

## **WTCI(TV) – Request for Tolling of Construction Permit LMS File No. 34751**

Greater Chattanooga Public Television Corp. (“GCPTC”), licensee of noncommercial educational TV station WTCI(TV), Chattanooga, TN (“WTCI”), hereby respectfully requests six months of additional time to construct its permanent post-auction facilities pursuant to a waiver of the tolling provisions contained in Section 73.3598 of the Commission’s rules. As set forth herein, WTCI has been unable to construct its permanent facilities due to rare and exceptional circumstances beyond its control.

### **Background**

WTCI was assigned to transition from Channel 29 to Channel 35 in Phase 5 of the repack. The station’s transition plan called for, among other things, construction of a new tower to hold the station’s post-repack facilities. WTCI worked for months to finalize tower construction plans and contracted with a tower company in early 2019 to decommission an existing WTCI tower and construct a new structure in its place. The tower company faced extensive delays securing the necessary licenses and permits from the state of Tennessee. Quickly after work began on July 18, 2019, the tower company determined that hard limestone would prevent them from completing the drilling of foundation holes for the new tower on schedule and that the structure could not be completed by the Phase 5 deadline.

GCPTC has secured FAA clearance for the new tower, as well as all local permits. Because of the height of the new tower, GCPTC must conduct an environment assessment before it can update the existing tower registration to reflect the height of the new structure. And until the structure is registered, GCPTC can not modify its repack construction permit to reflect the new tower. Thus, GCPTC will not be able to file a license to cover its repack construction permit until the environmental assessment process has been completed.

GCPTC has been working through the components of the assessment and currently is waiting for the FCC to process the Environmental Assessment that was submitted on January 5, 2021. GCPTC understands that while the FCC’s shot clock for action on the submission will end in early March, 2021, it may take some time for the Commission to issue a Finding of No Significant Impact in this instance. GCPTC has been advised that a Commission biologist will need to sign off on the submission and that the position of biologist at the Commission currently is vacant. Once the Commission has issued its Finding of No Significant Impact and GCPTC is able to secure an ASR number for its tower, it will be able to license the facilities associated with this construction permit in short order.

### **Waiver Request**

In the *Incentive Auction Report and Order*, the Commission stated that it would grant six-month extensions of post-auction construction permits pursuant to the incentive auction rules, and that further extensions of time would be subject to the tolling provisions contained in Section 73.3598 of the Commission’s rules.<sup>1</sup> The Media Bureau has noted that in the event that

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<sup>1</sup> See Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, *Report and*

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 additional time to construct in the case where ‘rare or exceptional circumstances’ prevent construction.”<sup>2</sup> The Media Bureau has waived the tolling rules to provide additional construction time for a station that was unable to timely construct its post-auction facilities, in that case due to delays associated with Canadian frequency coordination.<sup>3</sup>

WTCI has been unable to construct its permanent facilities due to rare and exceptional circumstances beyond its control. WTCI is required by FCC rules to conduct the environmental assessment described herein and to wait for the FCC to process it. As the FCC is aware, this process can be time consuming. Grant of a waiver is not likely to negatively impact the overall transition schedule and will not cause interference to other stations, as WTCI already has ceased operation on its pre-auction channel and is operating on its post-auction channel with temporary facilities. Good cause thus exists to waive the tolling provisions of Section 73.3598 of the Commission’s rules and extend the expiration of WTCI’s construction permit for six months (*e.g.*, until September 8, 2021).

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*Order*, 29 FCC Rcd 6567, 6804-6806, paras. 580-584 (2014) (“*Incentive Auction Report and Order*”); 47 C.F.R. § 73.3598.

<sup>2</sup> 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.34 (MB and IATF 2018), *citing* 1998 Regulatory Review - Streamlining of Mass Media Applications, Rules and Processes, *Memorandum Opinion and Order*, 14 FCC Rcd 17525, 17536, para. 42 (1999).

<sup>3</sup> Letter from Barbara A. Kreisman, Chief, Video Division, Media Bureau to Cross Hill Communications, LLC (Mar. 22, 2019) available at LMS file No. 0000064627.