

## REQUEST FOR CP TOLLING

Baraboo Broadcasting Corp. (“BBC”), licensee of Station W25FT-D, Baraboo, Wisconsin (the “Station”), hereby requests tolling of its January 10, 2022 deadline for constructing its digital facilities. BBC is eager to construct and commence operation of this Station, and but has been stymied by rare and exceptional circumstances outside of its control – the sudden unavailability of a long-negotiated tower lease, due to the tower owner’s discovery of corrosion issues with the tower. BBC has scrambled to move negotiations along with a substitute tower site, and anticipates finalizing a new tower lease shortly.

### Factual Background

A modification application for this Station was granted by the Commission on July 6, 2021, with an expiration of January 10, 2022. In fact, BBC had been working on obtaining a tower site long before grant of the modification application. BBC commenced negotiations with the tower site owner (Spectrum Towers) for site authorized in the CP in April of 2021.

- April 20, 2021 - Spectrum Towers preliminarily agrees to lease tower space. See email in Attachment 1.
- July 2, 2021 – BBC applies for modification of CP, which is granted on July 6<sup>th</sup>.
- August 3, 2021 – Spectrum Towers begins working on tower lease. See email in Attachment 1.
- August – September, 2021 – The parties continue to negotiate the details of the tower lease.
- October 19, 2021 – Spectrum Tower informs BBC that its engineer found “significant corrosion issues with this tower, resulting in a need for the guy anchors to be moved.” Spectrum goes on to note that with “winter approaching fast, I anticipate ... not being able to get the work [done] until spring next year.” See email in Attachment 1.

With that notification from Spectrum Towers, and in light of the possibility that the authorized tower may not be available even next Spring, BBC immediately began identifying alternative tower sites. Quickly, BBC identified a site within 10 miles of the currently authorized site, owned by Mobilite Tower:

October 19, 2021 – Email with Mobilite regarding tower site details and process. See email Attachment 2.

October-December, 2021 – continued discussion of details of lease agreement, including BBC filling out Mobilite’s Collocation Application. See email Attachment 2.

BBC has been told by Mobilite that it is close to finalizing the text of a Tower Lease Agreement. Once the Commission grants this requested tolling, BBC will enter into the Tower Lease Agreement.

The proposed estimated timeline from grant of tolling to completion of construction is as follows:

Grant + 30 days – sign lease agreement with Mobilitie, and order required equipment (transmitter, encoder, and antenna)

Grant + 60 days – Engineering study completed, file for modification of CP to Mobilitie site.

Grant +90 days – CP mod granted and tower lease signed

Grant + 150 days – all equipment acquired

Grant + 180 days – installation complete, commence broadcast operations.

BBC is fully prepared to take all of the above steps, if this tolling request is granted. It should be noted that construction during a Wisconsin winter would be very difficult.

### Discussion

Given the significant and continuing delays implementing its new CP due to factors beyond its control as discussed above (i.e., the loss of the long-negotiated tower site), and despite its diligent efforts to navigate these difficulties, BBC requests a 180-day tolling of its CP to allow it to complete construction. BBC is very motivated to get the facility built and intends to complete it and file a license to cover as soon as the work can safely be completed.

Section 73.3598(b)(1) of the FCC's rules provides for tolling based on Acts of God. The loss of the long-negotiated Spectrum Towers site due to tower corrosion may or may not be defined as an Act of God, but it certainly was beyond BBC's ability to control. In addition, Commission policy provides that if a station does not qualify for tolling under that criterion, good cause may exist to waive the tolling provisions and tolling still may be granted where the licensee can demonstrate that "rare and exceptional circumstances" prevented construction by the station's construction permit expiration date.<sup>1</sup> If necessary, BBC requests such a waiver. Certainly the condemnation of an existing tower due to corrosion is rare and exceptional. And, it is this circumstance which has prevented timely construction.

Alternatively, in a similar context, the Commission explained that it would be receptive to requests for waivers of Section 312(g) and, if necessary, tolling of CPs resulting from the repacking process, to be evaluated whether in light of the facts presented, equity and fairness dictate a license extension or reinstatement and a waiver.<sup>2</sup> The Media Bureau expanded upon this position in the Post-Incentive Auction Procedures Public Notice, explaining that in considering requests for waiver of Section 312(g), it "will examine whether the station has demonstrated that its silence is the result of compelling

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<sup>1</sup> See *1988 Biennial Regulatory Review – Streamlining of Mass Media Applications, Rules and Processes*, Memorandum Opinion and Order, 14 FCC Rcd 17525, 17542 at para. 42.

<sup>2</sup> *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567 ¶ 585 (2014), *aff'd*, *Nat'l Assoc. of Broadcasters, et al v. FCC*, 789 F.3d 165 (D.C. Cir. 2015)

reasons beyond the station's control...."<sup>3</sup> BBC asserts that the same rationale should apply here. BBC has continually and diligently sought to construct its CP and commence operations, but events beyond its control have prevented its timely completion of construction.

For all these reasons, a short period of tolling to complete construction of the Station's CP is in the public interest, and is hereby respectfully requested.

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<sup>3</sup> *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition*, Public Notice, 32 FCC Rcd. 858 ¶ 49 (IATF/MB 2017).

**ATTACHMENT 1**

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**From:** Ryan Willaman <[RyanW@spectrumtowers.com](mailto:RyanW@spectrumtowers.com)>  
**Sent:** Tuesday, October 19, 2021 2:38 PM  
**To:** [REDACTED]  
**Subject:** Re: [REDACTED] Application for VCY Tower in Wilton, WI

Hi [REDACTED]

The engineer for this site found some significant corrosion issues with this tower, resulting in a need for the guy anchors to be moved. I have asked for a timeframe for completion of the modifications to the tower and we are too early in on looking at the situation at this tower to make a timeframe estimate. With winter approaching fast, I anticipate them not being able to get to the work until spring next year. I apologize as we were unaware of the situation at the tower until recently.

Thank you,

**Ryan Willaman**  
President  
Spectrum Towers, LLC  
(813) 380-2070 (c)  
[RyanW@SpectrumTowers.com](mailto:RyanW@SpectrumTowers.com)



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**From:** [REDACTED]  
**Date:** Monday, October 4, 2021 at 8:44 PM  
**To:** Ryan Willaman <[RyanW@spectrumtowers.com](mailto:RyanW@spectrumtowers.com)>  
**Subject:** Re: [REDACTED] Application for VCY Tower in Wilton, WI

Hey Mr. Ryan,

Hope all is well.

How about a fully inclusive lease for a 2 month time period at 200 feet. Only 1 antenna. All other equipment stays the same.

As soon as we get this info, we can move forward almost immediately.

Thank you very much Mr. Ryan

[REDACTED]

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**From:** Ryan Willaman [RyanW@pectrumtower.com](mailto:RyanW@pectrumtower.com)  
**Sent:** Thursday, September 30, 2021 8:50 AM  
**To:** [REDACTED]  
**Subject:** Re: [REDACTED]

Hi [REDACTED] -

**From:** [REDACTED]  
**Date:** Friday, August 27, 2021 at 7 24 AM  
**To:** Ryan Willaman <[RyanW@spectrumtowers.com](mailto:RyanW@spectrumtowers.com)>  
**Subject:** Re: [REDACTED] Application for VCY Tower in Wilton, WI

Got it. Thank you very much Mr. Ryan.

On Aug 26, 2021 7:51 PM, Ryan Willaman <[RyanW@spectrumtowers.com](mailto:RyanW@spectrumtowers.com)> wrote:

Hi [REDACTED] –

We haven't had a chance to speak yet regarding this, but loosely we would be around \$750/mo for what you described.

I can firm it up, but wanted to get a number to you in time for when you need it.

Thank you,

**Ryan Willaman**

President

Spectrum Towers, LLC

(813) 380-2070 (c)

[RyanW@SpectrumTower.com](mailto:RyanW@SpectrumTower.com)

signature\_1364321960

**From:** [REDACTED]  
**Date:** Thursday, August 26, 2021 at 11:46 AM  
**To:** Ryan Willaman <[RyanW@spectrumtowers.com](mailto:RyanW@spectrumtowers.com)>  
**Subject:** Re: [REDACTED] Application for VCY Tower in Wilton, WI

Some other things have changed for us in a good way. So no big worries for our long term business plan.

But, "Yes". Estimated costs for 1 panel at 200 feet. If we need multiple antenna panels, I'm assuming it would go down a small amount on a 2nd or 3rd but for now just 1 panel (same panel we've discussed previously) at 200 feet.

Thank you Mr. Ryan. Always appreciate your prompt follow up.

[REDACTED]

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**From:** Ryan Willaman <[RyanW@spectrumtowers.com](mailto:RyanW@spectrumtowers.com)>  
**Sent:** Thursday, August 26, 2021 9:19 AM  
**To:** [REDACTED]  
**Subject:** Re: [REDACTED] Application for VCY Tower in Wilton, WI

Hi [REDACTED] –

As a stand alone lease, in addition to the other lease we have been working on? You mentioned a single antenna, in the email but the application states 4 antennas.

**Ryan Willaman**

President

Spectrum Tower, LLC

(813) 380-2070 (c)

[RyanW@SpectrumTowers.com](mailto:RyanW@SpectrumTowers.com)

 ignature 1976859706

[REDACTED]

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**From:** [REDACTED]  
**Date:** Thursday, August 26, 2021 at 7:20 AM  
**To:** Ryan Willaman <[RyanW@spectrumtowers.com](mailto:RyanW@spectrumtowers.com)>  
**Subject:** Re: [REDACTED] Application for VCY Tower in Wilton, WI

By end of the day Friday? That work?

On Aug 25, 2021 8:42 PM, Ryan Willaman <[RyanW@spectrumtowers.com](mailto:RyanW@spectrumtowers.com)> wrote:

Hi [REDACTED] –

How quick do you need it? Are you available to talk in the morning?

**Ryan Willaman**

President

Spectrum Towers, LLC

(813) 380-2070 (c)

[RyanW@SpectrumTowers.com](mailto:RyanW@SpectrumTowers.com)

signature\_914950016

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**From:** [REDACTED]  
**Date:** Wednesday, August 25, 2021 at 7:45 PM  
**To:** Ryan Willaman <[RyanW@spectrumtowers.com](mailto:RyanW@spectrumtowers.com)>  
**Subject:** Fw: [REDACTED] Application for VCY Tower in Wilton, WI

Hey Mr. Ryan,

can you get me costs for 1 of these antennas at 200 feet on the Wilton Tower.

Need this as soon as you can.

Thank you very much.



- Average monthly power consumption (kW units)
- Antenna Azimuth
- Transmission line size and type
- Anticipated commencement of installation date (can be an estimate)

With that I will have the lease ready for you to review.

Thank you!

**Ryan Willaman**

President

Spectrum Towers, LLC

(813) 380-2070 (c)

[RyanW@SpectrumTowers.com](mailto:RyanW@SpectrumTowers.com)

signature\_853032487

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**From:** Ryan Willaman <[RyanW@spectrumtowers.com](mailto:RyanW@spectrumtowers.com)>

**Date:** Tuesday, April 20, 2021 at 6:36 PM

**To:** [REDACTED]

**Subject:** Re: [REDACTED] Application for VCY Tower in Wilton, WI

Hi [REDACTED] –

Based on the collocation you sent over, we can offer you the following COR heights:

Station 1 at a COR of 670' AGL

Station 2 at a COR of 643' AGL

Station 3 at a COR of 616' AGL

As discussed, associated rental figures would be:

1 Station - \$1750/mo

2 Stations - \$3000/mo

3 Stations - \$4250/mo

Lease terms would include:

Initial Term – 5 Years

Annual Escalation – 4%

Renewal Options – (4) 5 Year Renewal Options

Commencement Language – The earlier of commencement of installation or \_\_\_\_\_, whichever occurs first.

I will work on finding the face width of the tower at the 3 proposed RAD centers and let you know what I find.

Thank you,

**Ryan Willaman**

President

Spectrum Towers, LLC

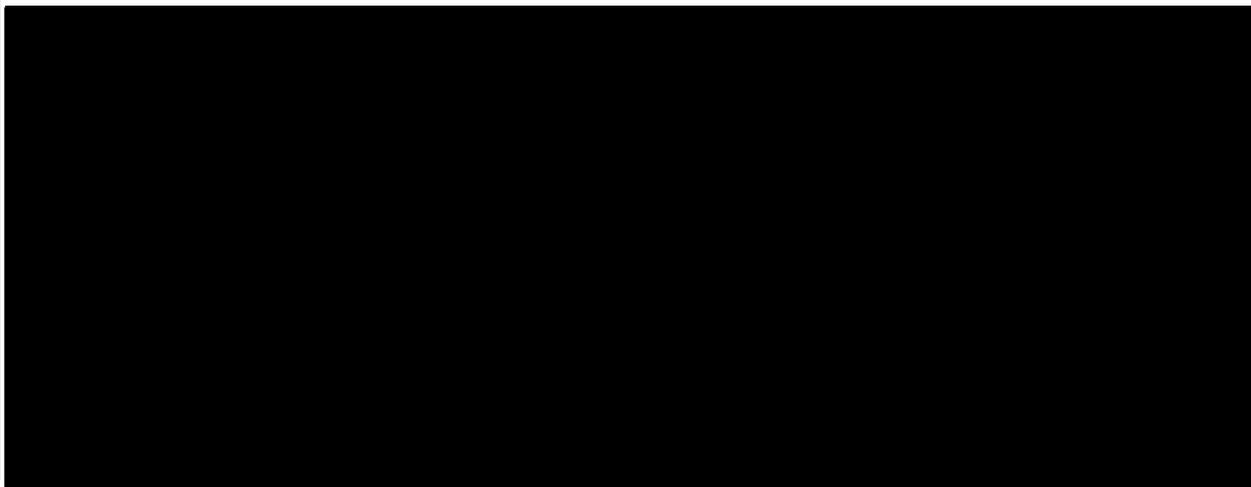
(813) 380 2070 (c)

[RyanW@SpectrumTowers.com](mailto:RyanW@SpectrumTowers.com)

signature\_672023240

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**From:** [REDACTED]  
**Date:** Monday, April 19, 2021 at 7:12 PM  
**To:** Ryan Willaman <[RyanW@spectrumtowers.com](mailto:RyanW@spectrumtowers.com)>  
**Subject:** [REDACTED] Application for VCY Tower in Wilton, WI



**ATTACHMENT 2**

**From:** Chris Connell [cconnell@mobilitie.com](mailto:cconnell@mobilitie.com)

**Sent:** Tuesday, December 14, 2021 10:54 AM

**To:** [REDACTED]

**Cc:** Vivek Dave <[vivek@mobilitie.com](mailto:vivek@mobilitie.com)>

**Subject:** RE Renting space on Tower 1303489 New Colo Opportunity on 3WIBT0039A Ontario

Hi [REDACTED]

I spoke with Vivek and we agree it's a good time for me to step back into this one to guide you through our collocation process.

Please complete the attached collocation application as this will allow us to lock down pricing and start pressing this project forward quickly.

Let me know if you have any questions.

Thanks.

**Chris Connell** | Sr Director, PMO



1201 Peachtree Street NE, Suite 1730 | Atlanta, GA 30361

404 931 3674 m

[www.mobilitie.com](http://www.mobilitie.com)

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**From:** [REDACTED]

**Sent:** Tuesday, December 14, 2021 9:09 AM

**To:** Vivek Dave [vivek@mobilitie.com](mailto:vivek@mobilitie.com)

**Subject:** Re: Renting space on Tower 1303489

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hey Mr. Vivek,

Hope you are doing well today Here are answers to your questions in **RED** below

1. There are strict shut-down procedures in place for the TV antenna gear that allow existing tenants to access their equipment with 24hr notice - **NO Problem if ever needed. We can do this logistically very easily**
2. We must have RF intermod completed prior to the lease agreement showing that the TV station antennas will not interfere with existing tenant antenna Tx/Rx - **Who does/performs the RF intermod?**
3. The TV station must provide their own power - **We believe we can get power from Bug Tussel and would appreciate any assistance that Mobilitie could offer in our efforts to connect with the right people at Bug Tussel. We are currently communicating with people at Bug Tussel however, we haven't been able to solidify an agreement. If you can help us make sure we are communicating with the right people, we'll handle it ourselves or if you can handle that for us, doesn't matter to us as long as it gets done.**
4. The TV station must lease ground space for ground equipment - **Would the ground lease come from Bug Tussel too?**

Please expand/expound where needed and let us know as soon as you can, so we can move forward with #2, #3 & #4

Thanks so much

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**From:** Vivek Dave <[vivek@mobilitie.com](mailto:vivek@mobilitie.com)>  
**Sent:** Monday, December 13, 2021 10:46 AM  
**To:** [REDACTED]  
**Subject:** RE: Renting space on Tower 1303489

Hi [REDACTED]

Thanks for calling on Friday.

Based on our internal analysis we would be able to agree to a 12 month lease with your client if the following can be agreed to:

1. There are strict shut-down procedures in place for the TV antenna gear that allow existing tenants to access their equipment with 24hr notice
2. We must have RF intermod completed prior to the lease agreement showing that the TV station antennas will not interfere with existing tenant antenna Tx/Rx
3. The TV station must provide their own power
4. The TV station must lease ground space for ground equipment

Please let us know if this is agreeable and we will begin working up the cost.

Thanks,

Vivek

**Vivek Davé** | Director, Wireless Solutions  
[vivek@mobilitie.com](mailto:vivek@mobilitie.com)

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**From:** [REDACTED]  
**Sent:** Monday, December 6, 2021 6:07 PM  
**To:** Vivek Dave <[vivek@mobilitie.com](mailto:vivek@mobilitie.com)>  
**Subject:** Re: Renting space on Tower 1303489

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**From:** Vivek Dave <[vivek@mobilitie.com](mailto:vivek@mobilitie.com)>  
**Sent:** Monday, December 6, 2021 11:01 AM  
**To:** [REDACTED]  
**Subject:** RE: Renting space on Tower 1303489

Thanks [REDACTED] I have forwarded for review. Your response below mentions three 20" antennas, can you please send me the make/models of the proposed antennas when you get a chance? I will follow up with any next steps as soon as I hear back.

-Vivek

**Vivek Davé** | Director, Wireless Solutions  
[vivek@mobilitie.com](mailto:vivek@mobilitie.com)

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**From:** [REDACTED]  
**Sent:** Friday, December 3, 2021 4:14 PM  
**To:** Vivek Dave <[vivek@mobilitie.com](mailto:vivek@mobilitie.com)>  
**Subject:** Re: Renting space on Tower 1303489

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Hey Mr Vivek,

Got some answers to some of your questions from below.

#1 Antenna size Each panel is only 20 INCHES tall... even if we had three panels up there, with 6 inches in between, that would only be 6 Feet of total tower space occupied by us.

**Antenna** - 20"

Space 6"

**Antenna** - 20"

Space - 6"

**Antenna - 20"**

72 total inches = 6 feet

#2. "YES" we need shelter of some sort. We can take this cost on and supply shelter ourselves unless you have any ideas about how you all could provide it. We could also ask Bug Tussle if they could provide.

#3. We are fine with negotiating with Bug Tussle directly for a power supply and paying them for our power usage. Can you please provide the correct Bug Tussel contact for this question and contact info?

#4. We are OK with the time it takes to generate the lease. But we need to know at least ball park figure per month and for the full 12 months that we would be on the tower as soon as possible. By end of next week would be great.

\*Reminder, we originally were discussing a 1-2 month lease. We now need a 12 month lease.

Please get me the ball park figure for 12 months on the tower at your earliest possible convenience. Monday or Tuesday next week would be extremely helpful. We're getting closer to our FCC deadline and we need to know some numbers otherwise we can't proceed even if we wanted to.

I'm available on weekends too if you need. No problem. Time is getting short for us.

Thank you so much Mr. Vivek. You've been great and we hope to continue to work with you to completion of this project.

Sincerely,

[Redacted signature]

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**From:** Vivek Dave <[vivek@mobilitie.com](mailto:vivek@mobilitie.com)>

**Sent:** Tuesday, October 19, 2021 4:00 PM

**To:** [Redacted]

**Subject:** RE: Renting space on Tower 1303489

Tony—Thanks for the call and the information, I have a few questions/comments...

1. Please note that the 13ft antenna request at 200ft is typically larger than what we place on towers and in order to lease enough space we need to factor in a 2ft buffer from the top and bottom so the antenna placement would require about 17 feet which is essentially 2 RAD centers.
2. Regarding the use of existing shelter space, Mobilitie does not have an existing shelter, all of the ground equipment is currently on concrete pads. Please let us know if a shelter is indeed required for this scope.
3. Regarding power, Mobilitie does not have a power meter on site, but Bug Tussel does have meters for their equipment so a separate agreement to use power may be required with Bug Tussel.
4. The entire site acquisition process usually averages between four and six months; (need time for CDs, structural analysis, lease, regulatory approval, permitting, etc) before we proceed I just want to understand your time frame to be on-air so that we can ensure this is feasible.

Please let me know feedback when you can.

Thanks,

Vivek

**Vivek Davé** | Director, Wireless Solutions  
vivek@mobilitie.com

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