>1</sup>

*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.<sup>2</sup> All subsequent requests for additional time to construct are subject to the Commission's tolling provisions of section 73.3598(b) of the Rules.<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup>

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<sup>1</sup> Because 180 days from the Station's current construction expiration date falls on Saturday, March 27, 2021, we will extend the construction permit to the next business day, which would be Monday, March 29, 2021. *See* 47 CFR § 1.4.

<sup>2</sup> *See* 47 CFR § 73.3700(b)(5).

<sup>3</sup> *See* 47 CFR § 73.3700(b)(5)(i) citing 47 CFR § 73.3598(b).

<sup>4</sup> *Id.*

<sup>5</sup> *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).

Rolon requests waiver of the tolling rule and tolling of the construction permit for the Station's post-incentive auction channel facilities to March 29, 2021. WSJN-CD was granted an extension and three subsequent waivers of the tolling rule and its construction permit was tolled to September 28, 2020.<sup>6</sup> WSJN-CD is currently operating from an interim facility on its post-auction channel.<sup>7</sup>

Rolon states that she has continued to work diligently to construct WSJN-CD's new tower. Rolon states that she has completed a Geotechnical Exploration study and Land Survey for the Station's new tower. The tower structure analysis quote has been requested and Rolon is currently working on obtaining local permits for the new tower, however the closure of the Puerto Rico government agencies until September 14, 2020, due to the COVID-19 pandemic has further delayed the processing of permits. Accordingly, Rolon seeks a waiver of the tolling rules and tolling of its construction permit deadline to March 29, 2021.

*Discussion.* Upon review of the facts and circumstances presented, we find that sufficient circumstances exist to waive the rules and toll the expiration date of the Station's construction permit to March 29, 2021.<sup>8</sup> Rolon has demonstrated she did not complete construction of her post-auction channel facilities due to construction and permitting delays. We also find that grant of Rolon's tolling request is not likely to negatively impact the overall transition schedule and will not cause interference to other stations. WSJN-CD has already ceased operation on its pre-auction channel and initiated temporary operations on its post-auction channel. To the extent some viewers are unable to receive WSJN-CD's signal while it operates using its interim facility, we believe that Rolon 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 tolling of the Station's construction permit.

We remind Rolon 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."<sup>9</sup> 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.

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<sup>6</sup> LMS File Nos. 0000058617, 0000067028, 0000082470 and 0000107622.

<sup>7</sup> LMS File No. 0000121818. WSJN-CD was repacked from channel 20 to channel 22. WSJN-CD operates on channel 22 on a shared basis with WELU, Toa Baja, Puerto Rico.

<sup>8</sup> 47 CFR § 73.3598(b).

<sup>9</sup> 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) (*Incentive Auction R&O*), *aff'd*, *Nat'l Ass'n of Broadcasters v. FCC*, 789 F.3d 165 (D.C. Cir. 2015) ("The appropriate scope of 'costs reasonably incurred' necessarily will have to be decided on a case-by-case basis.").

We further remind Rolon of the deadline for submitting final expense documentation for reimbursement for the Station is October 8, 2021.<sup>10</sup> Thus, we strongly encourage the Station to diligently pursue satisfaction of the current deadlines to improve the chances that there will be sufficient funds available to reimburse the Station for its legitimate repacking expenses, and we encourage Telecinco to submit eligible invoices as soon as practicable.

The above facts considered, Wanda Rolon's request for tolling **IS GRANTED**. The construction permit for WSJN-CD, San Juan, Puerto Rico (LMS File No. 00000345420), **IS TOLLED to March 29, 2021**. Grant of this tolling waiver does not permit WSJN-CD to recommence operation on its pre-auction channel. We also remind Rolon that any subsequent requests for tolling of the construction permit deadline will be subject to the Commission's tolling provisions.<sup>11</sup>

Sincerely,

/s/

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

cc (via electronic email): Francisco Montero, Esq.

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<sup>10</sup> See *Invoice Filing Deadlines for TV Broadcaster Relocation Fund*, MB Docket No. 16-306 and GN Docket No. 12-268, Public Notice, 35 FCC Rcd 11273, 11277, paras. 10-11 (IATF/MB Oct. 7, 2020) (setting three filing deadlines for submission of all remaining repack invoices: for eligible entities assigned repack transition completion dates in the first half of the 39-month post-auction transition period, the deadline for submitting all remaining invoices is October 8, 2021; the deadline for entities assigned completion dates in the second half of the transition period is March 22, 2022; and the deadline for all other participants in the reimbursement program is September 5, 2022).

<sup>11</sup> See 47 § CFR 73.3598(b).