

**Request for Waiver of Section 73.3700(b)(1)(i)
WRFB(DT), Carolina, PR, FCC Facility ID 54443**

Pursuant to Section 1.3 of the Commission's rules, R & F Broadcasting, Inc. ("Licensee"), licensee of WRFB(DT), Carolina, Puerto Rico, FCC Facility ID 54443 (the "Station"), hereby requests a waiver of the Commission's July 12, 2017, post-auction construction permit application filing deadline as established by Section 73.3700(b)(1)(i) (the "Filing Deadline"). As shown herein, good cause exists for the Commission to grant the Licensee additional time to file its post-auction construction permit application. The Licensee cannot build its post-auction facilities as assigned in the *Incentive Auction Closing and Channel Reassignment Public Notice*, DA 17-314 (MB & WTB, Apr. 13, 2017), because the existing tower is in disrepair and the Licensee is unable to reach an accommodation with the tower owner.

Because both technical and legal circumstances beyond the Licensee's control prohibit the construction of the repacked facilities assigned to WRFB, waiver of the Filing Deadline is appropriate. See *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post Incentive Auction Broadcast Transition*, Public Notice, 32 FCC Rcd. 858, 865 (¶ 25) (MB 2017). A waiver would also serve the public interest; rather than force a licensee to certify falsely an intention to construct an unbuildable facility, a waiver permits the Commission to avoid waste of administrative resources and promotes transparency and candor. Moreover, grant of this waiver will result in no disruption to the repack plan overall, as the Station is not part of a linked station set and Licensee is prepared, barring any unforeseen changes in circumstances, to construct new Channel 30 facilities by its Phase Construction Deadline.

WRFB(DT) is licensed to operate on Channel 51 on a tower located at 18 16' 37.0" N 65 51' 11.0" W (NAD83), Antenna Structure Registration Number 1043939 (the "Tower"). No written lease agreement exists between Licensee and the Tower owner. The Licensee had a longstanding verbal agreement with the prior owner, Mr. Jorge Estrada (d/b/a Communications Tower Service), who passed away in recent years, to operate the Station from the Tower.

The Tower is unsafe to climb. As expressed in the attached declaration of Jaime Echevarria, general manager and engineer for the Licensee, and documented in the attached photo, the Tower is woefully under-maintained and does not meet basic safety standards. This has been an ongoing issue with this Tower;¹ over the years, Licensee has had to undertake maintenance and repairs to the Tower just to ensure basic safety and functionality. The photo taken by Mr. Echevarria of one truss of the Tower is only an exemplar, but it demonstrates the degree to which the Tower is deteriorated. It is the belief of Mr. Echevarria that the Tower has not been painted

¹ See, e.g., *Jorge L. Estrada Owner of Antenna Structure No. 1043939 in Cubuy, Puerto Rico Bayamon, Puerto Rico*, Memorandum Opinion and Order, 21 FCC Rcd 13665 (2006) (finding Mr. Estrada liable for a monetary forfeiture for tower lighting violations).

in the time he has worked for the Station, a period of approximately 10 years. Mr. Echevarria has climbed the tower many times but now refuses to climb it for safety reasons.

In efforts to prepare for the Post-Auction Transition, Licensee contacted and attempted to engage with Mr. Estrada's family (which Licensee understands is the new owner) about necessary reinforcement and repairs to the Tower. In response, the new Tower owner informed Licensee that the Station may construct its new facilities on the current Tower only if a written lease is entered, but the financial terms sought by the new Tower owner are higher than the market rate and the new Tower owner will provide no assurance of repairs to or maintenance of the structure. These terms are commercially and technically unacceptable, as there is too much risk – both to health and safety as well as to financial and property interests – involved in the construction of new facilities without guarantees of essential, required structural updates and improvements.

Licensee therefore requests a waiver of the Filing Deadline to permit it extra time to identify and enter a lease for a new tower from which to operate the repacked facilities on Channel 30. Because such new location will almost certainly alter the coverage contour for the station more than the allowable parameters for a "checklist" application, a waiver to permit filing in the first priority window is requested.

DECLARATION OF JAIME ECHEVARRIA

1. I have been employed by R & F Broadcasting, Inc. (the "Licensee") for approximately 10 years as a television broadcast engineer for WRFB(DT) in Carolina, Puerto Rico (the "Station"), and have also served at various times as the programming manager and general manager.

2. In my role as chief engineer for the Station, I have regularly visited and on many occasions climbed the tower from which the Station is licensed to transmit. In my experience, the tower and the property where the tower is located have never been well-maintained. I do not believe the tower has been repainted in the entire time I have worked for the Station. The grass is rarely mowed. The back-up generator is often out of fuel, which is a concern because the electric power service in Puerto Rico is often unreliable. When I or Licensee would raise concerns with the tower owner about basic functionality and safety of the tower, we took it upon ourselves to fix it, since there was no effort on their part to satisfy requests and their obligations. So, many times we undertook maintenance and repairs on my own time and at my own cost, including changing light bulbs on the tower, filling the generator fuel tank, performing basic maintenance on their generators and repairing electrical system throughout.

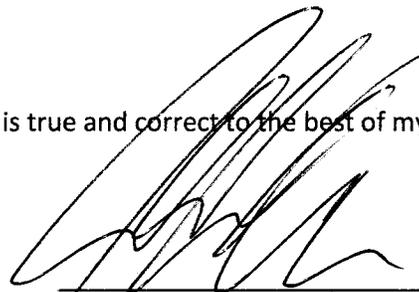
3. The attached photo was taken by me and shows the terrible state of disrepair the tower is in. This picture is of one of the lower truss connections, but the state of the trusses gets worse as you climb up. As is seen in the picture, the metal is rusted and corroded, and has lost a lot of structural integrity. I have become increasingly concerned for my safety and will no longer climb this tower.

4. It is my opinion that this tower will not support the installation of a new antenna to achieve the Station's post-Incentive Auction Transition to Channel 30. It is also my belief that it would be reckless and dangerous to have anyone climb the tower in the state it is in.

5. From my interactions with the tower owners, the wife and son of the deceased Jorge Estrada, it is my understanding that they have no intention of updating or rebuilding the tower to bring it to current loading and safety standards.

I hereby declare that the foregoing is true and correct to the best of my knowledge and belief.

June 12, 2017



Jaime Echevarria

