



Federal Communications Commission
Washington, D.C. 20554

February 9, 2022

Televiscentro of Puerto Rico, LLC
Jorge Hildago
P.O. Box 362050
San Juan, PR 00936-2050
jorge.hidalgo@wapa-tv.com
(via electronic mail)

Re: Request for Tolling Waiver
WAPA-TV, San Juan, PR
Facility ID No. 52073
LMS File No. 0000180303

Dear Licensee,

Televiscentro of Puerto Rico, LLC (TPR), licensee of television station, WAPA-TV, San Juan, Puerto Rico (WAPA) has filed the above-referenced, amended, request for waiver of the Commission's tolling provisions and tolling of the Station's construction permit expiration date. For the reasons below, we grant TPR's request and toll the expiration date of WAPA's construction permit through May 26, 2022.

Background. Requests for additional time to construct modified digital low power television facilities are subject to the Commission's tolling provisions of section 73.3598(b) of the Rules.¹ 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.² 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.³

Request For Tolling Waiver. TPR requests waiver of the tolling rule and tolling of its construction permit (LMS File No. 0000055015) for the station's modified facilities (Mod CP). The tolling rules were waived and the expiration date of the Mod CP previously tolled to January 26, 2022.⁴ As fully detailed in its previous request for tolling waiver, the Station's previous tower was destroyed by

¹ See 47 CFR § 73.3598(b).

² *Id.*

³ 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).

⁴ See LMS File No. 0000151309.

Hurricane Maria in 2017. TPR subsequently filed for the Mod CP to rebuild the Stations' facilities on a tower owned by Telemundo of Puerto Rico (Telemundo). Since the grant of its last tolling waiver in August 2021, TPR states that it has made substantial progress in completing the work needed for the Mod CP facilities. TPR reports that it completed construction of the transmitter building and has installed the electrical system and the necessary transmission equipment, including the new transmitter. TPR states that the station encountered some unexpected delays because of issues with a water radiator, faulty amplifiers, and a coaxial switch. Repairs to this equipment took longer than anticipated, TPR states, because of staffing issues due to the COVID-19 pandemic and schedule backlogs. However, TPR maintains, it has now completed the necessary repairs.

It was also necessary for an engineer who works for the company that manufactured the transmitter to conduct a proof of performance for the new transmission equipment and make any necessary adjustments and calibrations. TPR represents that the engineer was scheduled to travel to Puerto Rico and begin the tests on January 11, 2022; however, the company informed TPR that because the engineer had tested positive for COVID-19, he would be unable to travel to Puerto Rico. TPR reports that the engineer was finally able to travel to Puerto Rico and conduct testing the week of January 23, 2022.

Unfortunately, when the station commenced operations with the new transmitter at full power, TPR states that it discovered an unexpected problem with the transmitter cooling system due to a lack of flow of "Glycol." TPR reports that it has ordered six larger Glycol pumps and will need to modify the transmitter cooling system pipes. TPR has been informed that it will take between eight and ten weeks for the new pumps to arrive. TPR argues that the Station cannot operate at full power until the repairs are made to the cooling system. In the interim, the Station is operating at 80% power. TPR predicts it will be able to complete the remaining work and begin operating at 100% power by the end of May 2022 and requests tolling of the Mod CP until then.

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 Mod CP to May 26, 2022.⁵ TPR has demonstrated that it diligently made progress towards completion of the Station's modified facilities, but was unable to complete construction due to a last-minute equipment failure. Ultimately, we conclude that the public interest will be served by grant of waiver and tolling of the Station's Mod CP.

The above facts considered, Televiscentro of Puerto Rico, LLC's request for waiver of the Commission's tolling provisions **IS GRANTED**. The construction permit (LMS File No. 0000055015) for WAPA-TV, San Juan, Puerto Rico, **IS TOLLED through May 26, 2022**. We remind TPR that any subsequent requests for tolling of its construction permit deadline will be subject to the Commission's tolling provisions.⁶ To the extent the Station seeks an additional extension of tolling, such a request must include what actions have been taken since tolling was granted and a detailed plan for completing

⁵ 47 CFR § 73.3598(b).

⁶ *Id.*

construction of the Station's 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 mail): Sally Buckman, Esq.