

**Supplemental Request for Further Tolling and Extension of Silent STA and Authority to Remain Silent**

Edge Spectrum, Inc. ("Licensee"), licensee and permittee of W33DJ-D. Destin, FL 184036 (the "Station"), hereby requests further tolling of the Station's displacement construction permit (LMS File No. 0000195652 (the "CP")), an extension of the Station's authority to remain silent, and a waiver of the deadline by which the Station must return to the air or forfeit its license pursuant to Section 312(g) of the Communications Act of 1934, as amended. As described herein, Licensee has been working diligently to complete construction of the Station's displacement facilities. Nevertheless, as described herein, Licensee has encountered circumstances beyond its control that have precluded it from completing construction before the September 6 deadline.

As the Licensee indicated to the Commission, the Licensee has completed construction of nearly all of the unbuilt CPs for which it obtained tolling. With respect to the Station, the Licensee had obtained all necessary equipment and approvals and was prepared to begin operating this site immediately upon the grant of the construction permit for its modified site. File No. 0000199028. Unfortunately, due to an error by the Licensee's consulting engineer, the facility, as proposed, did not have the appropriate overlap. The Licensee has submitted an application to move the facility to a new site and believes it can complete construction imminently. The Licensee is also working with American Tower to obtain all of the necessary approvals for a higher power operation from a nearby site. The structural was completed on October 29, 2021, and it is almost ready for completion.

Under the present circumstances, a further waiver of tolling and extension of the CP is justified. 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.<sup>1</sup> If a station does not qualify for tolling under these criteria, good cause may exist to waive the Commission's tolling provisions and still toll the expiration of the Station's construction permit where the station can demonstrate that "rare and exceptional circumstances" prevented construction.<sup>2</sup>

Tolling is appropriate here because the Licensee's inability to complete construction of its displacement facilities for the Station is due to rare and exceptional circumstances beyond its control.<sup>3</sup> The Licensee has taken all reasonable actions within its control to complete construction by the current deadline. Specifically, the Licensee has procured all of the necessary equipment and was prepared to

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<sup>1</sup> 47 C.F.R. § 73.3598.

<sup>2</sup> See 1998 Biennial Regulatory Review -- Streamlining of Mass Media Applications, Rules, and Processes, Memorandum Opinion and Order, 14 FCC Rcd. 17525 ¶ 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.").

<sup>3</sup> See 1998 Biennial Regulatory Review -- Streamlining of Mass Media Applications, Rules, and Processes, Memorandum Opinion and Order, 14 FCC Rcd. 17525 ¶ 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").

complete installation before an engineering error became apparent. The Licensee anticipates completing construction shortly after the new CP is granted.

For the reasons stated above, the Commission should waive the tolling standard and provide Licensee with a brief extension, until November 7, 2022 to complete construction and license its displacement facilities.