

Fort Myers Broadcasting Company's Supplemental Narrative Supporting Tolling Waiver
Request, LMS File No. 0000186592

A. Work Remaining to Complete WINK-TV's Final Facilities

Fort Myers Broadcasting Company (FMBC) needs to install approximately 260 feet of WINK-TV's transmission line on the station's 1519 foot tower at Punta Gorda, Florida. The transmission line then needs to be connected to the antenna, at which point the physical installation of all equipment needed to complete the station will be finished. All of the equipment needed to finish this project has been delivered to the Punta Gorda tower site and is awaiting suitable weather conditions to permit installation on the tower.¹

After completion of the station, the antenna and transmission line need to be swept. At that point, Station WINK-TV needs to apply to the FCC for a license to cover the newly constructed facilities.

B. Efforts to Construct WINK-TV's Final Facilities

Original plans to construct WINK-TV's final facilities were simple. The station's existing 1519 foot television tower would be replaced with a 1519 foot television tower at the same location, obviating the need for environmental processing. The new transmitter would be installed in the modified WINK-TV transmitter building and the new antenna and transmission line would be installed on the replacement tower, along with the facilities of Stations WINK-FM, WXCW and WLZE-LD. The WINK-TV transmitter was installed in the transmitter building by mid-2020. FMBC expected to begin construction of the replacement tower in late July/early August, 2020.

FMBC's construction plans were disrupted by Florida Department of Transportation (FDOT) plans to use portions of the WINK-TV transmitter site for a road widening project. In this connection, the Eastern portion of FMBC's tower property borders on State Road 31. Across SR31 from FMBC's property, developers are building Babcock Ranch, a 27 square mile community that will ultimately have almost 50,000 residents. To meet the increased traffic flow expected from the build out of Babcock Ranch, FDOT is planning to expand SR31 from a two lane highway into a

¹ On March 7, 2022, FMBC's tower company informed it that the tower's guy paths needed to be enlarged to install "snubbers," which are devices designed to prevent oscillations in the guy wires. FMBC has contacted the Commission to determine the process for obtaining environmental approval for the tree clearing necessary to construct the snubbers. The Commission's response was received today and requires the submission of a supplemental environmental analysis of the impact of additional tree clearing.

four lane highway.² FDOT is in the design phase of the SR31 project and current plans contemplate locating portions of the highway on land owned by FMBC and used for its tower site.

The initial guy plan for WINK-TV's replacement tower was supposed to avoid the FDOT's planned roadway improvements. However, this guy plan was created before FMBC was aware that FDOT's ultimate goal was to turn SR31 into a four lane highway with turn lanes. Upon discovering the extent of road expansion needed to support the adjacent Babcock Ranch community, FMBC set out to redesign the replacement tower's guy system.

At first FMBC and its tower manufacturer, Electronics Research Inc. (ERI), sought to fix the guy plan by rotating the replacement tower at its proposed location (next to the existing WINK-TV tower). However that possible solution resulted in shifting one of the guy points outside of FMBC's owned real estate and on to real property owned by the State of Florida. The other possible solution at the original replacement tower site was to short guy the tower. Theoretically, short guying a tower is possible if the tower is constructed with sufficient strength to withstand associated forces and meet code standards. The tower FMBC ordered (which was manufactured in early 2020 and was ready for delivery in June, 2020) was not designed to bear the stress of significant short guying.

FMBC and ERI identified a site on FMBC's tower property which accommodated both FDOT road expansion goals and a suitable guy plan for the new tower. However this site is located roughly two degrees longitude from the old WINK-TV tower. FMBC was informed that moving the new tower at this location (a) required a new tower registration, instead of a modification of tower registration; (b) required a new FAA notification; (c) required environmental evaluation; and (d) required a modification of construction permit for each and every station that was to be located on the new tower (WINK-TV, WINK-FM, WXCW and WLZE-LD).

² FMBC learned in July 2018 that FDOT was formulating plans affecting SR31. At that time FMBC was notified that a new turn lane near FMBC's property was under consideration by FDOT. There had been no public notification of the FDOT project, which was and still is in an initial planning phase. Over the next 23 months FMBC and its local lawyer regularly communicated with FDOT seeking to learn the nature and extent of FDOT's plans for SR31 and their potential impact on FMBC's tower site. FMBC learned that the real estate on the East side of the road was not likely to be appropriated for highway expansion because a large natural gas pipeline was buried in that side of the right of way. So the real estate for any SR31 improvement project would likely come from the property owners on FMBC's side of the street. FMBC made FDOT planners aware that the then-existing Eastern guy anchor for the WINK-TV tower was near the area to be used as a turn lane. As of January 2020, FMBC's counsel had been informed by FDOT planners that then-current plans for SR31 did not impact the existing WINK-TV tower. This intelligence changed dramatically when, in a June 24, 2020 telephone call, FMBC's director of engineering discovered that FDOT's ultimate goal was to expand SR31 into a four lane highway with turn lanes. This would impact WINK-TV's existing guy point and eliminate the Eastern guy point of WINK-TV's proposed replacement tower.

Until late July/early August, 2020, FMBC believed it was ready to erect its tower and finish its post-auction reconstruction project. The new tower was fabricated and ready to ship. Similarly, the new antenna and transmission line were manufactured, stored in a warehouse and ready for shipment. Finally, the transmitter for WINK-TV's post-auction facility was already installed at the WINK-TV transmitter site.

Immediately upon learning of the need to register WINK-TV's replacement tower as a new tower, FMBC retained an environmental consultant. The environmental consultant delivered an Environmental Assessment for construction of the new tower on November 16, 2020 and the tower registration application was filed with the FCC November 17, 2020. The FAA issued its determination of no hazard to air navigation with respect to the new tower on December 11, 2020. The tower registration application cleared environmental public notice, without objection, in late December, 2020. However, by that time, the FCC had lost its wildlife biologist and review of the tower's Environmental Assessment could not be completed until a replacement biologist was hired.

By mid-February, 2021, the Commission had a wildlife biologist reviewing the WINK-TV tower registration application. On April 6, 2021, at the request of the FCC's wildlife biologist, FMBC amended its local building permit for the tower. The Commission granted the tower registration application on May 6, 2021. FMBC promptly amended its WINK-TV construction permit to specify the new tower site approved in the antenna structure registration application. The Commission granted the WINK-TV minor modification application May 12, 2021.

FMBC's tower contractor mobilized its personnel at the WINK-TV tower site on June 3, 2021. It completed clearing the guy paths for the new tower and began to disassemble the old WINK-TV tower. Removal of the old tower was required prior to erection of the new tower, because the new tower's foundation is located under the Eastern guy wires of the old tower. The old tower was decommissioned as of October 13, 2021.

The new WINK-TV tower was constructed to its maximum height on January 10, 2022. Since that time, Stations WINK-FM and WLZE-LD have been installed and are operating on the tower. Additionally, most of WINK-TV's six inch transmission line has been installed. From March 7, 2022, until March 19, 2022, dangerous weather at the WINK-TV tower site prevented tower crews from installing the remaining WINK-TV broadcast equipment on the Punta Gorda tower. During a break in the weather on March 20, the tower contractor was able to install the WINK-TV antenna. However bad weather returned March 21 and is expected to last through the week.³ It is impossible to predict when weather conditions will permit safe resumption of tower work.

C. When Work Might Be Completed.

³ In this connection, "bad weather" signifies weather conditions which impede construction of facilities on a tall tower, such as FMBC's 1519 foot Punta Gorda broadcast tower. High or unpredictable winds at altitudes above 1000 feet do not necessarily correlate to weather conditions at ground level. The dangers of wind to tower crews and tower construction are explained in the attached letter dated March 13, 2022, from William Harland to Mike Mayne.

Five days of good weather should suffice to complete the WINK-TV tower work and sweep the transmission line and antenna. At that point, FMBC's consulting engineers would need an additional day or so to prepare a license application.

D. Projected Invoices

FMBC projects the following expenses for the completion of the project and expects to receive invoices for these items:

DuTreil, Lundin and Rackley Inc for engineering expenses, including filing license application and amending tower registration;

Belisle Law Firm PA for expenses, including expenses for STAs, tolling applications, license applications, environmental approvals

Kessler & Gehman for expenses for submitting invoices for reimbursement

FCC application filing fees

Environmental assessment of land clearing for snubber installation

Local permitting for snubber construction

ERI for expenses of snubber fabrication and installation

Dated: March 22, 2022