

Guenter Marksteiner
WXDT-LD
July 2022

Request For Waiver of Tolling

Guenter Marksteiner (“Licensee”), licensee of WXDT-LP, Naples, Florida (Facility ID 25537) (“the Station”), hereby submits this request for waiver of the Commission’s tolling rules to allow for extension of the Station’s construction permit in FCC File No. 0000152394.

As the Commission is aware, the Licensee was notified in late 2021 that certain of the equipment necessary to construct the Station’s full power CP facility would not be delivered in time to meet the Station’s January 2022 construction deadline due to global supply chain disruptions affecting various vendors. The necessary parts have now arrived in the United States and are on the West Coast awaiting delivery to the Station’s transmission site.

The Licensee is coordinating with a tower crew to be on site to receive delivery of the antenna and mount it immediately. Crews are booked on other jobs and scheduling of the delivery and antenna mounting process must be coordinated to coincide so that both receipt of the equipment and mounting of it can be handled by the same crew, obviating the need to coordinate scheduling of another crew. The tower crew’s current estimate is that it can be on-site in four to six weeks’ time.

In the meantime, the Station is already operational and providing service to the public pursuant to STA facilities.

Given the unusual circumstances, a waiver of tolling and extension of the Station’s construction permit for the short remaining period is justified. The Commission’s rules allow a construction permit deadline to be tolled under specific circumstances involving acts of God, delays due to administrative or judicial review of the permit’s grant, or court proceedings regarding local, state, or federal requirements affecting the construction, including zoning and environmental requirements.¹ Moreover, stations may also be granted a waiver of the tolling rule to receive additional time to construct in the case where “rare or exceptional circumstances” not outlined above prevent construction.²

Tolling is appropriate here because the Licensee’s inability to complete construction has been due to rare and exceptional circumstances beyond its control. The global supply chain issues that caused the delay in the delivery of the Station’s main antenna and need to coordinate and schedule a new tower crew are widespread, affecting many parts of American life, and have been the subject of government concern at the highest levels.³ Moreover, the Licensee’s ability to complete construction of an alternate transmission system, as evidenced by the Station’s operation pursuant to STA demonstrates the Licensee’s diligence in pursuing construction of the Station.

For these reasons, the Commission should waive the tolling standard and provide the Licensee with an additional 60 days to complete construction and license the Station’s facilities.

¹ 47 C.F.R. §73.3598(b).

² See, e.g., *1998 Regulatory Review- Streamlining of Mass Media Applications, Rules and Processes*, Memorandum Opinion and Order, 14 FCC Rcd 17525, 17536 (1999) at ¶ 42.

³ See, e.g., *FACT SHEET: Biden-Harris Administration Announces Supply Chain Disruptions Task Force to Address Short-Term Supply Chain Discontinuities*, available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/08/fact-sheet-biden-harris-administration-announces-supply-chain-disruptions-task-force-to-address-short-term-supply-chain-discontinuities/>; Biden Announces Measures at Major Ports to Battle Supply Chain Woes, *The New York Times* (October 13, 2021) available at: <https://www.nytimes.com/2021/10/13/us/politics/biden-port-los-angeles-supply-chain.html>.