

Tolling Request

Puerto Rico Public Broadcasting Corporation (“PRPBC”), licensee of full-power television Station WIPR-DT, San Juan, Puerto Rico (Facility ID No. 53859) (the “Station”), respectfully requests that the deadline set forth in the construction permit authorizing the Station to modify its facilities to operate on its post-auction channel (File No. 0000034681, as modified by 0000213734) (collectively, the “CP Authorization”) be tolled in accordance with Section 73.3598(b) of the Commission’s rules. As discussed in more detail below, Commission approval of the requested tolling is consistent with Commission rules and will serve the public interest.

As previously reported to the Commission, as a noncommercial educational station that is operated as an arm of the government of Puerto Rico, the Station has limited financial resources, but nevertheless is devoted to serving viewers in San Juan and the surrounding areas with excellent public affairs programming. As a result of the Commission’s Incentive Auction, the Station was reassigned to Channel 26. After the completion of the Incentive Auction, the Station timely filed a modification application for the repacked facilities assigned by the Commission. However, in September 2017, before any construction could be completed, the Station’s tower and transmission facilities sustained substantial damage during Hurricane Maria. Because there was substantial damage caused to television stations licensed to communities throughout Puerto Rico, the Commission adjusted the transition deadline for affected stations.¹ Under the revised transition schedule, the Station was required to terminate operation on its pre-Incentive Auction channel no later than August 1, 2018.

Recognizing that it would not be able to complete the construction of its authorized post-Incentive Auction facility prior to the August 1, 2018 deadline due to circumstances beyond its control, PRPBC requested and received authorization to extend the CP Authorization (File No. 0000034681, as modified by 0000213734, and as most recently extended by File No. 0000214352). Additionally, PRPBC has requested and received special temporary authority (“STA”) to operate with interim facilities while it worked to complete construction of the facilities set forth in the CP Authorization (File No. 0000055289, as most recently extended by File No. 0000214418). The CP Authorization and the STA authorization each are due to expire on November 1, 2023.

On several prior occasions, PRPBC has set forth in detail the substantial damage caused by Hurricane Maria, which included the complete destruction of the Station’s tower owned by another Puerto Rico broadcaster, and substantial damage to the related transmission facilities and to the real property itself. Since at least the 1960s, the Station operated from a location known as La Santa Peak, which presently is owned by the Puerto Rico Department of Natural and Environmental Resources (“DRNA”). For over 50 years, DRNA (or its predecessors) had leased the site to a party unaffiliated with PRPBC: the owner of WAPA-TV (Televiscentro of Puerto Rico, LLC, or its predecessors (collectively, “WAPA”). WAPA had erected and maintained a tower on that site for many years prior to Hurricane Maria. Pursuant to a separate lease with

¹ See *Incentive Auction Task Force and Media Bureau Grant Waiver of the Post-Auction Transition Schedule and Modify the Transition Phase Assignments of Repacked Stations In Puerto Rico and the U.S. Virgin Islands*, Public Notice, 33 FCC Rcd 138 (2018).

WAPA, PRPBC was permitted to co-locate antennas and transmitters on the tower for the Station and one of PRPBC's radio stations (WIPR-FM, San Juan), along with WAPA's television station.

Hurricane Maria made landfall on Puerto Rico on September 20, 2017, and circumstances beyond PRPBC's control have made it impossible to operate the Station from that location since that time. As a result of Hurricane Maria, La Santa Peak suffered extensive and crushing damage, including the outright collapse of the tower. Following that damage, PRPBC understands that WAPA was able to relocate its television station to a different location, but such location was not made available to PRPBC. Sometime in mid-2018, WAPA informed PRPBC that it was abandoning its rights to utilize La Santa Peak, and intended to terminate its lease with DRNA. Shortly after learning of WAPA's decision, PRPBC informed DRNA that its desire was to restore the Station's operations from La Santa Peak. Since at least the end of 2018, PRPBC has been in the process of rebuilding the La Santa Peak site so it can resume operating the Station from that location, but construction has been delayed due to circumstances beyond the control of PRPBC.

After many months of delays, which were caused by circumstances beyond the control of PRPBC, PRPBC was able to enter into a lease with DRNA to rebuild the tower that will be utilized by the Station at the La Santa Peak site ("Tower"). In addition, the FAA and the Permits Management Office for Puerto Rico have approved the necessary construction, and PRPBC has taken delivery of the Station's antenna from Dielectric.

However, the outside company contracted to undertake the construction – Sabre Industries – was stopped by DRNA in September 2023 from working on the project because yet another permit (called Permiso Unico Incidental) was needed to remove soil in the construction area. That permit was issued on October 31, 2023 and PRPBC does not anticipate any further delays due to permitting issues. Once the tower base and anchors construction is complete, Sabre Industries will visit the site to take elevation measurements that will indicate if additional modifications to the Tower are necessary. After Sabre Industries has completed work on the Tower, it will probably take about 4-6 weeks for the Tower to be delivered by ground to a southern U.S. port, then shipped to the port of San Juan, and then delivered by ground to La Santa Peak.

While awaiting delivery of the Tower, PRPBC has continued preparing the site for delivery and installation of the equipment. PRPBC's work to date has included, among other things, demolishment of the base of the tower that had collapsed following Hurricane Maria, and the modification of the anchors that will be associated with the rebuilt Tower.

Unfortunately, Hurricane Fiona (which made landfall in September 2022) brought more than thirty inches of rain throughout Puerto Rico. Many roads were damaged, especially in the mountainous area where La Santa Peak is located. In particular, the main entrance road of the La Santa Peak site suffered a landslide. This damage means that no trucks can pass through, and no way to bring the Tower to the site, even if the Tower was fully built and able to be delivered to San Juan.

La Santa Peak is part of the Carite State Forest and, as such, is owned and managed by DRNA. Although PRPBC and DRNA are sister state agencies, PRPBC has no control over DRNA's activities. PRPBC worked closely with DRNA to obtain the funding necessary to rebuild the damaged roadway, and ultimately FEMA recently allocated the funds necessary to reconstruct the damaged roadway. FEMA now is in the process of obtaining and reviewing proposals to undertake such work. Once FEMA has approved the design, PRPBC anticipates that the road will be rebuilt within 90 days thereafter. At that time, PRPBC will be able to schedule a time for the company that will install the Tower (TCI – which previously has done work on the Island) to complete its work.

Unfortunately, there is no easy way to allow for delivery of the Tower to La Santa Peak until the road is reconstructed. The timing for such reconstruction is beyond PRPBC's control, because the La Santa Peak transmit site location is owned by DRNA, not PRPBC.

PRPBC is hopeful that the entire project (the repairs to the roadway and the erection of the rebuilt Tower) will be completed by the end of May 2024, depending on TCI's schedule. At that time, the Station will be able to resume operating from its licensed site, although it may be necessary to file an application for modification of license.

Section 73.3598(b) of the Commission's rules provides that the period of construction for an original construction permit shall toll when "construction is prevented due to an Act of God, defined in terms of natural disasters." Without question, the extensive damage that the Station sustained during Hurricane Maria – and the issues relating to the COVID-19 pandemic and the other matters beyond PRPBC's control as set forth herein – together constitute justifications for tolling. Further, tolling of the construction permit will not cause interference to other stations.

As set forth above, PRPBC has been diligently working towards getting the Station back on the air with permanent facilities that were destroyed by Hurricane Maria, but those efforts have been delayed to date due to circumstances beyond PRPBC's control. For the reasons set forth above, PRPBC respectfully requests that the CP Authorization be tolled for a period of 180 days.