



Federal Communications Commission
Washington, D.C. 20554

February 9, 2022

My Central Valley, LLC
1187 N Willow Ave
Suite 103
Clovis, CA 93611
roxzan@mytv53.com
(via electronic mail)

Re: Requests for Tolling Waivers
WZEO-LD, La Crosse, WI
WRJT-LD, Wausau, WI
KMYN-LD, Duluth, MN
KUMJ-LD, Beaumont, TX
Fac ID Nos. 184328, 184338, 186867
and 182036
LMS File Nos. 0000177521,
0000177522, 0000177523,
and 0000177524

Dear Licensee,

This concerns requests for waiver of the Commission's tolling provisions and tolling of construction permit expiration dates (Requests) filed by the My Central Valley, LLC (MCV), permittee of WZEO-LD, La Crosse, Wisconsin (WZEO-LD); WRJT-LD, Wausau, Wisconsin (WRJT-LD); KMYN-LD, Duluth, Minnesota (KMYN-LD); and KUMJ-LD, Beaumont, Texas (KUMJ-LD) (collectively Stations). For the reasons below, we grant MCV's Requests and toll the expiration dates of the Stations' construction permits to June 20, 2022.

Background. Requests for additional time to construct 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

¹ See 47 CFR § 73.3598(b).

² *Id.*

demonstrate that “rare and exceptional circumstances” prevented construction by the station’s construction permit expiration date.³

Requests For Tolling Waiver. The Stations are unbuilt, new low power television stations. The construction permits⁴ (Station CPs) were originally issued to DTV America II, LLC (DTV America) in 2012 and had expiration dates of July 13, 2021.⁵ Extension applications filed by DTV America were granted on June 22, 2021 and the Station CPs expiration dates were extended to January 10, 2022.⁶ MCV subsequently acquired the Stations from DTV America on August 10, 2021.⁷

In DTV America’s extension applications, MCV, as buyer the buyer of unbuilt construction permits, provided a statement that included a timeline for completing construction of the Stations by January 10, 2022. In its Requests, MCV provides a well-documented showing of its efforts to complete construction of the Station CPs and of the equipment delivery delays it has encountered.

After acquiring the Stations, MCV states that it immediately began work on securing equipment, transmitter sites, and tower crews for the construction of the Stations. MCV states that it placed equipment orders early with commitments from its manufacturers that they had all parts in their warehouses and were “setting them aside” for MCV’s projects to deliver on time. However, after weekly communication leading up to the quoted delivery date of December 1, 2021, MCV’s engineer was informed that its antenna and transmitter manufacturer were facing extensive delays. MCV states that it

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) (*Streamlining MO&O*) (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 CDBS File No. BNPDTL-20100201AEU as modified by displacement LMS File No. 000071991 (WZEO-LD); BNPDTL-20100202AAK as modified by LMS File No. 00000008337 (WRJT-LD); BNPDTL-20100514AAL as modified by displacement LMS File No. 0000072856 (KMYN-LD) and BNPDTL-20090825AYJ as modified by LMS File No. 0000177155 (KUMJ-LD).

⁵ See *Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power Television and Television Translator Stations*, MB Docket No. 03-185, Third Report and Order and Fourth Notice of Proposed Rulemaking, 30 FCC Rcd 14927, 14932-33, para. 9 (2015). In that decision, the Commission extended the expiration date of valid construction permits for new digital low power television stations to the LPTV digital transition date which is set as 12 months following the completion of the 39-month post-Incentive Auction transition period or 51 months from the completion of the Incentive Auction and the release of the *Closing and Channel Reassignment Public Notice*. *Id.* See *Incentive Auction Closing and Channel Reassignment Public Notice: The Broadcast Television Incentive Auction Closes; Reverse Auction and Forward Auction Results Announced; Final Television Band Channel Assignments Announced; Post-Auction Deadlines Announced*, Public Notice, 32 FCC Rcd 2786 (IATF and MB 2018) (*Closing and Channel Reassignment Public Notice*). Given the April 13, 2017 release date of the *Closing and Channel Reassignment Public Notice*, the LPTV digital transition date and expiration date of all valid construction permits for new digital LPTV stations were set as July 13, 2021.

⁶ See 47 CFR § 74.788(c)(3) (permitting a single six month extension of certain station’s construction permits). See LMS File Nos. 0000150495; 0000150496; 0000150497; and 0000150499.

⁷ See LMS File Nos. 0000150435; 0000150436; 0000150437; and 0000150438.

became clear that the Stations' equipment would not be delivered in time for it to complete construction of the Stations' facilities prior to the January 10, 2022 construction permit expiration dates.

MCV provides written confirmation from its manufacturers that delivery of its transmitters and antennas would be delayed up to six months.⁸ Although it states that it has all leases, modifications, crews, and utility approvals in place, it cannot commence operations without its transmitters and antennas. MCV provides a timeline for completion of construction and is hopeful that construction can be completed in six months. Based on the foregoing, MCV requests that the Station CPs until June 20, 2022.

Discussion. Upon review of the facts and circumstances presented, we find that sufficient circumstances exist to waive the rules and toll the expiration dates of the Station CPs to July 11, 2022.⁹ MCV has demonstrated, since acquiring the Stations in August 2021, it has been diligently making progress towards completion of their facilities, but was unable to complete construction due to construction delays outside of its control including delays in obtaining equipment due to manufacturing delays and supports this claim by providing written confirmation of the delays from its manufacturer. Ultimately, we conclude that the public interest will be served by grant of waivers and tolling of the Station CPs.

The above facts considered, My Central Valley, LLC's requests for waiver of the Commission's tolling provisions **ARE GRANTED**. The construction permits (LMS File Nos. 0000071991; 0000008337; 0000072856 and 0000177155, respectively) for WZEO-LD, La Crosse, Wisconsin; WRJT-LD, Wausau, Wisconsin; KMYN-LD, Duluth, Minnesota; and KUMJ-LD, Beaumont, Texas, **ARE TOLLED through July 11, 2022**. To the extent the Stations seek additional tolling, such requests must include a detailed plan for completing construction and a showing demonstrating that completion of the Stations' facilities was prevented for either an eligible tolling reason or rare and extraordinary circumstances outside of MCV's control.¹⁰ We will look unfavorably upon any future request that does not include such information.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Scott Woodsworth, Esq.

⁸ MCV provides the aforementioned supporting documentation as well as other documents providing details of its construction under a request for confidentiality. *See* 47 CFR § 0.459.

⁹ 47 CFR § 73.3598(b).

¹⁰ *See id.* A station may also seek a waiver of the tolling rule to receive additional time to construct in the case where "rare or exceptional circumstances" prevent construction. *See Streamlining MO&O*, 14 FCC Rcd at 17536, para. 42.