



Federal Communications Commission  
Washington, D.C. 20554

March 24, 2021

Televiscentro of Puerto Rico, LLC  
Javier Maynulet  
P.O. Box 362050  
San Juan, PR 00936  
[javier.maynulet@wapa-tv.com](mailto:javier.maynulet@wapa-tv.com)  
(via electronic mail)

Re: Request for Tolling Waiver  
WTIN-TV, Ponce, PR  
Facility ID No. 26681  
LMS File No. 0000139097

Dear Licensee,

On March 12, 2021, Televiscentro of Puerto Rico, LLC (TPR), the licensee of WTIN-TV, Ponce, Puerto Rico (WTIN 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, as amended. For the reasons below, we grant TPR's request and toll the expiration date of the Station's construction permit to June 1, 2021.

*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>1</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>2</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>3</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>4</sup>

TPR requests waiver of the tolling rule and tolling of its construction permit for the Station's post-incentive auction channel facilities. TPR was granted an extension and multiple waivers of the

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<sup>1</sup> See 47 CFR § 73.3700(b)(5).

<sup>2</sup> See 47 CFR § 73.3700(b)(5)(i) citing 47 CFR § 73.3598(b).

<sup>3</sup> *Id.*

<sup>4</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).

tolling rule and the Station's construction permit was tolled to March 29, 2021.<sup>5</sup> The Station is currently operating on its post-auction channel with interim facilities.<sup>6</sup>

Since grant of its last tolling request, TPR states that it has made substantial progress with respect to the Station's tower work. Because of precautions that were necessary to comply with COVID-19 protocols, TPR states that the work has taken somewhat longer than originally anticipated. TPR states that the tower crew conducting the necessary work for the WTIN tower has completed the work. TPR states that a final adjustment to the WTIN antenna bracket is needed and the crew anticipates that it will complete that adjustment during the first week of April 2021. After the final adjustments are completed, TPR states that it will be able to file a license to cover for the WTIN permanent facilities. Accordingly, TPR seeks a waiver of the tolling rules and tolling of the Station's construction permit to June 1, 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.<sup>7</sup> TPR has demonstrated it did not complete construction of the Station's post-auction channel facilities due to construction delays. We also find that grant of TPS's waivers and tolling request is not likely to negatively impact the overall transition schedule and will not cause interference to other stations. The Station has already ceased operation on their pre-auction channels and are operating from interim facilities on their post-auction channels. To the extent some viewers are unable to receive the Station's signal while it operates using interim facilities, we believe that TPR has every incentive to ensure viewers are fully informed about the Station's transition plans. Ultimately, we conclude that the public interest will be served by grant of waiver and tolling of the Station's construction permit.

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."<sup>8</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.

We further remind TPR of the deadline for submitting final expense documentation for reimbursement for the Station is October 8, 2021.<sup>9</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

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<sup>5</sup> LMS File Nos. 0000058593, 0000067113, 0000083475, 0000109003, and 0000122216.

<sup>6</sup> See LMS File No. 0000139096. WTIN was repacked from channel 15 to channel 14.

<sup>7</sup> 47 CFR § 73.3598(b).

<sup>8</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.").

<sup>9</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).

available to reimburse the Station for its legitimate repacking expenses, and we encourage TPR to submit eligible invoices as soon as practicable.

The above facts considered, Televiscentro of Puerto Rico, LLC's request for tolling **IS GRANTED**. The construction permit (LMS File No. 0000034579) for WTIN-TV, Ponce, Puerto Rico, **IS TOLLED to June 1, 2021**. Grant of this tolling waiver does not permit the Station to recommence operation on its pre-auction channel. We also remind TPR that any subsequent requests for tolling of its construction permit deadline will be subject to the Commission's tolling provisions.<sup>10</sup> To the extent the Station seeks an additional extension of tolling, such a request must include a detailed plan for completing construction of the Station's permanent post-auction facilities. We will look unfavorably upon any future request that does not include such a plan.

Sincerely,

/s/

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

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

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<sup>10</sup> See 47 § CFR 73.3598(b).