



Federal Communications Commission
Washington, D.C. 20554

April 26, 2021

Mayavision, Inc.
Alejandro Schweikert
3540 S I-10 Service Road W, Suite 342
Metairie, LA 70001
Alejandro@kgla.tv
(via electronic mail)

Re: Request for Tolling Waiver
KGLA-DT, Hammond, LA
Facility ID No. 83945
LMS File No. 0000143807

Dear Licensee,

On April 21, 2021, Mayavision, Inc. (Mayavision), the licensee of Station KGLA-DT, Hammond, Louisiana (KGLA 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 Mayavision's waiver request and toll KGLA's construction permit through October 18, 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.¹ All subsequent requests for additional time to construct are subject to the Commission's tolling provisions of section 73.3598(b) of the Rules.² 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.³ 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.⁴

Mayavision requests waiver of the tolling rule and tolling of its construction permit for the Station's post-incentive auction channel facilities through October 18, 2021. Mayavision was granted an

¹ See 47 CFR § 73.3700(b)(5).

² See 47 CFR § 73.3700(b)(5)(i) citing 47 CFR § 73.3598(b).

³ *Id.*

⁴ 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).

extension and a waiver of the tolling rule and the Station's construction permit was most recently tolled to April 26, 2021.⁵ The Station is currently operating on its post-auction channel with interim facilities.⁶

Mayavision seeks tolling of the Station's post-auction channel construction permit because several hurricanes in 2020 that impacted the station's tower location, compounded by the effects of the COVID-19 pandemic, have resulted in construction delays. Most recently, Mayavision states that it suffered the loss of its long-time engineer in January 2021 due to the COVID-19 virus. Mayavision states that the loss of its engineer has left it seeking additional help for its engineering needs. Despite these ongoing and tragic difficulties, Mayavision represents that it has made progress since the grant of the first tolling extension. Specifically, Mayavision states that demobilization of the post-auction facilities was completed in early April 2021. Therefore, in light of these circumstances, Mayavision requests tolling of the Station's construction permit for through October 18, 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 October 18, 2021.⁷ Mayavision 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 Mayavision's waiver 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 is operating from interim facilities on its post-auction channel. To the extent some viewers are unable to receive the Station's signal while it operates using interim facilities, we believe that Mayavision 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 Mayavision 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."⁸ 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 Mayavision that the deadline for submitting final expense documentation for reimbursement for the Station is March 22, 2022.⁹ Thus, we strongly encourage the Station to diligently

⁵ See LMS File Nos. 0000112723 and 0000124947.

⁶ See LMS File No. 0000143816. KGLA was repacked from channel 42 to channel 35.

⁷ 47 CFR § 73.3598(b).

⁸ 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.").

⁹ 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).

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 Mayavision to submit eligible invoices as soon as practicable.

The above facts considered, Mayavision, Inc.'s request for waiver of the Commission's tolling provisions **IS GRANTED**. The construction permit (LMS File No. 0000028477) for KGLA-DT, Hammond, Louisiana, **IS TOLLED to October 18, 2021**. Grant of this tolling waiver does not permit KGLA to recommence operation on its pre-auction channel. We also remind Mayavision that any subsequent requests for tolling of its construction permit deadline will be subject to the Commission's tolling provisions.¹⁰ 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): Francisco R. Montero, Esq.

¹⁰ See 47 CFR § 73.3598(b).