

Reasons for CP Tolling Extension Request

Caguas Educational TV Inc. (“Caguas”), licensee of station WUJA-DT, Caguas, Puerto Rico (Facility ID No. 8156) (the “Station” or “WUJA”), hereby requests that the Federal Communications Commission (“FCC”) grant an extension of tolling of its construction permit (“CP” or “Construction Permit”) until March 22, 2022 to allow Caguas additional time to complete installation of the Station’s new tower.¹

As demonstrated below, grant of this CP Tolling Extension Request is in the public interest because despite its best efforts, bureaucratic delays from the Puerto Rican government—in part due to the COVID-19 pandemic and in part due to the lingering effects of the natural disasters that have plagued Puerto Rico over the last few years—have made it impossible for Caguas to complete construction of its Construction Permit. Accordingly, there is good cause for the FCC to grant the instant Request due to the circumstances experienced by Caguas that were out of its control.

BACKGROUND

Caguas received special temporary authority (“STA”) to operate WUJA via its post auction-channel channel at 10.0 kW via an interim antenna from its present antenna site in 2018.² At that time, a structural study revealed that the tower had been so damaged by Hurricane Maria that it required replacement.³ The FCC granted an initial construction permit to Caguas in October of 2018.⁴ Caguas continued to work towards construction through 2019 and was granted an additional STA extension that July.⁵ While working towards construction, the FCC permitted Caguas to continue operations of the Station from its post-auction channel.⁶ Throughout this process, Caguas has kept the FCC informed of its progress and has sought and been granted the appropriate regulatory permissions.

Unfortunately, construction cannot be completed until Caguas is physically in possession of all of the necessary components for the tower and facilities, its local permits are issued by the Puerto Rican government, and it is able to obtain the requisite tower crews to perform the work. As indicated above, Caguas requires a new tower to build out its CP and operate pursuant to those permitted parameters. Caguas placed its order for a new tower in 2019, and it was delivered on September 28, 2021. However, the manufacturer cannot install it until all permits are issued from the Oficina de Gerencia de Permisos (“OGPe”), which is the permitting body of the Puerto Rican government.

¹ See FCC File No. 0000059688.

² FCC File No. 0000055314 (granted June 29, 2018).

³ *Id.*

⁴ FCC File No. 0000064412.

⁵ FCC File No. 0000076230.

⁶ FCC File No. 0000064412.

REASON FOR EXTENSION

As explained further below, Caguas's need for grant of this Request stems from the bureaucratic delays caused by certain Puerto Rican governmental bodies, including the OGPe, which issues the relevant permits in Puerto Rico. The OGPe either has been non-operational or operating at a very limited capacity throughout the COVID-19 pandemic. Further, the Puerto Rican fire department has delayed issuance of the requisite endorsements so that Caguas may submit its final, complete application for the tower construction permits in the first instance. Caguas also notes that COVID-19 cases are substantially increasing in the region, further delaying construction.

The permitting process in Puerto Rico is extensive and time-consuming at best, and has been substantially delayed due to factors beyond the control of Caguas. In 2020, the COVID-19 pandemic led to an effective shutdown of all the offices that were required to deliver an endorsement. As Caguas has previously indicated, the OGPe closed and remained closed for the majority of 2020 due to the pandemic.⁷ Government agencies in Puerto Rico did not reopen until September 14, 2020. Even when opened, agencies operated at limited capacity with skeleton crews and many officials working from home, complicating the process to secure documentation and permits. COVID-19 and its impact on the functioning of the Puerto Rican government have substantially hindered Caguas's ability to commence construction, despite its diligence.

2021 has brought substantial progress. The FCC granted additional CP tolling requests in April⁸ and July of 2021.⁹ As of the date of this Request, Sabre, the tower manufacturer and installer, has obtained a contractor, and Caguas has procured the antenna and lines and has installed the transmitter. However, Caguas can go no further without receiving its permits from the OGPe. Caguas has submitted all of the requisite documentation to the 20 relevant permitting agencies and has received endorsements from every agency except for the fire department. Unfortunately, at this time Caguas is still missing the fire department endorsement and has no indication regarding when the endorsement will be received.

For the endorsement to be completed, the OGPe must assign an inspector to review and assess the requested fire department endorsement documentation. As of the filing of this Request, the OGPe has not yet assigned an inspector to review and assess the endorsement request. Further, once that person is assigned, they could either approve the endorsement or request additional information, causing further delays. Because Caguas lacks this final endorsement, it has not been able to complete construction of the new tower. Accordingly, the

⁷ See FCC File No. 0000158816.

⁸ See FCC File No. 0000141567.

⁹ See FCC File No. 0000154001 (granted July 26, 2021) ("CP Tolling Request").

FCC granted the CP Tolling Request extending the deadline to complete construction to September 29, 2021.¹⁰

After the endorsement is finally approved, the tower construction permit documents must then be submitted for final approval. Even if no further issues arise after submission of the permit documentation for final approval, the OGPe will not issue their approval for a minimum of 30 days. Moreover, the OGPe does not issue interim approvals for the documents already submitted and will not begin review of any documentation submitted thus far until all endorsements are received. Accordingly, further delays could occur if the OGPe requests additional information regarding any of the other documentation already submitted.

The tower arrived at the San Juan, Puerto Rico port on September 28, 2021, and the antenna is expected to arrive by next week, although this date could change up until the antenna is delivered, and depends heavily on weather and pandemic constraints. Caguas also notes that Sabre has indicated that according to its installation schedule, it will take no more than two to three months after the local Puerto Rico permits are granted to install the tower. After that, antenna installation and performing the antenna sweep likely will be completed expeditiously.

Caguas anticipates that there may be further challenges in the completion of their CP and requests that the FCC consider the precariousness of its ability to complete construction. If the fire department does not issue its permit in a timely manner, the permits issued by other agencies and the OGPe may expire, requiring Caguas to reapply for the expired permits. In addition, Caguas must contend with Puerto Rico's high instances of COVID-19¹¹ and the current Atlantic Hurricane season which will last until November 1, 2021.¹² The CDC currently has classified Puerto Rico as "Level 4" – the highest possible level of travel advisory for COVID-19. While Hurricanes are not always reliably predictable weeks in advance, islands must still contend with the possibility of weather interruptions to their operations. Hurricane Sam and other tropical systems are currently forming and are poised to threaten Puerto Rico. In addition to the time required to obtain the appropriate permits, Caguas further requests that the FCC take into account the strong potential for further natural-disaster related circumstances beyond Caguas's control to occur.

¹⁰ See *id.*

¹¹ THE CENTER FOR DISEASE CONTROL AND PREVENTION, "COVID-19 in Puerto Rico" <https://wwwnc.cdc.gov/travel/notices/covid-4/coronavirus-puerto-rico> (last visited Sept. 28, 2021).

¹² Alex Sosnowski, "2021 Atlantic Hurricane System Shows No Signs of Letting Up" ACCUWEATHER (Sept. 28, 2021 3:08 PM) <https://www.accuweather.com/en/hurricane/2021-atlantic-hurricane-season-shows-no-signs-of-letting-up/1023661> (last visited Sept. 28, 2021).