

## Request for Reinstatement

Nexstar Media Inc. (“Nexstar”), licensee of K22GE, Dulce, New Mexico, FAC ID 125926 (the “Station”), respectfully requests reinstatement of the license and digital construction permit, waiver of the Commission’s tolling provisions, and tolling of the reinstated construction permit for the Station.<sup>1</sup> As the Commission is aware, the Station is used in the operations of commonly owned KREZ-TV, Durango, Colorado, FAC ID 48589. The Station provides important, free, over-the-air broadcast television service that will encompass the population living on remotely located Jicarilla Apache (“Tribe”) Tribal land. Dulce is described as: “A census-designated place (CDP) in Rio Arriba County, New Mexico, United States. The population was 2,743 at the 2010 census, almost entirely Native American. It is the largest community and tribal headquarters of the Jicarilla Apache Reservation.”<sup>2</sup>

The Station, originally located in a ranger station with a fire watch tower on the Tribe’s Land and licensed in 2002 by RayCom National, Inc., was assigned to LIN of New Mexico, LLC (“LIN”) in February 2007.<sup>3</sup> LIN sought and received the Station’s digital construction permit in 2009.<sup>4</sup> The Station was later assigned to Ramar Communications, Inc. (“Ramar”) in January 2017.<sup>5</sup> Pursuant to 47 CFR § 74.731(m), the low power and television translator digital transition was to occur no later than – “51 months following the release of the Channel Reassignment Public Notice announcing completion of the incentive auction” – which was determined to be July 13, 2021. Subject stations that were unable to complete their digital transition by July 13, 2021 were required to cease analog operations. The Commission provided an opportunity for those stations to seek one extension<sup>6</sup> of their existing digital construction permit. If stations required additional time to build out beyond that singular extension a request for tolling<sup>7</sup> was required to be filed with the Commission. As detailed above, the Station, then licensed to Ramar, unable to commence digital operations was required to cease analog operations by July 13, 2021. As a result, Ramar sought and received authority to remain silent and also sought and received authority to extend the Station’s digital CP until January 10, 2022 (1/10/2022).

In December 2021, the Station, silent since July 2021, was assigned to Nexstar.<sup>8</sup> Nexstar was unable to buildout the Station’s digital facilities within the first three weeks of ownership. Unfortunately, due to an administrative oversight during the transition from Ramar to Nexstar, the Station’s digital CP extension deadline was catalogued as 10/1/2022 (October 1, 2022) instead of 1/10/2022 (January 1, 2022). As a result, Nexstar failed to file the requisite request to toll the January 10, 2022 deadline.

Following the December 2021 consummation, Nexstar began working towards completing the Station’s digital facilities. However, Nexstar encountered several events, unforeseeable and beyond its

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<sup>1</sup> See FCC File Nos. BLTT-20020326ABE, granted on April 24, 2002, and BDFCDTT-20090824ADF, granted on September 30, 2009. A CP extension (the “CP Extension”) request was filed on July 13, 2021, granted on July 16, 2021 and expired on January 10, 2022. See FCC LMS File No. 0000152682.

<sup>2</sup> See [https://en.wikipedia.org/wiki/Dulce,\\_New\\_Mexico](https://en.wikipedia.org/wiki/Dulce,_New_Mexico) last visited on August 31, 2022

<sup>3</sup> See FCC File No. BALCDT-20060726AUB.

<sup>4</sup> See fn 1.

<sup>5</sup> See FCC File No. BALCDT-2010708ABF.

<sup>6</sup> See 47 CFR § 74.788(c)(3).

<sup>7</sup> See 47 CFR § 73.3598(b).

<sup>8</sup> See FCC LMS File No. 0000155467, granted on October 1, 2021 and consummated on December 16, 2021. See FCC LMS File No. 0000178053.

control, that impeded its progress, including the need to relocate and an incidence of theft. The Jicarilla Tribal Government asked Nexstar to remove the Station's equipment from its current location, which was owned by the Tribe. The Tribe considered the site to have historical importance and decided to restore the ranger tower. In response, Nexstar began the process to remove the equipment within the structure and strip the cable from the tower with the intention of relocating the materials to an adjacent building also recently acquired by Nexstar. However, during the uninstall/reinstall process, Nexstar engineers discovered that various pieces of equipment, including the Station's transmission line, were stolen from the site.

The theft and resulting delays related to sourcing replacement parts and rescheduling the installation, exacerbated by COVID 19 material and staffing shortages, prevented Nexstar from completing the Station's digital facilities by the January 10, 2022 deadline. Nexstar continued its efforts to restore service to the community of Dulce. On May 31, 2022, Nexstar, unaware of the administrative error, completed construction, commenced digital operations pursuant to its original construction permit, and filed a license to cover (See FCC LMS No. 0000192312). Nexstar, pursuant to a Commission staff inquiry, only recently became aware of the 10/1/2022 vs. 1/10/2022 administrative error.

Nexstar believes that if it had timely filed a request for tolling of the January 10, 2022 construction deadline, considering 47 CFR 74.788(c)(1)-(2) and the rare and exceptional circumstances detailed above, it would have qualified for tolling based on:

“...the Media Bureau has authority to grant an initial extension up to six months. The applicant must show that its need for the additional time is due to circumstances that are either unforeseeable or beyond the station's control where the station has taken all reasonable steps to resolve the problem expeditiously. Such circumstances shall include, but shall not be limited to: (i) Inability to construct and place in operation a facility necessary for transmitting digital television, such as a tower, because of delays in obtaining zoning or FAA approvals, or similar constraints; (ii) The lack of equipment necessary to obtain a digital television signal; or (iii) Where the cost of construction exceeds the station's financial resources.”

For these reasons, Nexstar respectfully requests that the Commission, considering the significance of the Station's service to a terrain isolated community, the unforeseeable, rare and exceptional circumstances delaying construction and Nexstar's overall history of compliance as a Commission licensee, reinstate the Station's license and digital construction permit, waive the Commission's tolling provisions, toll the reinstated construction permit for a period of six months and continue processing the Station's license application.