

QueenB Television Kansas/Missouri, LLC
Station KOAM-TV, Facility ID 58552
FCC Form 2100, Schedule 337
Request for Tolling Relief and Extension of Construction Permit
June 2022

QueenB Television Kansas/Missouri, LLC ("QBTVM") hereby respectfully requests tolling relief and a brief extension of its construction permit for station KOAM-TV, Pittsburg, Kansas (LMS File No. 0000035785) until July 29, 2022. While at present, QBTVM anticipates that construction can be completed by the current July 2, 2022 deadline, QBTVM requests this relief out of an abundance of caution and in light of several factors outside of QBTVM's control that have delayed construction. As shown below, good cause exists for grant of the requested relief.

Stations needing additional construction time must make a showing under the Commission's tolling rules (47 C.F.R. Section 73.3598(b)) or seek additional time based on a waiver due to "rare and exceptional circumstances" preventing construction.¹ Section 1.3 of the Commission's rules provides that any provision of the rules may be waived "for good cause shown."² Waiver is appropriate where strict compliance would be inconsistent with the public interest,³ and the FCC may consider hardship, equity and other reasons in considering a waiver⁴. Grant of the instant request is in the public interest, and good cause exists.

Unanticipated factors outside of QBTVM's control have delayed completion of construction and may create additional delay. QBTVM has made significant progress toward nearly completing construction and has engaged in diligent good faith efforts to assure timely completion of the project:

- April 27, 2022: delivery to the site of the new antenna system from Dielectric.
- April 28, 2022: all necessary components are on site.
- April 29-May 20, 2022: Licensee's tower contractor, Precision Communications, added mid -bay bracing for required structural modifications, stacked the new transmission line for KOAM antenna and mounted a temporary antenna.
- May 20-June 8, 2022: As referenced in the attached letter from Precision Communications ("Precision"), the crew's availability has been limited by obligations to another television station in a different market that required emergency work. This job required the crew to leave the KOAM-TV site, and it delayed the delivery of heavy equipment required to rig the tower and install the antenna, which did not arrive on the KOAM-TV site until June 8, 2022. As described in the attached letter from Precision, the company has experienced an unusual number of problems with "hot" antennas in different markets. This emergency job, along with weather-related delays for this and other projects, have resulted in the crew being behind schedule.
- June 8 – June 22, 2022: Crews added more steel to the base of the tower to reinforce the structure to handle the load from the antenna. Crews rigged the tower, assembled the gin pole to its full height and prepped the top antenna for removal

¹ See 1998 Biennial Regulatory Review – Streamlining of Mass Media Applications, Rules, and Processes, Memorandum Opinion and Order, 14 FCC Rcd 17525, ¶42 (1999)(nothing that the FCC may entertain requests for waiver of the strict tolling provisions in cases of "rare and exceptional circumstances" beyond licensee's control).

² 47 C.F.R. § 1.3.

³ See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁴ See *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert denied*, 409 U.S. 1027 (1972).

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- June 23, 2022: Removed the top antenna from tower. The KOAM antenna is part of an antenna stack with KFJX(TV), and this construction project includes replacement of antennas for both facilities.
- June 24-June 26, 2022: Crews prepared the bottom antenna for removal, but twice had to delay removal of the antenna due to poor weather conditions
- June 27, 2022: Crews removed the bottom antenna and pedestal adapter from the tower top
- June 28, 2022: The Antenna for KOAM(TV) is being hoisted into place on the tower top

In addition, weather delays have affected the crew's work at the KOAM-TV site. As described in the attached letter from Precision, weather problems across the company's multiple spring projects have reduced the number of days that the tower crew can safely perform work. The prospect for more such delays remains during tornado season in and around the area. Weather problems prevented work entirely on May 2, 4, 5 and 9 and on June 25. On other days, wind and other weather conditions did not require cancellation for the day but prevented some of the heavier tower work.

The stacked KOAM(TV)/KFJX(TV) antenna means that even once the KOAM antenna is in place and fully constructed, full long-term operations must wait until the completion of construction of KFJX(TV) due to potential worksite hazards of human RF exposure to the tower crew that is installing the antennas. But for these concerns, KOAM would be in a position to commence operations sooner.

For these reasons, KOAM(TV) requests that its construction deadline be extended to July 29, 2022 to harmonize with KFJX(TV)'s construction deadline. Absent unforeseen circumstances, QBTVMK anticipates that construction will be completed well before that date.

In short, strict compliance with the construction deadline here would be inconsistent with the public interest and would result in undue hardship in light of the significant resources spent toward construction and the brief extension being requested. Moreover, the new facility should result in significantly improved over-the-air service to the public. For these reasons, and out of an abundance of caution, QBTVMK respectfully requests the relief set forth herein.