

Virgin Islands Public Broadcasting System
WTJX-TV, Charlotte Amalie, VI
Facility ID No. 70287
LMS File No. 0000025655
As extended by LMS File No. 0000072190
And tolled by LMS File Nos. 0000084077, 0000109082, 0000121556,
0000137289, 0000155929, and 0000160482

Request for Continued Waiver of Tolling Rule

Virgin Islands Public Broadcasting System (“VIPBS”), licensee of noncommercial educational station WTJX-TV, Charlotte Amalie, Virgin Islands, Facility ID No. 70287 (the “Station”), hereby respectfully submits its request for continued waiver of the tolling rules and further extension of its post-auction construction permit (“CP”) for the Station’s post-auction facility.¹ *See* LMS File No. 0000084077 (Request and Amendment to Request for Waiver of Tolling Rule), LMS File No. 0000109082 (Request for Continued Waiver of Tolling Rule), LMS File No. 0000121556 (Request for Continued Waiver of Tolling Rule), LMS File No. 0000137289 (Request for Continued Waiver of Tolling Rule), LMS File No. 0000155929 (Request for Continued Waiver of Tolling Rule), and LMS File No. 0000160482 (Request for Continued Waiver of Tolling Rule); *see also* LMS File No. 0000025655 (CP) and LMS File No. 0000072190 (Extension of CP).² VIPBS submits this request for a further extension of its post-auction CP and provides additional information and updates on construction plans and anticipated timeline, which continue to be affected by the recent global pandemic.

The Commission’s rules allow for one post-transition construction permit extension of up to six months.³ Additional requests for extensions of time fall under the Commission’s tolling rule.⁴ A licensee that does not qualify for tolling under this rule but can demonstrate that “rare and exceptional circumstances” prevented the construction may still apply to toll the expiration.⁵

The Station is currently operating on its repack channel, pursuant to STA. *See* LMS File No. 0000060812, *as extended by* LMS File No. 0000072192, LMS File No. 0000088194, LMS File No. 0000109081, and pending application LMS File No. 0000121555 filed September 14, 2020. VIPBS has mounted the interim antennas on its 100’ auxiliary tower and has moved the WTJX-TV repack channel antenna temporarily to the 100’ tower while the 250’ tower is rebuilt.

¹ To the extent necessary, VIPBS requests a waiver of the Commission’s rules. *See* 47 C.F.R. § 73.3700(b)(5)(iv).

² *See also* LMS File No. 0000060812 (Special Temporary Authority (STA) to operate on the Station’s repack channel at variance from the Station’s repack construction permit), LMS File Nos. 0000072192, 0000088194, and 0000109081 (extensions of STA); and LMS File No. 0000121555 (pending application for Further Extension of STA). Additionally, the Station was recently granted an extension of its invoice filing assignment deadline to March 22, 2022. *See* LMS File No. 0000158784.

³ 47 C.F.R. § 73.3700(b)(5); *see also* LMS File No. 0000072190.

⁴ 47 C.F.R. § 73.3598(b).

⁵ *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.”).

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As previously reported to the Commission, an initial delay relating to a correction of the coordinates for the existing 250' tower with the FAA was resolved but there have been further unanticipated regulatory and pandemic-related delays. Specifically, the initial permitting package submitted to the Virgin Islands Department of Planning and Natural Resources ("DPNR") by VIPBS's tower contractor (Tower Engineering Professionals or "TEP") for the replacement 250' tower was apparently lost. On May 28, 2021, a second submission of the permitting package was made by TEP to DPNR, with a return receipt dated June 3, 2021. On July 27, 2021, DPNR requested additional information, which was addressed by TEP.

Also, as the Commission is aware, significant progress have been made. TEP started work on-site in June when a crew was able to book hotel rooms (which had been sold out as a result of tourist reservations postponed during the pandemic shut down). A crane was ordered from Puerto Rico to dismantle the existing 250' self-supporting tower. Bolt-on climbing steps were fabricated and installed to replace the original climbing steps that were corroded by the salt-air. Then the existing antennas were removed and some were installed on the 100' auxiliary tower to maintain continuity. The crane arrived and the old tower was dismantled on July 15, 2021.

On August 2, 2021, DPNR held a public hearing regarding the project on August 30, 2021. And then on September 14, 2021, DPNR issued a building permit, thereby allowing the project to move forward.

Since VIPBS filed its last request for continued waiver of the tolling rules on September 27, 2021, approximately 60% of the rebar for the foundation required to support the new 250' tower has been installed. It is expected that concrete for the foundation will be poured either sometime this week or next. Once poured, the foundation will require a minimum of 14 days to cure and then the tower stacking will require approximately three weeks before the antenna can be installed. Taking holidays into account, TEP currently estimates that the project will be completed toward the end of January 2022.

For the foregoing reasons, VIPBS hereby respectfully requests a continued waiver of the tolling rules and a further extension of its post-auction CP.